

COMMISSION DECISION

of 23 September 1985

accepting an undertaking given in connection with the anti-dumping investigation concerning imports of container corner fittings of worked cast steel originating in Austria and terminating that investigation

(85/443/EEC)

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 10 thereof,

After consultation within the Advisory Committee as provided for under the above Regulation,

Whereas :

A. Procedure

- (1) In November 1984 the Commission received a complaint lodged by the currently sole Community producer of container corner fittings, George Blair plc of Stanhope, United Kingdom. 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 container corner fittings of worked cast steel, falling within Common Customs Tariff subheading ex 73.40 B, corresponding to NIMEXE code ex 73.40-84, originating in Austria and commenced an investigation.
- (2) The Commission officially so advised the exporter known to be concerned, and 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 Austrian producer/exporter made its views known in writing.

- (4) No submissions were made by Community purchasers of container corner fittings of worked cast steel.

- (5) 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 producer :*

George Blair plc, Stanhope, UK,

— *non-EEC producers/exporters :*

Voest-Alpine AG, Linz, Austria and its subsidiary Voest-Alpine (UK) Ltd, London, UK.

The Commission requested and received detailed written submissions from both the complainant Community producer and the exporter and verified the information therein to the extent considered necessary.

- (6) The investigation of dumping covered the period from 1 March 1984 to 28 February 1985.

B. Normal value

- (7) In seeking to determine the normal value for Voest-Alpine AG the Commission had to take account of the fact that there are no sales of the like product on the domestic market. The Commission determined therefore that the normal value for this company should be established on the basis of its constructed value.
- (8) The constructed value was determined by adding cost of production and a reasonable margin of profit. The costs of production were computed on the basis of all costs, in the ordinary course of trade, both fixed and variable, in the country of origin, of materials and manufacture, plus a reasonable amount for selling, administrative and other general expenses. A profit margin of 5 % considered to be reasonable was added to these costs.

⁽¹⁾ OJ No L 201, 30. 7. 1984, p. 1.

⁽²⁾ OJ No C 56, 2. 3. 1985, p. 2.

- (9) Voest-Alpine AG requested that special consideration be given to the fact that it had made important investments in its production plant recently. The Commission, however, does not consider that the circumstances of this case justify a deviation from the Community's general practice in this respect as outlined in detail in recitals 14 and 15 of Council Regulation (EEC) No 2089/84⁽¹⁾.

C. Export price

- (10) 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

- (11) The comparison between normal value and export prices was made at ex-factory level.

E. Margins

- (12) The above examination of the facts shows the existence of dumping in respect of exports made by Voest-Alpine AG, the margin of dumping being equal to the amount by which the normal value as established exceeds the price for export to the Community.

These margins vary according to the importing Member State, the weighted average margin being in excess of 10 %.

F. Injury

- (13) With regard to the injury caused by the dumped imports the evidence available to the Commission shows that the quantities of container corner fittings of worked cast steel imported into the Community from Austria increased only marginally when comparing 1984 figures with those of 1981. However, the 1984 quantities represented an increase of 39 % and 255 % when compared respectively with those of 1982 and 1983. The market share held by imports in 1984 more than doubled that held in 1981.

The resale prices of these imports were lower than those required to cover the costs of the Community producer and provide a reasonable profit.

- (14) The Community industry in respect of which the impact of the dumped imports must be assessed is that represented by the currently sole Community producer which at present serves the whole of the Community market. The consequent impact of the dumped imports on the Community market has been a reduction of the market share held by the Community industry which was the major supplier of the Community market in 1982; in 1984 this market share was reduced to only about 50 % for the total Community market with largely varying market shares for the individual markets concerned.

As a further consequence, competition by dumped imports contributed to the suspension of production by the two other Community producers, leading to total Community production in 1984 being about 50 % below the 1982 level with a resultant loss of employment.

The Community producer which did not suspend production was found to be faced with strong price competition by dumped imports which forced it to make substantial sales at below cost prices thus considerably eroding its profitability.

- (15) The Commission has considered whether injury has been caused by other factors such as the stagnation of demand. Consumption in the Community has declined. It has, however, been established that this decline has affected Community production more than it has affected the dumped imports. The substantial increase in dumped imports 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 container corner fittings of worked cast steel originating in Austria taken in isolation, have to be considered as constituting material injury to the Community industry concerned.

G. Community interest

- (16) After having considered the interest of the Community and both the dumping and the injury established, the Commission has come to the conclusion that action should be taken.

H. Undertaking

- (17) The exporter concerned was informed of the main findings of the preliminary investigation and commented on them. An undertaking was subsequently offered by Voest-Alpine AG concerning its exports to the Community of container corner fittings of worked cast steel.

⁽¹⁾ OJ No L 193, 21. 7. 1984, p. 1.

The effect of the said undertaking will be to increase export prices to the Community to the level which the Commission considered necessary to eliminate injury. For this purpose the Commission took into account the selling price necessary to provide an adequate return to the currently sole Community producer and to make it possible for the other Community producers which have suspended production to start production again. These increases in no case exceed the dumping margins found in the investigation. Moreover it appears that correct operation of the undertaking can be effectively monitored.

In these circumstances, the undertaking offered is considered acceptable and the investigation may, therefore, be terminated without imposition of anti-dumping duties.

No objection to this course was raised in the Advisory Committee,

HAS DECIDED AS FOLLOWS:

Article 1

The undertaking given by Voest-Alpine AG in connection with the anti-dumping investigation concerning imports of container corner fittings of worked cast steel falling within Common Customs Tariff subheading ex 73.40 B, corresponding to NIMEXE code ex 73.40-84, originating in Austria, is hereby accepted.

Article 2

The anti-dumping investigation referred to in Article 1 is hereby terminated.

Done at Brussels, 23 September 1985.

For the Commission

Willy DE CLERCQ

Member of the Commission
