COUNCIL REGULATION (EEC) No 2553/93

of 13 September 1993

amending Regulation (EEC) No 2089/84 imposing a definitive anti-dumping duty on imports of certain ball bearings originating in Japan and Singapore

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 Articles 7, 14 and 15 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. PROCEDURE

(1) In July 1984, a definitive anti-dumping duty of 33,89 % was imposed on imports of single-row deep-groove radial ball bearings originating in Japan and Singapore, by Regulation (EEC) No 2089/84 [2].

(2) Regulation (EEC) No 2089/84 was amended with regard to imports originating in Japan, following a review initiated pursuant to Article 14 of Regulation (EEC) No 2423/88, by Regulation (EEC) No 2685/90 [3].

(3) As regards the imports originating in Singapore, the Commission published a notice of impending expiry of this measure in March 1989 [4], in accordance with Article 15 (2) of Regulation (EEC) No 2423/88.

(4) In April 1989, the Commission received a request for a review of the measure from the Federation of European Bearing Manufacturers' Associations (Febma), on behalf of producers representing allegedly a major proportion of all Community production of the ball bearings in question.

(5) After consultation, the Commission published a notice of intention to carry out a review of the measure in July 1989 [5], in accordance with Article 15 (3) of Regulation (EEC) No 2423/88.

(6) In September 1989 the Commission announced by a notice in the *Official Journal of the European Communities* [6] the initiation of a review of anti-dumping measures concerning imports into the Community of certain ball bearings originating in Singapore, and started an investigation.

(7) The Commission officially advised the exporters and importers known to be concerned, the representatives of the exporting country and the Community industry (Febma), and gave the parties concerned the opportunity to make their views known in writing and to request a hearing.

(8) The exporters, certain importers and the Community producers represented by Febma made their views known in writing.

(9) The Commission sought and verified all information it deemed necessary for the purposes of this proceeding and carried out investigations at the premises of the following :

(a) *Community producers*

- FAG Kugelfischer Georg Schäfer KGaA, Schweinfurt, Germany,
- Georg Müller Nürnberg AG, Nürnberg, Germany,
- Gebrüder Reinfurt GmbH & Co. KG, Würzburg, Germany,
- SKF Industrie SpA, Turin, Italy,
- SKF Roulements Spécialisés (ADR), Thomery, France,
- SKF France, Clamart, France,
- ROL Rolamentos Portugueses Sarl, Caldas da Rainha, Portugal ;

(b) *Singapore producers*

- NMB Singapore Ltd, Chai-Chee, Singapore,
- Pelmec Singapore Ltd, Jurong, Singapore ;

(c) *Related importers into the Community*

- NMB Minebea GmbH, Langen, Germany,
- NMB (UK) Ltd, Bracknell, United Kingdom,
- NMB Italia Srl, Mazzo di Rho, Milan, Italy,
- NMB France Sarl, Argenteuil, France.

[1] OJ No L 209, 2. 8. 1988, p. 1.
[2] OJ No L 193, 21. 7. 1984, p. 1.
[3] OJ No L 256, 20. 9. 1990, p. 1. (Corrigendum OJ No L 7, 10. 1. 1991, p. 38).
[4] OJ No C 74, 22. 3. 1989, p. 10.
[5] OJ No C 175, 11. 7. 1989, p. 3.
[6] OJ No C 240, 20. 9. 1989, p. 4.

The above Singapore producers and Community importers are all subsidiaries of Minebea Co. Ltd, Japan ('Minebea').

(10) The information gathered in this investigation concerns the period between 1985 and 1991.

(11) Parties were informed in writing of the Commission's findings and were granted a period within which to make representations subsequent to the disclosure.

The oral and written comments submitted by the parties were considered and, where appropriate, the Commission's findings were modified to take account of them.

B. PRODUCT UNDER CONSIDERATION

(12) The products concerned are single-row deep-groove radial ball bearings with a greatest external diameter not exceeding 30 mm, as defined in Regulation (EEC) No 2089/84.

C. CURRENT SITUATION OF THE COMMUNITY INDUSTRY

(i) *Current weak position of Community industry*

(13) The investigation established that the Community industry is in a very weak position. In particular, pre-tax profitability is inadequate at 3,5 % of turnover, and there has been a substantial fall in its production, capacity utilization, employment and share of the Community market between 1985 and 1991.

(ii) *Impact of imports from Singapore*

(14) Since the volume of imports originating in Singapore has fallen from 25 million pieces in 1985 to 1,8 million pieces in 1991 (market share declining from 10 to 0,6 % over this period), the Commission concluded that these imports are not contributing significantly to the current situation of the Community industry, and that the weak position of the Community industry is due to factors other than dumped imports from Singapore. The Council supports this conclusion.

D. EFFECTS OF THE EXPIRY OF THE ANTI-DUMPING MEASURES

(15) The fact that the dumped imports are not currently causing injury is not by itself a reason for removing existing anti-dumping measures. In such circumstances and in the framework of a review in accordance with Article 15 of Regulation (EEC) No 2423/88, the Commission has to consider whether the expiry of the anti-dumping measures would lead again to injury or threat of injury. In this regard, the Commission must determine whether a recurrence of injury to the Community industry caused by dumping would be foreseeable and imminent in the absence of measures. While this determination has to be based on factual information available it is, by its very nature, judgmental.

(16) To this end the Commission considered in the present case whether, in the event of the removal of the measures, there would be a significant increase in imports from the Singapore plants. In this respect, two aspects in particular were examined — firstly, the existing pattern of production and sales in the Singapore plants and secondly, whether a change in this pattern could be anticipated.

I. The existing pattern of production and sales in the Singapore plants

(i) *Development of production and capacity in Singapore*

(17) The installed capacity of Minebea's Singapore factories (NMB and Pelmec Singapore) has remained fairly constant since 1985, and the rate of capacity utilization of these factories is very high. There is therefore little spare capacity available for expanding existing production.

(ii) *Developments in domestic demand and geographical spread of exports*

(18) The domestic market in Singapore has grown substantially since the original investigation and this market is served mostly by NMB and Pelmec Singapore, absorbing an increasing amount of their production. Apart from the Singapore market, these two factories now sell their output almost entirely to the Asian and United States markets, with very little exported to the Community or EFTA countries.

(iii) *Conclusion*

(19) The Commission concluded that in view of the existing pattern of production and sales and the absence of any significant spare capacity in the Singapore plants, it is unlikely that, based on the existing situation in Singapore, there will be a significant increase in imports to the Community. The Council supports this conclusion.

II. Possibilities of change in the existing pattern of production and sales in the Singapore plants

Given the multinational character of Minebea, the Commission examined whether the sourcing of exports to the Community could be switched from other Minebea locations to the Singapore plants so that additional exports to the Community could be made from Singapore.

(i) *Developments in sourcing*

(a) Thailand

(20) Following the imposition of the anti-dumping duty on imports originating in Singapore in 1984, Minebea embarked upon a massive expansion of its bearing manufacture in Thailand, and the capacity in Thailand is now double that of Singapore. Minebea is the only producer of ball bearings in these two countries.

(21) Since Minebea has switched the sourcing of its exports to the Community almost exclusively to Thailand, Thai-made bearings now have 25 % of the Community market, compared to the 0,6 % share held by Singapore-made bearings.

(b) United Kingdom

(22) In 1991 Minebea began producing ball bearings in the United Kingdom, and installed capacity will shortly be increased to 60 million pieces per year.

(23) In view of the rapid build-up in Minebea's production in the United Kingdom, almost all of which is intended for sale in the Community market, it is clear that Minebea's United Kingdom made bearings will represent an increasing proportion over the next few years of Minebea's total Community market share, in view of the fact that the full capacity of the United Kingdom factory will have to be used to make it profitable. In consequence, sourcing from Minebea's third country plants will probably decline, at least in relative terms.

(ii) *Competitive advantage of Minebea's Thai factories*

(24) The Commission's investigation has confirmed that the Minebea plants in Thailand do have substantial competitive advantages over those in Singapore, in terms of lower labour costs and overheads, more modern, efficient machinery and greater economies of scale.

(25) At the moment only a small number of bearing types exported to the Community by Minebea are sourced in Singapore.

Although some of the other types exported to the Community from Thailand are also produced in Singapore, they are manufactured in lower quantities and in the form of variants produced for Japanese or United States customers. Many types exported to the Community from Thailand are not produced at all in Singapore. It would however be possible for Minebea to switch the production of these types from Thailand to Singapore, but this could probably not be done immediately and would make the bearings more expensive to produce, given the higher costs of the Singapore operations.

(26) In this regard, while there are still anti-dumping and countervailing duties on Thai-produced ball bearings of around 13 %, the cost differences between Thailand and Singapore are such that these duties do not make it less attractive to produce in and export from Thailand in comparison with Singapore.

(27) Febma argued that the competitive advantage of Thailand over Singapore is not sufficient to prevent a switch of sourcing to Singapore in the absence of anti-dumping measures, since Singapore-made bearings benefit from generalized scheme of preferences (GSP) treatment.

The Commission's investigation has, however, shown that the treatment granted by the Community gives imports from Singapore no significant advantage since the GSP ceiling is very low (ECU 2 million) and, in any event, the same treatment is granted for the same value of Thai-made bearings.

(iii) *Conclusion*

(28) Given the competitive advantage of the Thai factories and the need to run the United Kingdom plant at full capacity, the Commission concluded that even in the absence of the anti-dumping duty on imports from Singapore, it is likely that the great majority of Minebea's sales of ball bearings in the Community would be sourced from countries other than Singapore. The Council supports this conclusion.

III. General conclusion on impact of expiry of the measures

(29) The Commission therefore concluded that it is not foreseeable that the expiry of the anti-dumping measures would result in dumped imports of ball bearings from Singapore regaining a significant share of the Community market, and that conse-

quently such expiry would not lead to an imminent recurrence of material injury to the Community industry. The Commission therefore considered that the review should be terminated and the anti-dumping duty allowed to expire. The Council supports these conclusions.

E. EFFECTIVE DATE OF EXPIRY OF ANTI-DUMPING DUTY

(30) The Singapore producers pointed to the unusual length of the review investigation, which was opened in September 1989, and argued that the date of expiry of the anti-dumping duty should be retroactive.

(31) The Commission is of the opinion that this argument is valid. It considers that in this case it is not reasonable that the duty should have been levied for such a long period following the opening of the review investigation.

(32) The date on which the duty should cease to apply should be 21 September 1990, which coincides with the entry into force of Regulation (EEC) No 2685/90 amending, following a review, the definitive anti-dumping duty imposed on imports of ball bearings originating in Japan by Regulation (EEC) No 2089/84, the same Regulation which also imposed the anti-dumping duty on ball bearings originating in Singapore. The decision that the expiry of the anti-dumping duty imposed on imports originating in Singapore should take effect from that date would avoid any discrimination between the review investigations concerning imports of the same product from those two countries.

(33) The Council supports these conclusions and considers that the anti-dumping duty imposed on imports of certain ball bearings originating in Singapore, by Regulation (EEC) No 2089/84, should be repealed with effect from 21 September 1990. The relevant legislation in force concerning the repayment of customs duties should apply.

(34) The Council, however, recalls that should there be any significant increase of imports of ball bearings originating in Singapore at dumped prices, the Community institutions would, on the basis of a complaint by the Community industry, re-open expeditiously a new anti-dumping proceeding concerning such imports,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2089/84 imposing a definitive anti-dumping duty on imports of certain ball bearings originating in Japan and Singapore is hereby amended by means of the deletion of the words 'and Singapore' from Article 1 (1) and of the list headed 'SINGAPORE' in Article 1 (2).

Article 2

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

It shall apply with effect from 21 September 1990.

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

Done at Brussels, 13 September 1993.

For the Council

The President

Ph. MAYSTADT