

COMMISSION DECISION

of 16 June 1983

accepting undertakings given in connection with the anti-dumping proceeding concerning imports of low carbon ferro-chromium originating in South Africa, Sweden, Turkey and Zimbabwe, and terminating that proceeding

(83/306/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 by that Regulation,

Whereas :

A. Procedure

(1) In November 1982, the Commission was asked by the Fachverband Ferrolegerungen Stahl und Leichtmetallveredler e.V., acting on behalf of a producer established in Germany representing the bulk of Community production of low carbon ferro-chromium, to review the undertakings accepted by the Commission in 1978 in the context of the anti-dumping proceeding in respect of South Africa and Sweden. The Commission also received at the same time a complaint made on behalf of the same Community producer concerning imports originating in Turkey and Zimbabwe. The request for a review and the complaint contained sufficient evidence that dumping was being practised and that material injury was being caused thereby. This evidence was sufficient to justify the initiation of an investigation and the Commission therefore announced, by a notice published in the *Official Journal of the European Communities*⁽³⁾, a review of the price undertakings accepted by the Commission in 1978 in the course of the anti-dumping proceeding concerning imports of low carbon ferro-chromium falling within subheading 73.02 ex E I of the Common Customs Tariff (NIMEXE code ex. 73.02-52), originating in South Africa and Sweden, and the initiation of a new

anti-dumping proceeding concerning imports of this same product originating in Turkey and Zimbabwe and commenced its investigation.

- (2) The Commission officially so advised the exporters and importers known to be concerned as well as the representatives of the exporting countries and the complainant and gave the parties directly concerned an opportunity to make known their views in writing and at an oral hearing.
- (3) All the exporters and the majority of the importers known to be concerned took the opportunity to make known their views in writing; the exporters and a number of importers requested and were granted an oral hearing.
- (4) The authorized agent of the Turkish producer/exporter Etibank asked to meet the main Community producer to compare their viewpoints; the Commission was prepared to accede to this request but the Community producer refused to take part in a meeting and it was therefore not possible to organize a comparison of the respective viewpoints.
- (5) Certain Community purchasers of the product in question made known their views in writing and asked to be heard by the Commission, which acceded to their requests.
- (6) The Commission sought and verified all the information it deemed to be necessary for the purposes of a preliminary determination of dumping and carried out inspections at the premises of the following :
 - the Community producer :
Elektrowerk Weisweiler, Düsseldorf, Germany,
 - non-Community producers/exporters :
 - Ferrolegeringar Trollhätteverken AB, Stockholm, Sweden,
 - Middelburg Steel and Alloys Holdings (PTY) Ltd, Sandton, South Africa,
 - Zimbabwe Alloys Ltd, Harare, Zimbabwe,
 - the importer :
Société Anonyme des Minerais, Luxembourg, acting on behalf of the Turkish producer/exporter Etibank.

⁽¹⁾ OJ No L 339, 31. 12. 1979, p. 1.

⁽²⁾ OJ No L 178, 22. 6. 1982, p. 9.

⁽³⁾ OJ No C 338, 24. 12. 1982, p. 26.

- (7) The investigation into the dumping practices covered the period December 1981 to November 1982.

B. Normal Value

- (8) In order to establish the normal value for the Turkish and Zimbabwean exporters, the Commission had to take account of the fact that the sales of the like product effected by the Turkish and Zimbabwean exporters on their respective domestic markets do not permit of a valid comparison as the quantities involved are insufficient; in addition, the investigation in South Africa and Sweden revealed that the prices of like products sold by the exporters on their domestic markets had, over a significant period and in respect of substantial quantities, been less than all costs, both fixed and variable, ordinarily incurred in their production. The Commission therefore decided that the normal value for the four exporters concerned should be established on the basis of the constructed value.
- (9) The constructed values were established by taking, for the undertakings concerned, the total costs of the materials and manufacture, plus general costs, and adding a profit margin of 4 %, which was considered reasonable in the light of the results achieved by the undertakings in profitable years.

C. Export prices

- (10) The export prices were determined on the basis of the prices actually paid or to be paid for the products sold for export to the Community.

D. Comparison

- (11) In comparing normal value with export prices, the Commission made allowance, where necessary, for differences affecting the comparability of the prices and, in particular, differences in payment and delivery terms.
- (12) All the comparisons were made at the ex-works stage.

E. Margins

- (13) The above preliminary examination established that dumping was being practised by the four countries concerned, the margin of dumping being equal to the amount by which the normal value established exceeded the export price to the Community.
- (14) The margins thus established vary from 7,2 to 31,7 % depending on the exporting country.

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 of low carbon ferro-chromium originating in South

Africa, Sweden, Turkey and Zimbabwe rose from 17 166 tonnes in 1979 to 23 167 tonnes in 1982, which represents an increase from 21 to 39 % in the market share held by the countries concerned over the same period.

- (16) the selling prices of these imported products were below the prices required by the Community producer to cover its costs and ensure a reasonable profit.
- (17) With regard to the impact on the situation of the main Community producer, the facts available to the Commission show that the production of the complainant Community producer remained stable during the period under consideration, while its sales of low carbon ferro-chromium fell by 11 % between 1979 and 1982; the stocks of the Community producer, although relatively variable, therefore showed a substantial upward trend.
- (18) The profitability of the Community producer of the product in question, which was positive in 1980, became negative in 1981 and fell by a further 89 % in 1982, putting the undertaking, which can no longer meet its financial commitments, in an untenable situation despite its attempts to reduce costs.
- (19) The employment figures for the Community producer of the product in question show a 14 % drop in the workforce between 1980 and 1982; a continuation increase in dumped imports from the exporting countries will entail a serious danger of a further 15 % reduction in the number of workers employed at present.
- (20) The Commission has also examined the injury caused by other factors, such as the drop in global consumption of the product in question, which, in index terms, fell from 100 in 1979 to 73 in 1982; nevertheless, it has been established that this decline hit Community production harder than the dumped imports and the prices at which the products in question are offered for sale in the Community have caused the Commission to conclude that the effects of the dumped imports of low carbon ferro-chromium originating in South Africa, Sweden, Turkey and Zimbabwe, taken in isolation, must be considered as a source of material injury to the Community producer concerned.

G. Interest of the Community

- (21) The main Community users of low carbon ferro-chromium have maintained that the introduction of protective measures was not in the interests of the Community given that this would increase appreciably their costs and would consequently make them less competitive; however, in view of the particularly difficult financial situation which the Community producer must face as regards the production and sale of the product concerned and in order to prevent the closure of its plant, which

would make the Community dependent to a large extent on external suppliers, and in view of the relatively minor impact of an increase in the price of this product on the costs of the consuming industry, the Commission has nevertheless concluded that it is in the Community's interests to take such measures.

H. Undertakings

- (22) The exporters concerned were informed of the main findings of the preliminary investigation and submitted their comments; undertakings were subsequently offered by Middelburg Steel and Alloys Holdings (PTY) Ltd, Ferrolegeringar Trollhätteverken AB, Etibank, and Zimbabwe Alloys Ltd, in respect of their exports of low carbon ferro-chromium to the Community.
- (23) The undertakings will have the effect of raising prices for imports into the Community to the level which the Commission, after comparing the weighted average of the prices and costs of the Community producer with the costs and special marketing terms of the various importers, considers necessary to eliminate the injury; the increases in question are lower than the dumping margins.
- (24) In these circumstances, the undertakings offered are considered acceptable and the proceeding may therefore be terminated without imposition of anti-dumping duties.
- (25) No objection was raised by the Advisory Committee to this solution,

HAS DECIDED AS FOLLOWS:

Article 1

The undertakings given by Middelburg Steel and Alloys Holdings (PTY) Ltd, Ferrolegeringar Trollhätteverken AB, Etibank and Zimbabwe Alloys Ltd, in the context of the anti-dumping proceeding concerning imports of low carbon ferro-chromium falling within subheading 73.02 ex E I of the Common Customs Tariff (NIMEXE code ex 73.02-52), originating in South Africa, Sweden, Turkey and Zimbabwe are hereby accepted.

Article 2

The anti-dumping proceeding concerning imports of low carbon ferro-chromium originating in South Africa, Sweden, Turkey and Zimbabwe is hereby terminated.

Done at Brussels, 16 June 1983.

For the Commission

Wilhelm HAFERKAMP

Vice-President
