

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 15 November 1983

accepting undertakings given in connection with the anti-dumping proceeding concerning imports of sanitary fixtures of porcelain or china originating in Czechoslovakia and Hungary and terminating that proceeding

(83/559/EEC)

THE COMMISSION 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⁾, as amended by Regulation (EEC) No 1580/82⁽²⁾, and in particular Article 10 thereof,

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

Whereas :

A. Procedure

- (1) In December 1982, the Commission received a complaint lodged by NV Koninklijke Sphinx, Netherlands, supported by Community producers whose collective output constitutes all Community production of the products 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*⁽³⁾, the initiation of an anti-dumping proceeding concerning imports into the Community of sinks, wash basins, bidets, water closet pans, urinals, baths and like sanitary fixtures of porcelain or china, falling within Common Customs Tariff heading No ex 69.10 and corresponding to NIMEXE code 69.10-10 originating in Czechoslovakia and Hungary 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 Czechoslovakian and Hungarian exporters made their views known in writing and requested and were granted hearings.
- (4) The major importers and representatives of the products in question made their views known in writing.
- (5) No submissions were made by or on behalf of Community purchasers of sanitary fixtures.

⁽¹⁾ OJ No L 339, 31. 12. 1979, p. 1.

⁽²⁾ OJ No L 178, 22. 6. 1982, p. 9.

⁽³⁾ OJ No C 87, 29. 3. 1983, p. 4.

- (6) 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:

- NV Koninklijke Sphinx, Netherlands,
- Kerafina — N. Stasinopoulos SA, Greece,
- Federation of European Producers of Sanitary Fixtures, Italy;

Non-EEC producer:

- Öspag, Österr. Sanitär, Keramik- und Porzellan- Industrie AG, Austria;

EEC agents:

- Bergsing BV Agenturen, Netherlands,
- H. Simons Agenturen BV, Netherlands.

- (7) The Commission requested and received detailed written submissions from complainant Community producers, the exporters and the importers and verified the information therein to the extent considered necessary.
- (8) The investigation of dumping covered the period 1 January to 31 December 1982.

B. Normal value

- (9) In order to establish whether the imports from Czechoslovakia and Hungary 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.
- (10) In this connection, the complainants had suggested the Austrian export prices as basis for comparison; no objection was made to this suggestion.
- (11) The Commission is satisfied that in Austria as well as in the exporting countries there are no extraordinary differences in production processes and the scale of production is similar. The Commission therefore concluded that it would be appropriate and not unreasonable to determine normal value on the basis of Austrian export prices to third countries.

C. Export price

- (12) 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

- (13) In comparing normal value with export prices, the Commission took account, where appropriate, of differences affecting price comparability. These covered mainly the differences in quality, due to inferior glazing and polishing of the imported products in question, the varying delivery of the products, market applicability, payment and other contractual conditions, where claims in these areas could be satisfactorily demonstrated. All comparisons were made at ex-works level and all parties agreed with the adjustments made.

E. Margins

- (14) The above preliminary examination of the facts shows the existence of dumping in respect of Czechoslovak Ceramics, Prague, Czechoslovakia and Ferunion, Budapest, Hungary, the margins of dumping being equal to the amount by which the normal value as established exceeds the prices for export to the Community. The weighted average margin for the products in question for each of the exporters investigated being as follows:
- Czechoslovak Ceramics, Prague, Czechoslovakia: 26,99 %,
 - Ferunion, Budapest, Hungary: 25,98 %.

F. Injury

- (15) With regard to the injury caused by the dumped imports, the evidence available to the Commission shows that imports into the Community from Czechoslovakia and Hungary of the products in question increased from 1 819 tonnes in 1978 to 3 126 tonnes in 1982 and that in the Netherlands, the market most affected, their market share rose from 5,7 % in 1978 to 16,2 % in 1982.
- (16) The resale prices of the Czechoslovakian and Hungarian imports undercut the prices of the Community producers during the investigation period by up to 49 and 45 % respectively. The resale prices of these imports were lower than those required to cover the costs of Community producers and provide a reasonable profit.
- (17) The Community industry in respect of which the impact of the dumped imports must be assessed is the entire Community industry, particular regard being paid to the Netherlands, the market most affected.
- (18) The main features of the consequent impact of the dumped imports on the Community industry have been a decline in production, capacity utilization, sales, market share and, above all, price depression, financial losses and a reduction in employment.

- (19) Community production decreased from 428 803 tonnes in 1978 to 381 693 tonnes in 1982 with consequent decrease in capacity utilization which is more severe for the Netherlands where capacity utilization decreased from 99 to 77 %. In order to meet competition from dumped Czechoslovakian and Hungarian imports, especially in the white model ranges, a number of Community producers have forgone necessary price increases which would have allowed them to cover their costs and provide for a reasonable profit. Sales on the Community market have decreased from 407 834 tonnes in 1978 to 358 027 tonnes in 1982. As a result, Community producers' profitability has been eroded to the extent that since 1980 all producers suffered losses, in most cases very substantial ones. Employment figures verified by the Commission show a fall of about 8 % between 1978 and 1982.
- (20) The Commission has considered whether injury has been caused by other factors such as the volume and prices of undumped imports or changes in demand. It has been established that total imports from all other countries have always held a market share of about 3 %. Furthermore, consumption in the Community fell by about 12 % between 1978 and 1982. It has, however, been established that this decline has affected the Community production more than it has affected the dumped imports. In fact, these increased by 72 % between 1978 and 1982.
- (21) All these factors, and in particular the exceptional price undercutting felt particularly in a period where the Community industry experiences substantial difficulties, led the Commission to determine that the effects of the dumped imports of certain sanitary fixtures of porcelain or china originating in Czechoslovakia and Hungary, taken in isolation, have to be considered as constituting material injury to the Community industry concerned.

G. Community interest

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

H. Undertakings

- (23) The exporters concerned were informed of the main findings of the preliminary investigation

and commented on them. Undertakings were subsequently offered by the Czechoslovakian and the Hungarian exporters concerning their exports of certain sanitary fixtures of porcelain or china to the Community.

- (24) The effect of the said undertakings will be to increase export prices to the Community to the level necessary to eliminate the dumping. These increases in no case exceed the injury found in the investigation.
- (25) In these circumstances, the undertakings offered are considered acceptable and the proceeding may, therefore, be terminated without imposition of anti-dumping duties.
- (26) No objection to this course was raised in the Advisory Committee,

HAS DECIDED AS FOLLOWS:

Article 1

The Commission hereby accepts the undertakings given by the Czechoslovak Ceramics, Prague, Czechoslovakia and Ferunion, Budapest, Hungary in connection with the anti-dumping proceeding concerning certain sanitary fixtures of porcelain or china falling within Common Customs Tariff heading No ex 69.10 and corresponding to NIMEXE code 69.10-10 originating in Czechoslovakia and Hungary.

Article 2

The anti-dumping proceeding concerning imports of certain sanitary fixtures of porcelain or china is hereby terminated.

Done at Brussels, 15 November 1983.

For the Commission

Wilhelm HAFERKAMP

Vice-President