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(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 16 April 1985

terminating the anti-subsidy proceeding concerning imports of soya meal originating in Brazil

(85/233/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2176/84 of 23 July 1984 on protection against dumped or subsidized imports from countries not members of the European Economic Community [1], and in particular Article 9 thereof,

After consultations within the Advisory Committee provided for by the said Regulation,

Whereas :

A. Procedure

1. In January 1984 the EEC Seed Crushers' and Oil Producers' Federation (Fediol) lodged a complaint with the Commission on behalf of soya meal manufacturers representing virtually the entire Community industry. The complaint contained sufficient evidence of subsidization and of material injury resulting therefrom to justify the initiation of a proceeding.

   The Commission accordingly gave notice in the *Official Journal of the European Communities* [2] that it was extending the anti-subsidy proceeding concerning imports of soya meal originating in Argentina to imports of such products originating in Brazil, and commenced investigations. The product concerned falls within Common Customs Tariff subheading ex 23.04 B, corresponding to NIMEXE code ex 23.04-40.

2. The Commission officially so advised the importers known to be concerned, the representatives of the exporting country, the complainants and the following eight companies, which were accepted by both the Brazilian authorities and Fediol as representing the exporters :

   — Ceval Agro Industrial SA,

   — Industrial e Comercial Brasileira SA,

   — Cargill Agricola SA,

   — Refinadora de Oleos Brasil SA,

   — Anderson Clayton SA,

   — Companhia Brasileira de Oleos e Derivados,

   — Granol Industria, Comercio e Exportaçao SA,

   — Industrias de Oleos Pacaembu SA.

   It gave the Brazilian Government and the parties directly concerned the opportunity to make known their views both orally and in writing. The Brazilian Government, the eight exporters listed above, all Community producers and a number of importers submitted their views and detailed comments.

[1] OJ No L 201, 30. 7. 1984, p. 1.
[2] OJ No C 76, 17. 3. 1984, p. 13.

3. The Commission gathered and checked all the information it deemed necessary to determine the existence of subsidization and injury, and carried out inspections at the premises of Community producers. It also carried out an inspection in Brazil, checking the information supplied by four exporters: Ceval Agro Industrial SA, Industrial e Comercial Brasileira SA, Cargill Agricola SA and Refinadora de Oleos Brasil SA. The subsidy investigation covered the period 1 January to 31 December 1983.

B. Subsidies

4. In its complaint Fediol alleged that the following nine types of subsidy were being given:

— concessionary financing for exports of soya meal,

— tax benefits in respect of hedging transactions on foreign markets,

— concessionary financing for storage of soya beans,

— concessionary financing for imports of soya beans,

— concessionary export financing (the Proex programme),

— concessionary financing for exports of soya oil,

— differential taxation of exports of soya-based products,

— obstacles in the way of exports of soya beans.

5. *Concessionary financing for exports of soya meal*

5.1. Fediol alleges that Brazilian exports of soya meal are financed at concessionary rates under the Central Bank of Brazil's Resolution No 674, dated 21 January 1981, which governs export financing.

5.2. From the Commission's examination of the terms of the resolution it emerged that government loans were made available to Brazilian soya meal exporters in 1983, the year under investigation, to provide working capital. The loans, to a maximum of 7 % of the fob value of a firm's exports, were granted for up to a year at an interest rate fixed at 40 % up to and including 9 June 1983, and 60 % thereafter. They were channelled through the banking system, which obtained refinancing from the Central Bank at corresponding interest rates, for the year in question, of 36 and 56 % respectively.

5.3. To determine whether a subsidy is being granted, it is necessary to find out whether any government intervention takes place involving a charge on the public account. In this case, the finance provided under Resolution No 674 represents a charge on Brazil's public account, since the banks administering the programme on behalf of the government obtain refinancing from the Central Bank at rates lower than the rate of increase in the value of variable treasury bonds (Obrigações Reajustaveis do Tesouro Nacional — ORTN), which represents the cost of money to the Brazilian Government. In 1983 this was 156,6 %. Accordingly, the financing facility provided by the government under Resolution No 674 constitutes a subsidy on exports of soya meal.

5.4. Two factors have to be considered in assessing the amount of the subsidy: the cost to the exchequer, and the benefit to the recipient. Clearly, where the benefit to the recipient is less than the cost to the exchequer, a countervailing duty could reflect only the lesser amount. The cost of a subsidy to the exchequer is equal to the difference between the cost of money to the government and the concessionary interest rate available under the subsidy programme — in this case, the rate at which the banks obtain refinancing from the Central Bank.

5.5. Using the ORTN as a yardstick, the cost of money to the Brazilian Government in 1983 was 156,6 %. The Brazilian Government, however, has pointed out that exporters could obtain cheaper financing elsewhere. In particular, it stressed that the Banco do Brasil's discount rate, which varied from 78,9 to 101,22 % during the period in question, is well below the ORTN rate, so assuming that exporters can obtain financing from the Banco do Brasil, the benefit to them should be assessed on the basis of the discount rate.

The Commission has considered whether this line of reasoning was appropriate. It found that the Banco do Brasil has close links with government, which makes key management appointments and holds a majority of its capital. Moreover, the IMF regards the Banco do Brasil as part of the country's monetary authority, and not as a body operating in the free market for credit.

The Commission therefore sees no reason to regard the Banco do Brasil's discount rate as representative of market conditions, its reluctance to do so being reinforced by the fact that the rate is well below the market rate generally obtainable to finance working capital; the market rate for 1983 was 261,1 %.

It has accordingly calculated the amount of subsidy available under the programme over the investigation period by multiplying the difference between the ORTN rate and the weighted average concessionary rate at which banks obtain refinancing from the Central Bank by the percentage of soya meal exports eligible for the concessionary financing, which is 7 %. This produces a figure for the subsidy of 7,66 % of the fob value of the exports.

5.6. However, the Commission notes that the Banco do Brasil's foreign trade department (Carteira de Comércio Extérior — Cacex) issued a communiqué (No 60) on 14 September 1983 making soya meal exports ineligible for concessionary financing from that date onwards.

In addition, Resolution No 882 of 21 December 1983, which specifically excludes soya meal, repealed Resolution No 674 and replaced it with effect from 2 January 1984. The new resolution provides that the interest rate on concessionary loans is to be the ORTN rate plus 3 %.

The Commission therefore accepts that since 14 September 1983 soya meal producers have not had access to financing under the successive resolutions and have had to obtain ordinary commercial loans.

5.7. To sum up, soya meal exports were given a subsidy in 1983 equivalent to 7,66 % of their fob value by means of concessionary financing obtained under Resolution No 674, though exporters received no fresh loans of this type after 14 September 1983.

6. *Tax benefits in respect of hedging transactions on foreign markets*

6.1. In its complaint the Community industry alleges that under decree law No 1418 of 3 September 1975, the Brazilian Government exempts from income tax the profits made by soya crushers from forward exchange (hedging) transactions on foreign markets.

6.2. The Commission found that exporting firms can obtain authorization from the Central Bank to undertake hedging transactions on foreign markets. Decree law No 1418 of 3 September 1975 allows them to claim relief from income tax (which was 30 % in 1983) on the profits of such transactions.

The Brazilian Finance Ministry's Portaria (Directive) No 18 of 12 January 1979 specifies that only the balance of the year's profits repatriated to Brazil are to be exempted from tax.

The checks carried out by the Commission showed that crushers working solely for the domestic market were not allowed to undertake hedging transactions on foreign markets, nor to claim tax relief in the manner described. The deduction from exporters' taxable income of repatriated profits from hedging transactions therefore constitutes an export subsidy.

6.3. The Commission bases its calculations on profits (as defined by Portaria No 18) for the 1982 tax year, that being the basis on which tax was assessed in 1983, the year under investigation. To calculate the level of subsidy, profits were multiplied by the tax rate (30 %), and the product divided by the value of exports during the 1983 tax year. According to this calculation, the weighted average subsidy for the eight exporters covered by the investigation was equivalent to 0,09 % of the fob value of exports.

7. *Concessionary financing for storage of soya beans*

7.1. The Community industry alleges that the Brazilian Government grants soya crushers concessionary loans to finance the storage of soya beans.

7.2. The Commission found that such loans had been granted, and that as far as the facts went Fediol's allegation was correct. Federal government loans (Empréstimo do Governo Federal — EGF) are available to farmers, cooperatives and industry to finance the preparation and in particular the storage of 27 agricultural commodities,

the aim being to promote the steady availability of supplies throughout the year. In 1983 interest was charged on these 180-day loans at 45 %, which was less than the cost of money to the Brazilian Government and lower than ordinary market rates, and thus constitutes a concessionary rate.

7.3. Since such a practice does not amount to an export subsidy, it is necessary to consider whether a subsidy other than an export subsidy (domestic subsidy) is involved. A number of factors are to be taken into consideration here.

The complainants assert that these loans are a subsidy on production of soya meal. However, the Commission would point out that it is not the crushing process which is being financed, but the preparation and storage of the beans. It could therefore be held that the aid was directed to a stage prior to the manufacture of the meal.

In any case, even if the EGF loans could be regarded as production aids, this would not automatically mean that they constitute countervailable subsidies since, in the case of domestic subsidies, it is indispensable that these are not generally available.

Governments have always used financial intervention as an essential tool of economic and social policy. So long as the impact of such interventions is general, they do not distort competition at the national level. Thus measures normally regarded as being in the public interest, for instance to improve a country's infrastructure or its education, health or transport services, do not have a distorting effect. For there to be distortion of competition, the advantages must be conferred selectively ; in the case of export subsidies, on goods for export but not goods for the domestic market or, in the case of domestic subsidies, with the aim of helping specific firms.

The effects of measures of a general nature on international trade are difficult or even impossible to determine since they tend to be mitigated or counterbalanced by other macro-economic factors, such as, for example, the variation in exchange rates or the level of taxation influenced by the measures in question. In any case, any attempt to call a measure of a general nature a subsidy would be absurd because, by ignoring the fact that the policies of all modern States imply, to varying degrees, some financial intervenion of the government, it would make countervailable large sections of social and economic policy.

7.4. The Community industry claims that the 27 commodities covered by the programme under consideration constitute a specific sector of the economy.

7.5. The Brazilian Government argues that the EGF loan programme is not directed specifically at the soya sector, but applies without discrimination to 27 separate agricultural commodities.

7.6. The Commission found that the programme did not cover all agricultural commodities, but that products not amongst the 27 products were those agricultural commodities for which preparation or storage aids were inappropriate, either because of the nature of the product or because they were covered by specific economic or commercial policy measures, or because the quantities produced or exported were very small.

The EGF programme must therefore be regarded as general in scope, as all agricultural commodities suitable for storage aids are eligible.

Accordingly, the Commission does not consider that the provision of flat-rate finance for the preparation and storage of these 27 commodities constitutes a domestic subsidy such as to warrant the imposition of a countervailing duty, since the loans are generally available.

8. *Concessionary financing for imports of soya beans*

8.1. Fediol alleges that the Brazilian Government provides the soya crushing industry with cheap loans to finance soya bean imports. According to Fediol, the availability of this concessionary

finance lowers the crushers' production costs and makes Brazilian soya meal exports more competitive.

8.2. The Commission found that the Banco do Brasil did introduce a programme of loans to finance imports involving drawback operations, at an annual interest rate of 54 %.

However, the Brazilian Government produced evidence that loans for imports of soya beans were last granted in August 1982, before the period covered by the investigation. Moreover, the Commission established that the Banco do Brasil's Camio Circular No 2436 of 23 November 1982 ended the programme with immediate effect.

Thus the practice complained of by Fediol had been halted even before start of the period under investigation.

9. *Concessionary export financing (the Proex programme)*

9.1. Fediol alleges that the Brazilian Government provides the soya crushing industry with financing at a concessionary rate under an export promotion programme (Programa de Apoio ao Incremento das Exportações — Proex) run by the Banco Nacional de Desenvolvimento Económico e Social.

9.2. The Commission found that contrary to Fediol's allegation, soya is not one of the products eligible for financing under Proex.

10. *Concessionary financing for exports of soya oil*

10.1. Fediol alleges that, under the Central Bank's Resolution No 643 of 22 October 1980, Brazilian exporters can obtain concessionary financing for exports of soya oil. This indirectly assists soya meal exports, since oil and meal are related products derived simultaneously from the processing of a single raw material, the soya bean.

10.2. The Commission's investigations showed that Resolution No 643 did indeed provide for loans to enable exporting companies to finance the purchase of products for export, one such product being soya oil. Interest rates on these loans ranged from 40 to 60 % in 1983, and were thus concessionary, being lower than both the cost of money to the Brazilian exchequer and the rates normally available on the market. All loans were granted in connection with specific export contracts. The Commission also noted that Resolution No 643 was replaced with effect from 2 January 1984 by Resolution No 883 of 21 December 1983, which aligns the interest rate on the ORTN rate, plus 3 %, and removes any advantage to oil exporters.

10.3. But while soya oil and soya meal are obviously closely related at the production stage, the Commission found that the purpose of the facility under consideration is to promote exports of the oil, and the financing is linked specifically to the quantity of oil exported. This is clearly a subsidy directed at oil exports, and while it could indirectly influence the price of soya meal exports, the same would be true of any producer exporting a range of products, if just one of those products was subsidized. It is not normally possible, however, to prove that such an influence exists, or to measure it. In any case, the Commission's investigation produced no evidence of such influence.

10.4. In these circumstances, concessionary loans granted in 1983 under Resolution No 643 to finance soya oil exports cannot be held to constitute a subsidy on soya meal exports.

11. *Income-tax relief on profits from soya oil exports*

11.1. Fediol alleges that Decree law No 1598 of 26 December 1977 exempts from income tax, profits from exports of soya oil, and further claims that this tax relief represents on aid to soya crushers and hence a subsidy on exports of soya meal.

11.2. The Brazilian Government confirmed that such tax relief was available, for soya oil alone.

11.3. It may constitute a subsidy on exports of the oil. But for the reasons indicated at 10.3, the Commission does not consider that this facility, clearly confined to exports of soya oil, constitutes a subsidy on exports of soya meal.

12. *Differential taxation of exports of soya-based products*

12.1. Fediol says that a transaction tax is levied on exports of soya-based products at differential rates : 13 % on beans, 11,1 % on meal and 8 % on oil. The Community industry claims that this constitutes a subsidy on soya meal exports, in that the effect of the tax is to curb exports of beans and thus ensure that Brazilian crushers can obtain raw material supplies at low costs. This, according to Fediol, gives the Brazilian industry a cost advantage which helps it export soya meal to the Community, while taxing meal at a lower rate than beans gives Brazilian exporters yet a further advantage.

12.2. The Commission found that taxes were levied in this way during the investigation period, and that the facts cited by Fediol were correct.

12.3. The Commission realizes that official action to impose or remove disincentives to external trade, particularly in the form of export taxes or restrictions, can affect competition or trade in the product immediately concerned, as well as upstream or downstream products.

However, not all official measures can be classed as subsidies within the meaning of the international rules governing this matter simply because they have an actual or potential effect on competition or trade ; this would be to blur the distinction made in GATT between subsidies and other measures which may have an impact on competition or trade. The importance of this distinction is that Article VI of the General Agreement allows the Contracting Parties to take unilateral action against certain specific practices but allows no such action against other practices, such as quantitative restrictions and import or export charges, even though they may produce distortions of competition or trade.

As far as international trade is concerned, the crucial characteristic of a subsidy is that it involves a financial contribution by government. This results *inter alia* from item (l) of the Illustrative List of Export Subsidies appended to the Code on subsidies. The list, which is also annexed to Regulation (EEC) No 2176/84, makes it clear that any subsidy must involve a charge on the public account. To extend the concept of subsidies to include practices other than those involving such a charge would be excessive, and taken to its extreme could lead to any government intervention whatsover in the economy being regarded as a subsidy, including tax measures or even regulatory action such as the introduction of price controls or pollution standards.

12.4. It is clear from both GATT rules and the relevant Community legislation (the Annex to Regulation (EEC) No 2176/84) that the concept of a charge on the public account includes the waiving by the authorities of taxes or other dues owed. The Commission notes that the case in point, however, involves not the waiving of a tax but the non-creation of an additional tax burden. To regard such a non-creation generally as a subsidy would be to hold the very fact that a government levies tax on some people or products but not others as equivalent to a financial contribution to the latter.

12.5. Thus differential taxation of the various soya-based products does not constitute a charge on the public account of the country involved and cannot be regarded as a subsidy.

The distortion complained of by the Community industry results not from subsidization of exports of the processed product, soya meal, but from the levying of a tax at a higher rate on exports of the raw product, soya beans. This does not, by its very nature, constitute a financial contribution by government.

13. *Obstacles in the way of exports of soya beans*

13.1. The Community industry alleges that Brazil maintains restrictions on exports of soya beans. In Fediol's view, the export restriction holds the domestic price of soya beans well below world

market levels, giving Brazilian crushers a cost advantage which helps their exports of soya meal to the Community.

13.2. The Brazilian Government pointed out that until 6 September 1983, i.e. for a considerable part of the period under investigation, the exporters of soya-based products were not required to register their sales at the Banco do Brasil's foreign trade department. That requirement, which came into force on the date mentioned, applies to soya oil and soya meal as well as the beans. The registraion procedure, according to the government, was intended to allow export prices to be monitored and prevent speculation damaging to the country's interests ; it was in no sense an export restriction.

13.3. The Commission offers no comment on the points made at 13.2, but, for the reasons already set out at 12, considers that such a restriction would not in any case constitute a countervailable subsidy. It is, furthermore, impossible to determine to what extent the export restrictions on beans leads to a reduction in their prices which would benefit the crushers. In actual fact, the level of these prices depends upon a complicated interaction of national and internaitonal supply and demand elasticities.

14. *Neutralization of subsidies by the Imposto sobre Circulaçao de Mercadorias (ICM) and export taxes*

14.1. The Brazilian Government has stated that in 1983, soya meal exports were subject to a transaction tax, the *Imposto sobre Circulação de Mercadorias* (ICM), at a rate of 11,1 % and to export taxes at a rate of 30 %. The export taxes have since been phased out ; they were finally abolished on 1 April 1984. The Brazilian Government called on the Commission to take account of these factors in calculating the amount of subsidy, and to allow for the fact that in 1983 ICMs and export taxes on soya meal neutralized any subsidies on exports of the product.

14.2. The Commission notes that the ICM on soya meal exports was raised by the Brazilian Government from 5 to 11,1 % during the anti-subsidy proceeding initiated by the Commission in 1977 ([1]), in order to offset the existing discrimination in favour of meal as against the raw product, beans. There is no link between the raising of the ICM on soya meal in 1977 and the subsidization on practices considered in the present proceeding, which covers the year 1983.

There is likewise no link between export taxes and any subsidies granted in 1983. The export taxes were introduced following the 'maxi-devaluation' of the cruzeiro in February 1983. The Brazilian authorities recognized that without such a measure, devaluation would have enabled exporters to make windfall profits, leading in all likelihood to domestic supply constraints and a rise in domestic prices.

14.3. In view of the foregoing, the Commission considers that neither the ICM nor the export taxes on soya meal were specifically intended to neutralize the subsidies under consideration, and that consequently, in accordance with Article 3 (4) (b) (ii) of Regulation (EEC) No 2176/84, these factors should not be taken into account in calculating the subsidy.

15. *Total subsidy*

To sum up, the Commission has found that during the period covered by the investigation, Brazil's exports of soya meal were subsidized by means of concessionary financing and tax benefits in respect of hedging opperations on foreign markets ; the total subsidy in respect of which a countervailing duty may be imposed is equal to 7,75 % of the fob value of the exports, or 7,27 % of their cif value at a European port.

C. Injury

16. As regards the injury caused by imports of the subsidized products, the evidence available to the Commission shows that imports of soya

meal originating in Brazil rose steeply from 3 225 000 tonnes in 1980 to 4 242 000 tonnes in 1983.

Their share of the Community market likewise increased, from 20,9 % in 1980 to 26,9 % in 1983.

In addition, Community imports of Brazilian soya meal follow a seasonal pattern, rising from March to September and then tailing off until the start of the following year.

17. The Commission obtained no significant information from the importers it contacted regarding prices, and the Brazilian Government likewise said that the Brazilian exporters who had received the Commission's questionnaire were unable to give the prices of their exports to the Community, which were quoted fob Brazil. However, the Commission has received detailed information from other authoritative sources concerning prices of Brazilian and European soya meal on the Rotterdam market, from which it emerges that the Brazilian product is significantly cheaper. The price gap is particularly wide from March to September, when Brazilian supplies are most abundant and competitive.

It should be borne in mind that Brazilian and European soya meal also differ with regard to physical characteristics, payment terms and level of trade. European soya meal generally has a lower protein and cellulose content than the Brazilian product; Brazilian exports have to be paid for an average 15 days before delivery while for sales of European meal payment is due on delivery; lastly, Brazilian meal is quoted cif Rotterdam while the equivalent European product is quoted on a fob ex-works basis.

According to the Commission's calculations, the above factors necessitate the following adjustments per tonne: physical characteristics: deduct $ 8,98; payment terms: add $ 1; level of trade: add $ 2,44. This gives a net positive adjustment of $ 5,54 per tonne; in other words, prices for Brazilian soya meal should be higher than prices for European meal by at least $ 5,54 per tonne irrespective of delivery date, whereas the Commission found that prices of Brazilian meal have been substantially undercutting European producers' prices, sometimes by as much as $ 20 per tonne between March and September.

18. For the purpose of assessing the impact of the subsidized imports, 'the Community industry' means Community soya bean crushers.

19. The subsidized imports have affected the Community industry in a number of ways.

20. A number of Community crushers were operating below capacity in 1983, with the rate of utilization often less than 70 %, and the Commission notes also that capacity utilization showed a marked fall from March to September/October, with some producers running at below 25 % of capacity.

21. The Community industry suffered a decline in its crushing margins on crushing operations over the investigation period. The fall was most marked from March to September/October, when margins were often less than $ 10 per tonne of beans crushed; on occasion, those margins were even negative.

The Commission finds that margins were insufficient to enable Community crushers to cover their costs on the crushing operation, which were affected by the poor capacity utilization. Most firms have seen their financial results deteriorate and some crushers have gone over from soya beans to other oilseeds.

22. The Community crushing industry is not labour-intensive; nevertheless, jobs were lost between 1980 and 1983.

23. The Commission considered whether injury had been caused by other factors such as the trend of demand or the volume and price of other imports.

24. Consumption of soya meal has remained stable (15 405 000 tonnes in 1980 and 15 762 000 tonnes in 1983).

25. Over the same period Community imports of soya meal from third countries other than Brazil increased by 41,6 %, from 3 950 000 to 5 591 000 tonnes. Since that is a substantial increase, the Commission scrutinized closely the price of these imports, most of which came from the United States. For the purpose of comparing US, Brazilian and European prices, it took into account the differences in cellulose content of

meal from those sources, the US product being of lover quality in that respect. The Commission also took account of the fact that imports of meal from the United States are payable on average 15 days before delivery, and that prices are quoted cif Rotterdam. To achieve price comparability between the US and European products, the necessary adjustments were made for these factors (additions of $ 5,54, $ 1 and $ 2,44 per tonne respectively). On that basis, the price of US soya meal should in theory be $ 8,98 below the price of the Community product and, in the light of the calculation in point 17, $ 14,52 below the price of Brazilian meal. Yet the Commission's investigators found that the Brazilian product undercut both US and European meal for virtually the whole of the period under consideration.

26. Accordingly, the Commission's definitive finding is that imports of subsidized soya meal originating in Brazil have caused material injury to the Community industry.

D. Commission interest

27. The Commission, in considering the Community interest, took account of the degree of subsidization during the period covered by the investigation and the resultant injury to the Community crushing industry.

The Commission has noted that although the concessionary finance for exports of soya meal was provided throughout most of the period covered by the investigation, the Brazilian Government, however, does not grant, at the present time, the finances in question, which accounts for virtually the whole subsidy found to have been given, thus removing the source of the injury caused to the Community crushing industry.

In these circumstances the Commission considers that the interests of the Community no longer require the collection of a countervailing duty, from the importers concerned, destined to offset the effects of a subsidy already formally discontinued by a foreign government.

In this respect the position with regard to subsidies can be distinguished from that faced in the case of dumping where it is essential that account is only taken of the facts and elements which have occurred during the period covered by the investigation.

A subsidy is granted, not by an exporter, but by a government and its introduction or removal normally follows considerations which are different from those which an exporter would take into account.

The risk of having a subsidy which has been removed in the course of an investigation subsequently re-introduced is not the same as the subsequent reappearance of dumping which had been stopped during an investigation. The difference is, after all, reflected in the relevant international rules which distinguish, in this respect, between anti-dumping action and countervailing action.

E. Closure of the proceeding

28. In these circumstances, the Commission considers that the anti-subsidy proceeding concerning imports of soya, originating in Brazil, should be closed. It is evident that if the subsidies referred to in paragraph 27 are re-introduced, the Commission will take all the necessary measures, in conformity with the provisions of the legislation in force, in order to take appropriate action on a possible complaint from the Community producers. After consultations within the Advisory Committee no objections were raised in this respect,

HAS DECIDED AS FOLLOWS:

Sole Article

The anti-subsidy proceeding concerning imports of soya meal originating in Brazil is hereby terminated.

Done at Brussels, 16 April 1985.

For the Commission

Willy DE CLERCQ

Member of the Commission