

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 21 June 1982

terminating the anti-dumping proceeding concerning imports of certain refrigerators originating in Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania, the Soviet Union and Yugoslavia

(82/423/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3017/79 of 20 December 1979 on protection against dumped or subsidized imports from countries not members of the European Economic Community⁽¹⁾, and in particular Article 10 thereof,

Having regard to the proposal submitted by the Commission after consultations within the Advisory Committee set up under that Regulation,

Whereas in March 1981 the Commission received a complaint lodged by Conseil Européen de la Construction Electrodomestique (CECED) on behalf of the great majority of Community manufacturers of certain refrigerators; whereas the complaint contained evidence of the existence of dumping in respect of like products originating in Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania, the Soviet Union and Yugoslavia and of material injury resulting therefrom;

Whereas the said evidence was sufficient to justify initiating an investigation;

Whereas the Commission accordingly announced, by a notice published in the *Official Journal of the*

European Communities⁽²⁾, the initiation of a proceeding concerning imports of certain refrigerators originating in Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania, the Soviet Union and Yugoslavia and commenced an investigation of the matter at Community level;

Whereas the Commission officially so advised the exporters and importers known to be concerned;

Whereas the Commission has given the parties directly concerned the opportunity to make known their views in writing and to be heard orally;

Whereas the majority of the parties concerned have availed themselves of this opportunity;

Whereas, in order to make an assessment of the dumping margin and injury, the Commission sought and verified all information it deemed to be necessary and carried out investigations at the premises of the only Yugoslav producer and exporter cooperating in the enquiry, Gorenje (Valenje) and the following importers: in Belgium: Asogem NV and Artsel NV; in Denmark: Gorenje Skandinavien ApS; in the Federal Republic of Germany: IVG Bulka-Lehel GmbH; in France: Garelly SA, Générale Sidex SA and Sideme SA; in Greece: Gorenje Hellas Co. Ltd; in Ireland: Electro-Diesel Ireland Ltd; and in the United Kingdom: Astral Domestic Equipment Ltd, Curry's Ltd, Technical & Optical Equipment (London) Ltd and USC (Consumer Products) Ltd; whereas the Commission also carried out investigations at the premises of almost all the complainant EEC producers, including:

⁽¹⁾ OJ No L 339, 31. 12. 1979, p. 1.

⁽²⁾ OJ No C 162, 2. 7. 1981, p. 3.

in the Federal Republic of Germany: Bauknecht GmbH; in France: Thomson-Brandt SA; in Greece: Elinda SA; in Italy: Iberna Spa, Kelly Italia Spa, Merloni Elettrodomestici Spa, Pargest Spa, Philips Spa, Sital Casa Spa and Industrie Zanussi Spa; and in the United Kingdom: Electrolux Ltd, LEC Refrigeration Ltd and Thorn Domestic Appliances (Electrical) Ltd;

Whereas the Commission selected as the investigation period the year ended 30 June 1981;

Whereas, in order to establish whether the Yugoslav imports were dumped, the Commission used Yugoslav domestic prices to establish the normal value;

Whereas the Commission had to take into account the fact that Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania and the Soviet Union are not market economy countries;

Whereas, for that reason, the Commission had to base its calculations in respect of these countries on the normal value in a market economy country; whereas, in that connection, the complaint had cited the Yugoslav domestic market;

Whereas, in the course of the discussions with the exporters from Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania and the Soviet Union, the comparability of the Yugoslav market for refrigerators was contested because prices were said to be unrepresentative; whereas Turkey, Spain and Brazil were suggested as alternatives but were not considered reasonable because of differences in market situations; whereas in the light of the inspection carried out at the premises of the Yugoslav producer it would appear reasonable to use the Yugoslav domestic price as a comparable normal value since the manufacturing processes, technical standards and technology are similar to those used by the other exporters concerned;

Whereas the assessment of dumping for all seven countries was accordingly made by comparing weighted average Yugoslav domestic prices at an ex-factory level with export prices to the Community at the same level from each country in question during the investigation period;

Whereas, to take due account of the differences affecting price comparability, discounts and sales and service costs borne by the Yugoslav manufacturer were deducted from its domestic prices; whereas, for all the exporting countries concerned, account was also taken of differences in physical characteristics where appropriate, such as volume, freezing capacity and type of defrosting system, the allowance being based on the estimated production costs accounting for such differences; whereas allowances were also made for differ-

ences in conditions of payment and for transport and associated costs to the Community frontier; whereas allowances for differences in advertising and sales promotion costs and research and development costs claimed by the Yugoslav exporter were not allowed since the Commission considered that they were not directly related to the sales of the refrigerators in question; whereas the following claims were also not allowed because no adequate proof justifying them was given: allowances for design differences claimed by exporters from the German Democratic Republic and Poland, allowances for differences in packaging and differences in measurements claimed by exporters from the German Democratic Republic, allowances for differences in the market value of free-standing versus table-top refrigerators claimed by Hungarian exporters; whereas claims for differences in compressors used by Hungarian and Polish exporters were not taken into account either because it was considered that they did not represent a difference in the physical characteristics of the refrigerators concerned such as would be perceivable to the purchaser and influence his choice;

Whereas the comparisons showed the existence of dumping in respect of the imports considered in the investigation, the dumping margins being equal to the amount by which the normal values as established above exceeded the prices at which the goods were exported to the Community; whereas the margins varied, depending on the type and size of refrigerator and the exporting country, from 7.4 % to 74.2 % of the export prices free at Community frontier, duty unpaid;

Whereas, with regard to the injury caused to the Community industry, the evidence available to the Commission shows that imports into the Community of the refrigerators in question originating in the countries covered by the investigation rose from approximately 511 000 units in 1978 to 717 000 units in 1980; whereas imports into those Member States for which statistics are available for the first nine months of 1981 amounted to 498 043 units compared with 475 756 units imported into the same Member States during the whole of 1978;

Whereas in 1978 the market share held by such imports in the Community was 15.8 %, rising to 20.3 % in 1980 and it is estimated to have remained at approximately the same level in 1981; whereas virtually all of these imports during the investigation period have been made at dumped prices;

Whereas the resale prices in the Community of these refrigerators originating in the countries in question undercut those of like products produced by Community manufacturers by approximately 20 % on average;

Whereas the consequent impact on the Community industry, whose volume of production has fallen by 10 % from 3 559 000 units in 1978 to 3 236 000 units in 1980 and has remained constant at this level in 1981, is characterized by a reduction in the market share of Community producers and a depression of prices or the prevention of price increases which otherwise would have occurred, making it impossible to cover production costs or achieve a reasonable profit on the refrigerators in question; whereas all Community producers have experienced considerable increases in stocks of refrigerators held during the period under consideration;

Whereas most of the Community producers are consequently making losses or inadequate profits on sales of the refrigerators covered by the proceedings;

Whereas the Commission has considered whether injury has been caused by other factors such as competition between Community producers, changes in consumption patterns, overcapacity in the Community industry or imports from other countries; whereas the market share in the Community of the producers of one of the Member States has increased slightly during the investigation period but it has been established that this increase is insignificant in size and that selling prices have been in excess of those of the dumped imports; whereas consumption in the Community went up between 1978 and 1980 whilst production within the Community and imports from other non-EEC sources both went down during the same period; whereas, therefore, the substantial increase in dumped imports and the extremely low prices at which they have been offered for sale in the Community has led the Commission to determine that the dumped imports, taken in isolation, have caused material injury to the Community industry concerned;

Whereas the Commission, after having examined the Community producers' and importers' prices, costs and profitability and marketing conditions, has determined the import prices necessary to eliminate the injury caused;

Whereas the exporters and importers concerned were informed of the main findings of the preliminary investigation and commented on them; whereas undertakings were consequently offered concerning imports from Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania, the Soviet Union and Yugoslavia with a view to preventing a recurrence of injury to Community producers;

Whereas the proposed price increases take account of the differences noted in the course of investigations in the prices charged by the various exporting countries; whereas these increases never exceed the average dumping margins and are generally below this level;

Whereas the Yugoslav exporter concerned requested the continuation of the investigation into injury; whereas, however, the Commission considers that both the dumping and injury investigation have been completed and that the aforementioned undertakings are acceptable; whereas, notwithstanding this fact, during the consultations within the Advisory Committee, one of the Member States objected to the termination of the proceedings by the acceptance of these undertakings,

HAS DECIDED AS FOLLOWS:

Sole Article

The anti-dumping proceeding concerning imports of certain refrigerators originating in Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania, the Soviet Union and Yugoslavia is hereby terminated on the basis of the acceptance of price undertakings offered to the Commission by the exporters concerned.

Done at Luxembourg, 21 June 1982.

For the Council

The President

L. TINDEMANS