

COMMISSION DECISION

of 16 March 1990

accepting an undertaking given in connection with the anti-dumping proceeding concerning imports of certain diesel engines originating in Finland and Sweden, and terminating the investigation

(90/138/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community⁽¹⁾, and in particular Article 10 thereof,

Having regard to the proposal from the Commission, presented after consultation within the Advisory Committee as provided for under the above Regulation (EEC) No 2423/88,

Whereas :

A. Procedure

(1) In February 1987 the Commission received a complaint lodged by Euromot (European Committee of Internal Combustion Engine Manufacturers' Association) on behalf of Community producers representing the majority of Community production of the diesel engines concerned. The complaint contained evidence of dumping and of material injury which was considered sufficient to justify the initiation of a proceeding. The Commission accordingly announced by a notice in the *Official Journal of the European Communities*⁽²⁾ the initiation of an anti-dumping proceeding concerning imports into the Community of certain diesel engines falling within CN codes ex 8408 10 70, ex 8408 10 80, ex 8408 10 90, ex 8408 90 71, ex 8408 90 75 and ex 8408 90 99, originating in Finland and Sweden and subsequently commenced an investigation.

(2) The Commission officially so advised the exporters and importers known to be concerned, the representatives of the exporting countries 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 producers and exporters made their views known in writing. They have requested and have been granted hearings.
- (4) No submissions were made on behalf of Community purchasers of the product in question.
- (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 producers

Krupp MaK Maschinenbau GmbH, Germany,
MAN — B&W Diesel AG, Germany,
Motoren-Werke Mannheim AG, Germany,
Stork-Werkspoor Diesel BV, Netherlands,
Fincantieri, Divisione Grande Motori, Italy,
S.E.M.T. Pielstick, France,
CCM Sulzer, France,
Ruston Diesels Ltd, UK,
Mirrlees Blackstone Diesels Ltd, UK,
W.H. Allen Diesels Ltd, UK,
Compañía de Motores Deutz MWM SA, Spain,
Empresa Nacional Bazán, Spain.

Producers in third countries

OY Wärtsilä AB, Helsinki, Finland,
Wärtsilä Diesel AB, Trollhättan, Sweden,
hereinafter known as 'the exporters'.

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

Because of the complicated technical nature of the product concerned, the extensions of time-limits requested by both the exporters and the complainants — which were granted — and the large number of companies that had to be investigated, the time-limit for completion of the investigation exceeded a 12 month period.

- (6) The investigation of dumping covered the period from 1 January 1987 to 31 August 1988.

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 1.

⁽²⁾ OJ No C 251, 27. 9. 1988, p. 3.

B. Products

- (7) The products concerned by the proceeding are certain diesel engines, used as marine main and auxiliary engines as well as stationary engines for the generation of electricity, of a power exceeding 500 kW with revolutions per minute below 1 200 (medium-speed engines).

Each engine is custom-built to the specific requirements of the customers and includes additional equipment which differs considerably for each order. However, every engine is manufactured to certain specific standards and the components used in the production universally are basically the same. For comparison purposes both Community producers as well as exporters' engines had therefore to be brought back to a so-called 'basic engine'. (Completed engine less additional equipment).

These 'basic engines' that were used for comparison purposes are like products for the following reasons :

they are either alike in all respects or have closely resembling characteristics and performances. Irrespective of whether the engine is used as marine main, auxiliary or stationary they are all interchangeable, and all contain the same basic components. All engines consist of the same technology and even though there are differences in size and output, they all serve the same purpose.

C. Normal Value

- (8) As the exporters had no domestic sales to unrelated customers (all engines were produced for internal use in their own shipyard in the investigation period) normal value had to be constructed for every basic engine.

The constructed normal values was determined for every basic engine exported by adding cost of production and a reasonable margin of profit. Cost of production was computed on the basis of all costs, both fixed and variable, in the country or origin, of materials and manufacture, plus a reasonable amount for selling, administrative and other general expenses.

Given that there were no domestic sales in the ordinary course of trade on the domestic market nor any other producers of the like product in the same business sector in the country of origin, the profit margin to be added to the cost of production had to be determined on another reasonable basis in accordance with Article 2 (3) (b) (ii) of Regulation (EEC) No 2423/88. The Commission therefore based its calculation on the weighted average profit margin realized by the exporters on their profitable export sales to third countries.

D. Export price

- (9) The export price for every basic engine in every export order to independent customers was determined on the basis of the prices actually paid or payable.

E. Comparison

- (10) In comparing normal value and export price the Commission took account, where appropriate, of differences in conditions and terms of sale and made the necessary adjustments.

All comparisons were made at the 'ex-works' level and on a transaction-by-transaction basis.

F. Margins

- (11) The above preliminary examination of the facts shows the existence of dumping in respect of the Finnish and Swedish exporters, the margin of dumping being equal to the amount by which the normal value as established exceeds the price for export to the Community.

Varying margins of dumping were established depending on the type of engines concerned and the importing Member State. The individual margins fluctuated considerably, the weighted average dumping margins for all exports to the Community were established at 11,3 % and 19,6 % for Finland and Sweden respectively.

G. Injury

- (12) The volume of imports of diesel engines from Finland and Sweden in the period 1984-87 has increased considerably. Calculated on the basis of number of engines (units) there has been an increase of (...) ⁽¹⁾ whereas the increase on the basis of output (kW) has been (...) in the same period.
- (13) The corresponding market share of the exporters (Finland and Sweden) in the EEC market for medium-speed engines based on total Community consumption increased during the period 1984-87 from (...) to (...) (units) and from (...) to (...) (kW) respectively.

⁽¹⁾ With regard to injury caused to the Community industry the Commission has received confidential information from the firms involved, which, if published, even in a summarized form, would be likely to have a significantly adverse effect upon these firms.

- (14) The Commission established price undercutting by comparing the exporters' prices and those of the Community manufacturers, for every transaction carried out by the exporters from Finland and Sweden during the investigation period.

For this exercise it was first necessary to identify the products which were sold by the Community producers. Subsequently the corresponding ones of the Finnish and Swedish exporters had to be chosen. This was done on the basis of size and output of the various engines as supplied by the exporters. The calculations were made by comparing the average sales prices of every EEC producer to those of the exporters for every type of basic engine. The analysis indicates that the prices at which the dumped products were sold in the Community undercut the prices of Community producers to a varying degree, the weighted average margin of price undercutting being significant and exceeding the dumping margins found.

- (15) There has been an overall decrease in sales of Community producers of (...) on the basis of engines (units) and of (...) on the basis of output (kW) during the period 1984-87.
- (16) Community producers market share during the period 1984-87 decreased from (...) to (...) (units) and from (...) to (...) (kW) respectively.
- (17) With regard to the profit and loss situation of the EC diesel engine producers, it has been established that they suffered heavy financial losses during the period 1984-88.
- (18) The Commission has considered whether injury has been caused by other factors such as a decline in demand and low-priced imports from other sources.

For this purpose the Commission took into account that in the wake of the shipbuilding crisis the market for marine diesel engines had witnessed a considerable decline leading to sustained worldwide competition and a decline in sales and prices. Faced with a shrinking market for several years the Community industry implemented stiff restructuring measures which are still proceeding and have led to a certain improvement in capacity utilization. Although the industry is still making considerable losses the streamlining efforts have started to show some positive effects and a reduction of losses seems to be under way. The process was however significantly jeopardized by the increasing presence of low-priced dumped imports from Sweden and Finland.

- (19) For the purpose of determination of injury, exports from Finland and Sweden have been cumulated because the engines under consideration were

of the same type and the exporters concerned belong to the same holding company, The Finnish and Swedish EEC market shares increased considerably to the detriment of the Community industry; no other serious third-country competitors producing medium-speed diesel engines were found to be selling in the Community during the investigation period. The exporters in Finland and Sweden account for practically all of the total imports of medium-speed engines from non-EEC countries, the market share of other third-country competitors being negligible.

- (20) The increased level of dumped imports and in particular their low prices that undercut the already loss-making prices of Community producers contributed significantly to the sharp decrease of sales of Community producers and their considerable loss of market share. The necessity to align their prices also caused heavy additional financial losses to Community producers. The Commission therefore considers that given the already difficult situation of the Community industry, the dumped imports of medium-speed diesel engines from Finland and Sweden taken in isolation are causing material injury to the Community industry.

H. Community interest

- (21) In assessing whether it is in the interest of the Community to take measures against dumped imports, the Commission considers that because of the heavy losses suffered by the Community producers the continued existence of this industry is at risk. The production of diesel engines is of social, technological and economic importance for the Community. The European diesel engine industry is an important employer both directly and indirectly through a large number of suppliers of semi-finished and finished products. The number of employees in this segment amounts to (...), with a turnover of (...) ecu. The disappearance of this industry would involve considerable social costs for the Community.

The production of diesel engines is also an important factor to the technological development of the diesel industry in general. This technology is continually advancing and progressing. Further plant closures and reductions of diesel engine production would undoubtedly lead to a loss of the technology and know-how involved.

The European importers and users of the products concerned did not make their views known nor raise objections with regard to defensive actions

against imports of diesel engines from Finland and Sweden during this anti-dumping proceeding.

In conclusion it is therefore considered that the interests of the Community call for intervention.

I. Undertaking

- (22) Following the completion of the preliminary investigation the exporters concerned offered an undertaking concerning export of diesel engines.

The Commission regards this undertaking as acceptable, considering that the effect of this undertaking will be to increase the prices of the products concerned to an extent sufficient to eliminate the margin of dumping found for these exporters. It appears that correct operation of the undertaking can be effectively monitored.

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

HAS DECIDED AS FOLLOWS:

Article 1

The undertaking offered by OY Wärtsilä AB, Helsinki, Finland (acting on behalf of Wärtsilä Diesel AB, Trollhättan, Sweden as well) in connection with the anti-dumping proceeding concerning imports of diesel engines falling under CN codes ex 8408 10 70, ex 8408 10 80, ex 8408 10 90, ex 8408 90 71, ex 8408 90 75, ex 8408 90 99, originating in Sweden and Finland is hereby accepted.

Article 2

The investigation in connection with the anti-dumping proceeding referred to in Article 1 is hereby terminated.

Done at Brussels, 16 March 1990.

For the Commission

Frans ANDRIESEN

Vice-President
