

## COMMISSION REGULATION (EEC) No 2317/85

of 12 August 1985

imposing a provisional anti-dumping duty on imports of roller chains for cycles originating in the USSR and the People's Republic of China

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2176/84 of 23 July 1984 on protection against dumped or subsidized imports from countries not members of the European Economic Community<sup>(1)</sup>, and in particular Article 11 thereof,

After consultations within the Advisory Committee under the above Regulation,

Whereas :

#### A. Procedure

1. In May 1984 the Commission received a complaint lodged by the Fachverband Fahrrad- und Kraftradteile- Industrie e.V. on behalf of producers whose collective output constitutes a major proportion of the Community production of the product in question. The complaint contained evidence of dumping and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding. The Commission accordingly announced, by a notice published in the *Official Journal of the European Communities*<sup>(2)</sup>, the initiation of an anti-dumping proceeding concerning imports into the Community of 1/2" x 1/8" roller chains for cycles falling within heading No ex 73.29 of the Common Customs Tariff, corresponding to NIMEXE code ex 73.29-11, originating in the USSR and the People's Republic of China and commenced an investigation.

2. The Commission officially so advised the exporters and importers known to be concerned and the complainants and gave the parties directly concerned the opportunity to make known their views in writing and to request a hearing. All the known exporters made their views known in writing. Neither the exporters nor the importers concerned have requested hearings.

3. The Chinese exporter presented its views in writing, though without providing the necessary supporting evidence. In particular, it failed to reply to the questionnaire sent to it, although the Commission extended the deadline several times and referred in writing to the importance of this information for the establishment of the facts and to the consequences for the outcome of the proceeding of failure to provide the necessary information, particularly in the light of Article 7 (7) (b) of Regulation (EEC) No 2176/84, which provides that should any interested party refuse access to necessary information, preliminary or final findings may be made on the basis of the facts available.

4. The Commission sought and verified all the information which it deemed necessary for the preliminary determination of the facts and carried out investigations at the premises of the following firms :

#### *EEC producers :*

- Union Sils, Van de Loo & Co. GmbH, Frönden-berg, Germany ;
- Wippermann Jr. GmbH, Hagen, Germany.

The Commission requested detailed written submissions from all complainant Community producers and all exporters and importers, and verified the information made available to the extent considered necessary.

The investigation of dumping covered the period June 1983 to June 1984.

#### B. Normal value

5. In order to establish whether the imports from the USSR and the People's Republic of China were dumped, the Commission had to take account of the fact that these countries do not have market economies and the Commission therefore had to base its determinations on the normal value in a market-economy country. In this connection, the complainants had suggested the Japanese market. As the Commission did not obtain the necessary information it had requested from Japanese producers, the complainants had proposed the Spanish market as an appropriate alternative.

<sup>(1)</sup> OJ No L 201, 30. 7. 1984, p. 1.

<sup>(2)</sup> OJ No C 235, 5. 9. 1984, p. 9.

6. The USSR exporter objected to this suggestion. It considered that India could be a more appropriate analogue country, alleging that bicycle production in India is on a scale more comparable to that of the Soviet Union and that cycle chains manufactured in India are of the same type as those manufactured in the USSR as they are produced mainly for roadster bicycles. It gave no indication, however, of the domestic price ruling in India.
7. The Commission has examined the structure of the Spanish market for bicycle chains. Spain, the USSR and the People's Republic of China all produce  $1/2 \times 1/8$  inch standard simple roller chains for cycles according to DIN 8187 or ISO/R-606 specifications. The producers in the USSR and China do not guarantee that their products meet these specifications but their products generally do so in practice. The Spanish products are of slightly higher quality than those from the USSR and the People's Republic of China but the difference in quality is not significant for the purpose for which the product is normally sold, and it can be allowed for (see paragraph 9 below). It was found that in Spain there was efficient internal competition between the existing producers as well as from imports from other countries; in 1984 these held a market share of about 23 % in Spain. The Commission is also satisfied that industrial production technologies for roller chains are very similar in all countries and that the conditions and volume of production investigated in Spain are adequate to permit a proper comparison. The choice of Spain appears to be more appropriate than that of India since both Spain and the USSR use capital intensive production methods and similar machinery. Furthermore, the levels of development of the industries in Spain and the USSR are more similar than those of the USSR and India.

The Chinese exporter did not contest this choice.

#### C. Export price

8. Export prices were determined on the basis of the prices actually paid or payable for the products sold for export to the Community.

#### D. Comparison

9. In comparing normal values with export prices, the Commission took account, where appropriate, of differences affecting price comparability. Based

on information given by the Spanish producers, adjustments were made in particular for differences in quality, selling and marketing conditions, and payment terms. All comparisons were made at the ex-works level.

#### E. Margins

10. The preliminary examination of the facts showed the existence of dumping in respect of the exports investigated, the margin of dumping being equal to the amount by which the normal value as established exceeds the weighted average price for export to the Community.
11. These margins vary according to the importing Member State; they are all appreciably in excess of 40 % for China and of 60 % for the USSR, the weighted average for the Community as a whole being as follows:
- the People's Republic of China 45 % ;  
the USSR 102 %.

#### F. Injury

12. With regard to the injury caused by the dumped imports, the evidence available to the Commission shows that imports into the Community from the USSR increased from 2 185 000 metres in 1982 to 3 793 000 metres in 1984 with a consequent increase in market share from 8,9 % to 14,4 %, while in the same period imports from the People's Republic of China decreased from 3 449 000 metres to 2 144 000 metres, reducing their market share from 14,1 % to 8,1 %. Taken together the dumped imports increased from 5 634 000 metres in 1982 to 5 937 000 metres in 1984 maintaining a significant market share of approximately 23 % throughout the period.
13. Considering that the imports of the Chinese product in the Community had decreased and corresponded to a declining market share of the Chinese product in the Community, the Commission has examined whether it was appropriate to aggregate the imports of cycle chains originating in China with those originating in the USSR.

The Commission found, however, that all the products under investigation competed with each other in the Community market. Furthermore, Chinese imports had shown a decline in 1983 only and had stabilized in 1984, still maintaining a substantial market share significant enough to

cause material injury because of the low prices at which they were sold in the Community. The Commission therefore concluded that in order to determine whether material injury was caused by the dumped products aggregation of the imports from China with those from the USSR was not unreasonable.

14. The sale prices of the imports under consideration undercut the prices of the Community producers during the investigation period by up to 16 % for the USSR product and by up to 6 % for the Chinese product, account being taken of differences in quality. These sale prices were lower than those required to cover the costs of Community producers and provide a reasonable profit.
15. Community production fell from 10 938 000 metres in 1982 to 8 500 000 metres in 1984. Although taken together the dumped imports from the USSR and China did not increase in the same proportion as the decrease in Community production, the Commission is satisfied that their significant level of market share, which in 1984 reached 37 % in the Federal Republic of Germany and 31 % in Italy, which alone absorbed more than 80 % of the dumped imports, combined with the low prices at which the dumped imports were offered for sale, have caused a serious market deterioration in the Community. These dumped imports contributed to the fact that the Community industry concerned had to work continuously at a low rate of capacity utilization of less than 60 %, which entailed high unit costs, and to sell the product at prices which in certain cases did not even yield a reasonable contribution to fixed costs. Thus the Community industry accumulated substantial financial losses, which led two Community producers to close down this line of production, while others, in order to cut losses, reduced their output. As a result, employment fell by about 18 % between 1982 and 1984 while short-time working frequently had to be introduced.
16. The Commission has considered whether injury has been caused by other factors such as the development of consumption in the Community. It has been alleged by the complainant that consumption in the Community has risen by some 8 % since 1982, but that this increase has not been reflected in the Community producers' figures for sales in the EEC. The Commission has

therefore also considered whether injury has been caused by other imports. Although it is difficult to establish precise data for consumption in the Community and imports from other non-member countries since the statistics available to the Commission include other types of chains than those under consideration, the information received by the Commission leads to the inference that sales by the Community industry have been partly replaced by imports from other countries as well. However, verifying global import statistics from other third countries, the Commission found that on average these imports have been sold at higher prices than the dumped imports. Moreover, the Commission has received no evidence that these imports have been dumped. Thus the substantial market share of the dumped imports from the two countries concerned and the prices at which they are offered for sale in the Community led the Commission to determine that the effects of the dumped imports of 1/2" x 1/8" roller chains for cycles originating in the USSR and the People's Republic of China, taken in isolation, have to be considered as constituting material injury to the Community industry concerned.

#### G. Community interest

17. In view of the serious difficulties facing the Community industry the Commission has come to the conclusion that it is in the Community's interest that action be taken. In order to prevent further injury being caused during the remainder of the proceeding, this action should take the form of provisional anti-dumping duties on imports of 1/2" x 1/8" roller chains for cycles originating in the USSR and the People's Republic of China.

#### H. Rate of duty

18. The extent of injury caused was determined by the difference between the prices at which the dumped imports are offered for sale and the return expected from efficient manufacturing of the product in the Community. The rate of such duties, therefore, should be sufficient to eliminate the difference between the selling prices of the dumped products in the Community and the prices necessary to cover the production cost of Community producers and a reasonable contribution to fixed costs and overheads.

Taking into account the different level of prices at which the USSR and Chinese products were sold on the Community market and the difference in the rate of price undercutting resulting therefrom, the rate of duty should be higher for these products imported from the USSR than for China.

19. A period should be fixed within which the parties concerned may make their views known and request a hearing.

HAS ADOPTED THIS REGULATION :

*Article 1*

1. A provisional anti-dumping duty is hereby imposed on imports of 1/2" × 1/8" roller chains for cycles falling within heading No ex 73.29 of the Common Customs Tariff, corresponding to NIMEXE code ex 73.29-11, originating in the USSR and the People's Republic of China.

2. The rates of the duty shall be, for products originating in :

- the USSR 30 % ;
- the People's Republic of China 20 %,

of the free-at-Community-frontier net price before duty.

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 2176/84, the parties may make known their views in writing and apply to be heard orally by the Commission within one month of the 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 14 of Regulation (EEC) No 2176/84, 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, 12 August 1985.

*For the Commission*

Nicolas MOSAR

*Member of the Commission*

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