

COUNCIL REGULATION (EEC) No 1769/92

of 29 June 1992

amending Regulation (EEC) No 1768/89 in respect of the definitive anti-dumping duty on certain imports of video cassettes originating in Hong Kong

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

II. REVIEW PROCEDURE

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 14 thereof,

Having regard to the proposal submitted by the Commission after consultation within the Advisory Committee as provided for under the above Regulation,

Whereas :

- (3) By a notice published in the Official Journal⁽²⁾ on 12 October 1991, the Commission, after consultation within the Advisory Committee and in accordance with Article 14 of Regulation (EEC) No 2423/88 initiated a review of Regulation (EEC) No 1768/89 as it concerned a Hong Kong company, Bico Magnetics Ltd. That company had submitted that it had not exported the products subject to the anti-dumping duty during the original period of investigation (1 January to 30 November 1987). In addition, it submitted that it was not related to any of the companies in respect of which dumping was found to have occurred in the previous investigation. Moreover, no evidence was found that it had ever exported video cassettes to the Community. Accordingly, the Commission commenced an investigation in order to verify whether Bico Magnetics Ltd could be considered as a newcomer and to establish a dumping margin, if any, for that company.

I. PREVIOUS PROCEDURE**III. RESULTS OF THE INVESTIGATION**

- (1) By Regulation (EEC) No 1768/89⁽³⁾, the Council imposed a definitive anti-dumping duty of 21,9 % on imports of VHS video tape in cassettes (hereinafter referred to as 'video cassettes') falling within CN code ex 8523 13 00 and originating in Hong Kong, with the exception of imports from several exporters especially mentioned which were subject to a lesser rate of duty or exempt from duty.
- (2) In recital 43 of Regulation (EEC) No 1768/89, concerning companies which started or will start exporting own-produced video cassettes to the Community after the investigation period (newcomers), the Council noted that the Commission is ready to initiate without delay a review proceeding if the exporting company can show the Commission, and supply to that effect sufficient evidence, that it did not export the products concerned to the Community during the period of investigation. The company also has to demonstrate that it started or will start those exports after the said period and that it is not related to or associated with any of the companies subject to the investigation.

1. Newcomer

- (4) The investigation showed that Bico Magnetics Ltd had not previously exported or produced video cassettes which were exported to the Community and was now about to begin such exports. In addition, it was found that this company had no link of any sort with the exporters involved in the previous procedure and for which dumping was found to have occurred. The Council confirms that it should accordingly be considered as a newcomer and that a partial review of Regulation (EEC) No 1768/89, inasmuch as it concerned Bico Magnetics Ltd, was warranted.

2. Normal value

- (5) Since Bico Magnetics Ltd did not sell any video cassettes on the domestic market during the investigation period for this review (from 1 January to 30 June 1991), normal value was determined on the basis of the constructed value of the product concerned in accordance with Article 2 (3) (b) of

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 1.

⁽²⁾ OJ No L 174, 22. 6. 1989, p. 1. As amended by Regulation (EEC) No 3522/90 (OJ No L 343, 7. 12. 1990, p. 1.)

⁽³⁾ OJ No C 266, 12. 10. 1991, p. 7.

Regulation (EEC) No 2423/88. This constructed value was computed on the basis of all costs, both fixed and variable, in the country of origin of materials and manufacture for the models to be exported to the Community plus a reasonable amount for selling, administrative, other general expenses and profit.

- (6) As far as selling, administrative and general expenses were concerned, they were calculated by reference to such expenses as they were stated in the audited accounts of Bico Magnetics Ltd. These costs corresponded to such costs incurred by other Hong Kong manufacturers for their sales of video cassettes on the domestic market, as established during previous investigations concerning video cassettes from Hong Kong.

As far as profit was concerned, it was found appropriate to apply a profit rate of 8 % on turnover; this rate was used in Regulation (EEC) No 1768/89 for the Hong Kong video cassette manufacturers and, according to the information available to the Commission, can still be regarded as the profit which Hong Kong companies can normally achieve on their domestic market. The Council confirms these findings.

- (7) On this basis, normal value was established for the models produced and destined for export to the Community by Bico Magnetics Ltd, namely normal grade.

3. Measures

- (8) Since it was found that Bico Magnetics Ltd had not exported video cassettes to the Community, no export price could be established for the product under consideration, and no dumping margin could be calculated.
- (9) However, it is clear that if the export prices of the various models of video cassettes sold for export to the Community by Bico Magnetics Ltd at least

equalled the normal value for the corresponding models, these products would not be dumped.

- (10) In addition, this normal value is less than the target price determined for the Community industry in Regulation (EEC) No 1768/89.
- (11) In these circumstances, it is considered that the measures to be imposed in respect of the imports to the Community of video cassettes produced by Bico Magnetics Ltd, should guarantee that the products are not sold to the Community at less than their normal value.

IV. AMENDMENT OF THE REVIEWED MEASURES

- (12) Accordingly, it is considered appropriate that Regulation (EEC) No 1768/89 should be amended and that Bico Magnetics Ltd be exempted from the definitive anti-dumping duty imposed on VHS video tapes in cassettes originating in Hong Kong in respect of the models E60, E90, E120, E180, E195 and E240, in normal grade, insofar as these models will be subject to a duty equal to the difference between minimum price set out for each of these models and their net price, free-at-Community frontier, before duty. The minimum price corresponds to the normal value duly adjusted to bring it to cif level.
- (13) Bico Magnetics Ltd was informed of the essential facts and considerations on the basis of which the imposition of the anti-dumping duties was proposed, and was given an opportunity to comment on the proposal. No comments were made by exporting producer concerned.
- (14) The complainants were also informed of the considerations and main facts on the basis of which the Council intended to amend Regulation (EEC) No 1768/89 and had not comment to make.
- (15) Since this review is only limited to one Hong Kong producer, it does not prolong the validity of Regulation (EEC) No 1768/89 with regard to Article 15 (1) of Regulation (EEC) No 2423/88,

HAS ADOPTED THIS REGULATION:

Article 1

The following subparagraph is hereby added to Article 1 (3) of Regulation (EEC) No 1768/89:

'The entry specified in paragraph 2 (b) shall not apply to models of video tapes in cassettes E60-E90-E120, E180-E195-E240 in normal grade manufactured and sold for

export to the Community by Bico Magnetics Ltd, Hong Kong (Taric additional Code 8292); these models shall be subject to an anti-dumping duty equal to the difference between the price specified below for each of the models concerned and their net price, free-at-Community-frontier, before duty for those models :

E60	E90	E120	E180	E195	E240
ECU 0,70	ECU 0,83	ECU 0,96	ECU 1,22	ECU 1,29	ECU 1,48'

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Luxembourg, 29 June 1992.

For the Council

The President

Jorge BRAGA DE MACEDO
