

COMMISSION REGULATION (EEC) No 2823/85

of 7 October 1985

imposing a provisional anti-dumping duty on imports of certain clogs originating in Sweden

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⁽¹⁾, and in particular Article 11 thereof,

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

Whereas :

A. Procedure

1. In January 1985 the Commission received a complaint lodged by the European Federation of the Footwear Industry on behalf of producers of Scandinavian clogs (being clogs with outer soles of leather or leather covered with PVC and with uppers of leather) whose collective output constitutes a major proportion of 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*⁽²⁾, the initiation of an anti-dumping proceeding concerning imports into the Community of Scandinavian clogs falling within Common Customs Tariff subheading ex 64.02 A, corresponding to NIMEXE code 64.02-41 and originating in Sweden, and commenced an investigation.
2. The Commission officially so advised the exporters and importers known to be concerned, the representatives of the exporting country and the complainants and gave the parties directly concerned the opportunity to make known their views in writing and to request a hearing.
3. The majority of the known Community producers, some Swedish exporters and some importers made their views known in writing.

No submissions were made by or on behalf of Community purchasers of these clogs.

4. 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:
 - *EEC producers*:
 - Gevavi, Zwolle, Netherlands,
 - Sanita, Herning, Denmark,
 - Young Shoe, Vonge, Denmark;
 - *Swedish exporters*:
 - Lavi, Kristianstad, Sweden,
 - Torpatoffeln, Tornsbruk, Sweden,
 - BJ Träsko, Moheda, Sweden,
 - Ugglebo Toffeln AB, Påryd, Sweden.

The Commission requested and received detailed written submissions from some complainant Community producers, some exporters and some importers and verified the information therein to the extent considered necessary.

5. The investigation of dumping covered the period from January 1984 to January 1985.

B. Normal value

6. Normal value was provisionally determined for three of the exporters concerned on the basis of their domestic prices, sufficient evidence having been provided by those producers that these prices were paid in the ordinary course of trade on the Swedish market during the investigation period.

For the one exporter concerned who did not sell on the domestic market, normal value was determined on the basis of the weighted average selling prices on the domestic market of the other producers investigated.

C. Export price

7. 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

8. In comparing normal value with export prices the Commission took account, where appropriate, of differences affecting price comparability where claims in these areas could be satisfactorily

⁽¹⁾ OJ No L 201, 30. 7. 1984, p. 1.

⁽²⁾ OJ No C 47, 19. 2. 1985, p. 2.

demonstrated. In particular, differences in size and in quality of boot sole and upper were taken into account as were differences in payment terms.

All comparisons were made at ex-works level.

E. Margins

9. The above preliminary examination of the facts shows the existence of dumping in respect of BJ Träsko, Torpatoffeln and Ugglebo Toffeln, the margin of dumping being equal to the amount by which the normal value as established exceeds the prices for export to the Community.

These margins vary according to the exporter and the type of clog concerned, the weighted average margin for each of the exporters investigated being as follows:

BJ Träsko	7 %
Lavi	no dumping
Torpatoffeln	11 %
Ugglebo Toffeln	0,3 %

10. For those exporters who neither replied to the Commission's questionnaire nor made themselves known otherwise in the course of the preliminary investigation, dumping was determined on the basis of the facts available. In this connection the Commission considered that the results of its investigation provided the most appropriate basis for determination of the margin of dumping particularly since it would create an opportunity for circumvention of the duty to hold that the dumping margin for these exporters was any lower than the highest dumping margin of 11 % determined with regard to an exporter who has cooperated in the investigation. For these reasons it is considered appropriate to use this latter dumping margin for this group of exporters.

F. Injury

11. With regard to the injury caused by the dumped imports, the evidence available to the Commission shows that imports into the Community from Sweden of Scandinavian clogs fell from 2,1 million pairs in 1981 to 1,6 million pairs in 1984. However, in view of declining consumption in the Community during that period the market share held by the exporting country increased from 51 % to 60 % in the same period.

12. The weighted average resale prices of these imports undercut the prices of the Community producers during the investigation period by between 11 % and 49 %, resale prices being lower than those required to cover the costs of Community producers and provide a reasonable profit.

13. The consequent impact on the complainant Community industry was a fall in sales in the Community from 1,04 million pairs in 1981 to 0,6 million pairs in 1984. Exports to countries not members of the Community being negligible, figures for production followed the same pattern, i.e. a reduction of some 40 % during that period. That reduction was in excess of the decline in Community consumption and, consequently, the complainant producers' market share in the Community fell from approximately 25 % to 22 % during the same period.

14. The depressive effect on the prices of the complainant producers caused by the price undercutting of the Swedish exporters together with the higher unit costs resulting from lower sales volumes and loss of market share to Swedish imports have led to the incurring of widespread losses by the complainant producers. In addition, these factors have led to a number of Community producers ceasing operations and this, together with the redundancies forced on the remaining producers, has resulted in the total workforce engaged in the production of Scandinavian clogs in the Community being halved since 1981.

15. The Commission has considered whether injury has been caused by other factors, in particular the fact that consumption in the Community has considerably declined. It has, however, been established that this decline has affected the Community production more than it has affected the dumped imports. There were no imports of the product concerned to the Community from any non-member country other than Sweden during the reference period. Accordingly, the substantial increase in the market share of the dumped imports and the prices at which they are offered for sale in the Community led the Commission to determine that the effect of the dumped imports of Scandinavian clogs originating in Sweden have to be considered as constituting material injury to the Community industry concerned. This industry

generally comprises manufacturing units with the sole facility of producing clogs. Conversion to other forms of footwear production is generally not feasible.

G. Community interest

16. In view of the serious level of injury sustained by the complainant producers caused particularly by price undercutting of up to 49 % and the resulting likelihood that, without protective measures, the continued existence of the industry in the Community would be endangered, 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 a provisional anti-dumping duty.

H. Rate of duty

17. Having regard to the extent of the injury caused and in particular the level of price undercutting with varied from 11 % to 49 %, the rate of such duty should correspond to the margins of dumping provisionally estimated. The duty should not apply to the exporters Lavi for which no dumping was found nor to Ugglebo Toffeln for which the dumping margin found can be considered *de minimis*.

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

HAS ADOPTED THIS DECISION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of clogs with outer soles of leather or leather covered with PVC and with uppers

of leather, falling within Common Customs Tariff subheading ex 64.02A, corresponding to NIMEXE code 64.02-41 and originating in Sweden.

2. The amount of the duty shall be equal to 11 % of the price per pair net, free-at-Community-frontier, before duty, except for products manufactured and exported by BJ Träsko AB, Moheda, Sweden in respect of which the rate of duty shall be 7 %.

The free-at-Community-frontier prices shall be net if the conditions of sale provide for payment within 30 days from the date of shipment; they shall be increased or reduced by 1 % for each respective reduction or increase of one month in the period for payment.

The duty shall not apply to products manufactured and exported by Lavi, Kristianstad, Sweden and Ugglebo Toffeln AB, Påråd, Sweden.

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 provisions 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 concerned may make known their views in writing and apply to be heard 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, it 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, 7 October 1985.

For the Commission

Willy DE CLERCQ

Member of the Commission