

COMMISSION DECISION

of 22 March 1988

on the closure of anti-dumping proceedings in respect of Spanish imports from
France of refrigerating units for transports

(IV/AD/86/2 — Reftrans)

(88/175/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Article 380 (3) of the Act concerning the conditions of accession of the Kingdom of Spain and the Portuguese Republic and the adjustments to the Treaties⁽¹⁾,

Having regard to Council Regulation (EEC) No 812/86 of 14 March 1986 on protection against imports which are the subject of dumping between the Community of Ten and the new Member States or between the new Member States during the period throughout which the transitional measures laid down by the Act of Accession of Spain and Portugal apply⁽²⁾, and in particular Article 7 thereof,

Having consulted the Member States concerned in accordance with Regulation (EEC) No 812/86,

Whereas :

A. Proceedings

The Spanish Dirección General de Comercio Exterior initiated anti-dumping proceedings by Decision No 27023 of 13 December 1985 (BOE No 313 of 31 December 1985). The proceedings were based on a complaint alleging that certain imports from France into Spain of refrigerating units for transport were being dumped and that an established industry in Spain was being injured as a result.

The complaint was lodged by the Spanish companies Reftrans, Sociedad Anónima and Climauto, Sociedad Anónima. Reftrans SA, which accounts for almost the entire domestic output of refrigerating units for transport, is the joint subsidiary of the Swiss company Westinghouse Electric SA and the Spanish company Frigicoll SA, Climauto SA, ceased manufacturing refrigerating units for transport in May 1985.

The Commission decided on 19 September 1986, in accordance with Article 380 (3) of the Act concerning the conditions of accession of the Kingdom of Spain and the Portuguese Republic, to pursue the proceedings instituted by the Spanish authorities in respect of various types of refrigerating unit for transport (falling within subheading ex 84.15 C II of the Common Customs Tariff, corresponding to NIMEXE code ex 84.15-74), manufactured by the French company Frigiking SA/Carrier Global

Transport Réfrigération, a subsidiary of the US company Carrier Corporation, exported by it to Spain and imported into Spain by the Spanish company Global Transporte Refrigeración SA.

The Commission then published a Notice on its decision in the *Official Journal of the European Communities*⁽³⁾, in accordance with Article 5 (1) (a) of Regulation (EEC) No 812/86. In accordance with Article 5 (1) (b) of the Regulation, it advised the Member States concerned and the relevant exporters and importers and, in accordance with Article 5 (1), (c), commenced an investigation in order to determine whether the facts alleged by the two Spanish complainants were correct and justified action by the Commission.

The Commission gave the parties concerned the opportunity of presenting their views in writing and of requesting a hearing.

The Commission sought all information it deemed necessary, and for this purpose sent questionnaires to the two Spanish complainants, the French manufacturer and exporter and the Spanish importer, in order to check whether there was any dumping margin and any injury.

B. Injury

Following the investigation, the Commission has determined that the relevant imports do not cause any material injury to the Spanish industry concerned. The information provided by the Spanish importer Global Transporte Refrigeración and the Spanish manufacturer Reftrans SA and the price lists and invoices provided by them show that during the period covered by the investigation the situation was as follows :

In the period from March to August 1986, prices for equivalent Spanish products were in many cases undercut by the prices of the imports that are the subject of the anti-dumping proceedings. However, sales of the relevant imported products in 1986 corresponded to only a small proportion of the total turnover achieved in 1986 by the Spanish manufacturer Reftrans SA.

In September 1986, when the Spanish importer introduced a new price list in which most prices had been increased, while the selling prices of Spanish products remained unchanged up to and including May 1987, the prices of equivalent Spanish products were no longer undercut by the prices of the imports that are the subject of the anti-dumping proceedings. Rather, the prices

⁽¹⁾ OJ No L 302, 15. 11. 1985, p. 23.⁽²⁾ OJ No L 78, 24. 3. 1986, p. 1.⁽³⁾ OJ No C 241, 25. 9. 1986, p. 6.

which Spanish customers had to pay for the imported products were higher, and indeed in most cases much higher, than the prices for equivalent domestic products. The only exception to this concerned four imported products, whose selling prices were slightly below those of equivalent domestic products. However, sales of these products in 1986 corresponded to only an insignificant proportion of the total turnover achieved in 1986 by the Spanish manufacturer Reftrans SA.

The prices of the relevant imports were thus not such as to have any appreciable impact on potential sales of the Spanish manufacturer Reftrans. Consequently, they could not have any effect either on the production or on the capacity utilization, stocks, sales or market share of the Spanish manufacturer.

Since at the end of the period covered by the investigation, apart from insignificant exceptions, the prices of equivalent Spanish products were not undercut but were substantially exceeded by the prices of the relevant imports, the latter prices were not such as to force the Spanish manufacturer to make appreciable price reductions or to prevent it from carrying out appreciable price increases, so that they similarly had no effect on the other economic factors specified in Article 3 (2) (c) of Regulation (EEC) No 812/86.

Since the prices of the relevant imports were not such as to significantly improve the potential for selling such imports, they could not result in any increase in such imports.

In conclusion, it is clear that the imports by the Spanish importer neither caused nor threatened to cause material

injury to an established industry in Spain nor materially retarded the establishment of such an industry in Spain. Accordingly, no protective measures are necessary.

C. Dumping

In view of the above conclusion regarding injury, the Commission does not consider it necessary to pursue any further the dumping allegation relating to the relevant imports, since anti-dumping measures may be taken only if examination shows that during the period covered by the investigation dumping has occurred, that this has caused material injury and that the interest of the Community requires action.

In these circumstances, it appears appropriate to close the proceedings pursuant to Article 7 (1) of Regulation (EEC) No 812/86 without introducing protective measures.

HAS ADOPTED THIS DECISION :

Sole Article

The anti-dumping proceedings in respect of Spanish imports from France of refrigerating units for transport shall be closed.

Brussels, 22 March 1988.

For the Commission

Peter SUTHERLAND

Member of the Commission