

# COMMISSION

## COMMISSION DECISION

of 9 June 1993

concerning applications for refund of anti-dumping duties collected on imports of certain compact disc players originating in Japan (Amroh BV, PIA Hifi, MPI Electronic)

(Only the German, English and Dutch texts are authentic)

(93/363/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<sup>(1)</sup>, and in particular Articles 10 and 16 thereof,

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

Whereas :

### I. PROCEDURE

(1) Between November 1990 and March 1993, Amroh BV, PIA Hifi and MPI Electronic, all independent importers respectively based in Weesp (Netherlands), Weiterstadt (Germany), and Manchester (United Kingdom) made 38 applications for the refund of definitive anti-dumping duties imposed by Council Regulation (EEC) No 112/90<sup>(2)</sup> on certain compact disc players originating in Japan and paid by them on the importation from April 1990 to March 1993 of compact disc players produced and exported by Accuphase Laboratory. They argued that they had paid export prices significantly in excess of normal value. Their applications are admissible in particular concerning time limits since they were introduced within the three months deadline set by the provisions of Article 16 of Regulation (EEC) No 2423/88. The Commission

decided to handle these applications according to the rules on recurring applications laid down in point I (4) of the Commission notice concerning the reimbursement of anti-dumping duties<sup>(3)</sup>. The information required for judging the validity of the applications was provided for the period April 1990 to March 1993 inclusive and sent direct to the Commission by Accuphase Laboratory at the applicants' request.

- (2) The Commission sought and verified all information it deemed to be necessary for the purpose of the examination of the refunds applications and carried out an investigation in the premises of Accuphase Laboratory in Japan.
- (3) The refund applicants have been informed of the results of the examination of their requests. A reasonable period of time was granted to make representations on the above information and due account has been taken of these representations where considered appropriate.

### II. PRODUCT UNDER CONSIDERATION

- (4) The definition of the product under consideration is identical to that contained in Regulation (EEC) No 112/90, as amended by Regulation (EEC) No 819/92<sup>(4)</sup>. The product considered is certain compact disc players falling within CN codes ex 8519 31 00, ex 8519 39 00, ex 8519 99 10, ex 8520 31 90, ex 8520 39 10, ex 8520 39 90 and ex 8527 31 91 (Taric codes 8519 31 00\*10,

<sup>(1)</sup> OJ No L 209, 2. 8. 1988, p. 1.  
<sup>(2)</sup> OJ No L 13, 17. 1. 1990, p. 21.

<sup>(3)</sup> OJ No C 266, 22. 10. 1986, p. 2.  
<sup>(4)</sup> OJ No L 87, 2. 4. 1992, p. 1.

8519 39 00\*10, 8519 99 10\*10, 8520 31 90\*30, 8520 39 10\*10, 8529 39 90\*10 and 8527 31 91\*10)(<sup>1</sup>) (hereafter referred to as CDPs).

### III. REFUND FINDINGS

#### A. Merits of the claim

(5) Article 16 (1) of Regulation (EEC) No 2423/88 makes it the responsibility of the importer who has paid an anti-dumping duty and is applying for refund of that duty to show that the duties collected exceed the dumping margin calculated for the relevant reference period. This actual dumping margin should be calculated using the same method as that applied during the initial investigation.

(6) The Commission considered that the information supplied by the applicant and the exporter regarding normal value and the export prices of the different CDP models was sufficient to calculate correctly the average actual dumping margin.

##### 1. Normal value

(7) Almost all the CDP models produced by Accuphase Laboratory were sold on the domestic market in sufficient quantities to be representative and at prices which permitted recovery of all costs reasonably allocated in the normal course of trade. Accordingly, normal value was determined on the basis of the weighted average domestic prices of these models of CDPs net of any rebates or discounts.

##### 2. Export price

(8) Since Accuphase Laboratory sold CDPs directly to independent importers in the Community, export prices were determined on the basis of the net prices actually paid or payable for the products sold for export to the Community.

##### 3. Comparison

(9) For the purpose of a fair comparison between normal value and export price and in accordance with Article 2 (9) and (10) of Regulation (EEC)

No 2423/88, the Commission took account of differences affecting price comparability where a direct relationship of these differences to the sales under consideration could be satisfactorily demonstrated. Adjustments were in particular made in respect of freight, insurance, handling expenses and sales personnel salaries. All comparisons were made at the same level of trade, at the ex factory level.

(10) As far as differences in guarantee costs are concerned, the Commission established that the adjustment claimed by the applicant to take account of the level of these domestic costs was partly based on transactions falling outside the investigation period. Therefore, the Commission calculated the average cost for this item shown in the financial statements of the company for the relevant period and adjusted normal value on this basis.

(11) Accuphase Laboratory also made a claim for sales promotion expenses. However, Article 2 (10) (c) of Regulation (EEC) No 2423/88 does not provide for adjustments for differences in such expenses since such differences do not affect price comparability and the claim was, accordingly, rejected.

##### 4. Dumping margin

(12) For the reference period concerned, the Commission compared the average normal value of each CDP model, ex factory, with the ex factory export price charged by Accuphase Laboratory for each of the consignments released for free circulation in the Community during the same period. The Commission found the average dumping margin during the period under consideration to be lower than the dumping margin used to calculate the level of the duties collected. While Accuphase Laboratory was found to have dumped exports, the level of dumping was lower than that established in Regulation (EEC) No 112/90 as being applicable to this producer. The Commission found the weighted average dumping margin, expressed as a percentage of total cif value, for the period under consideration to be 15,1 %. Consequently, the applicants have shown that the duty collected at a rate of 32 % exceeds the actual dumping margin for the periods considered.

#### B. Amounts to be reimbursed

(13) The amounts to be reimbursed to the applicants, representing the difference between the rate of duty collected and the actual dumping margin, are equal to 16,9 % (32 to 15,1 %) of the value used by the relevant authorities to calculate the level of anti-dumping duty.

(<sup>1</sup>) Stand-alone sound reproducers with a laser optical reading system and with external dimensions of at least 216 × 45 × 150 mm, equipped to accommodate up to a maximum of 10 compact discs, including sound reproducers which may be incorporated in a rack system but can nevertheless operate alone separately from the rack, with their own power supply and commands, functioning with AC mains and supply of usually 110/120/220/240 V and not capable of operating with a power supply of 12v DC or less.

- (14) The applicants were informed of the results of this examination and made no comments. The Commission informed the Member States and gave its opinion on the matter. No Member State raised any objection,

HAS ADOPTED THIS DECISION :

*Article 1*

The applications for the refund of anti-dumping duties submitted by Amroh BV, PIA Hifi Vertriebs GMBH, and MPI Electronic are granted to the amount of 16,9 % of the value used by the relevant authorities for calculating the amount of anti-dumping duty.

*Article 2*

The amounts set out in Article 1 shall be respectively refunded by the Dutch, German, and British authorities.

*Article 3*

This Decision is addressed to the Kingdom of Netherlands, the Federal Republic of Germany, the United Kingdom and the applicants :

- Amroh BV, Hogeweyselaan 227, 1382 JL Weesp, Netherlands,
- PIA Hifi Vertriebs GmbH, Rosenweg 6, 6108 Weiterstadt 2, Germany,
- MPI Electronic Ltd, Wood Lane, Manchester M 31 4BP, United Kingdom.

Done at Brussels, 9 June 1993.

*For the Commission*

Leon BRITTAN

*Member of the Commission*