II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 10 April 1990

terminating the anti-dumping proceeding concerning imports of methenamine (hexamethylenetetramine) originating in Hungary and Yugoslavia and accepting undertakings offered in connection with the proceeding concerning imports of methenamine (hexamethylenetetramine) originating in Bulgaria, Czechoslovakia, Poland and Romania

(90/196/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 Articles 9 and 10 thereof,

After consultation within the Advisory Committee as provided for in Regulation (EEC) No 2423/88,

Whereas :

A. PROCEDURE

(1) In November 1988 the Commission received a complaint alleging that imports of methenamine (hexamethylenetetramine) originating in Bulgaria, Czechoslovakia, Hungary, Poland, Romania and Yugoslavia were dumped and were thereby causing injury to a Community industry.

The complaint was lodged by Conseil Européen des Fédérations de l'Industrie Chimique (CEFIC) on behalf of Community producers representing the majority of Community production of the product in question.

(2) The complaint contained evidence of dumping and of injury which was considered sufficient to justify the initiation of a proceeding.

The Commission accordingly announced, by notice published in the *Official Journal of the European Communities* [2], the initiation of an anti-dumping proceeding concerning imports of methenamine (hexamethylenetetramine) falling within CN code ex 2933 90 10 originating in Bulgaria, Czechoslovakia, Hungary, Poland, Romania and Yugoslavia.

(3) The Commission officially advised the producer/exporters and importers known by the Commission to be concerned and the complainants, and gave the parties directly concerned the opportunity to make known their views in writing and to request to be heard orally by the Commission.

(4) In order to establish normal value on the basis of the situation in an appropriate market economy country the Commission had to contact various companies in different countries. The period necessary to complete the investigation therefore exceeded 12 months.

(5) All complainant Community producers, some of the importers and the producer/exporters from Bulgaria, Czechoslovakia, Hungary, Poland and Romania made known their views in writing. The Bulgarian, Czechoslovakian, Polish and Romanian producer/exporters requested and were granted hearings.

[1] OJ No L 209, 2. 8. 1988, p. 1.

[2] OJ No C 322, 15. 12. 1988, p. 8.

(6) The Commission sought and verified all information it deemed necessary for the purpose of establishing the facts and, in addition to the investigation carried out in Mexico as reference country, inspections were carried out at the premises of the following:

(a) Community producers:

— Ausind SpA, Castellanza Varese, Italy,
— Blagden Chemicals Ltd, Croydon, United Kingdom,
— Degussa, Frankfurt am Main, Germany,
— Société Nationale des Poudres et Explosifs, Paris, France;

(b) Community importers:

— Bulchimex, Deggendorf, Germany.

(7) The Commission gave the different parties known to be concerned the opportunity to inspect all information made available to the Commission. Furthermore, exporters and importers of the product under investigation were informed in conformity with Article 7 (4) of Regulation (EEC) No 2423/88 of the essential facts under consideration, on the basis of which it was intended to impose measures.

(8) The investigation of dumping covered the period from 1 December 1987 to 30 November 1988.

B. PRODUCT UNDER CONSIDERATION / LIKE PRODUCT

(9) Methenamine is a standardized product which is used for specific applications in the chemical industry. The basic chemical and physical properties of the product necessary for its various applications are guaranteed by the producers for the imported products as well as for the European Community or the Mexican products. There are practically no discernible differences between the products of different origin and they are in competition with one another. Therefore, the product from the European Community, Mexico and the exporting countries can be considered as similar.

C. DUMPING

(10) As set out in recital (4), Bulgaria, Czechoslovakia, Hungary, Poland and Romania are non-market economy countries within the meaning of Article 2 (5) of Regulation (EEC) No 2423/88. The Commission therefore had to determine normal value on the basis of the price at which the like product of a market economy third country was actually sold for consumption on the domestic market of that country.

The complainants suggested Yugoslavia. When examining whether this country could serve as reference country, the Commission established that there was no significant production of the product in question in Yugoslavia. It was also not possible to obtain the information necessary to determine a reliable sales price of methenamine on the Yugoslav market. As an alternative the complainants suggested the United States of America or the Japanese markets. Several suitable companies were consulted in the United States and in Japan, however none of these companies was ready to cooperate with the Commission and to supply the information necessary for the determination of normal value.

(11) Finally the Mexican market was proposed. Having established contacts with a representative Mexican manufacturer of methenamine willing to cooperate, the Commission determined that normal value could be established in an appropriate and not unreasonable manner on the basis of the prices at which the like product was sold for consumption on the Mexican market.

(12) The Commission is satisfied that:

— the prices charged by the Mexican producer during the reference period allowed a reasonable but not excessive profit, and that sales were made in substantial quantities,
— there was effective competition on the Mexican internal market of methenamine because of the presence of at least three competitors during the investigation period and no restrictions existed for imports of this product.

(13) Normal value was therefore calculated on the basis of domestic prices in Mexico.

The Bulgarian, Czechoslovakian, Polish and Romanian producer/exporters did not object to this determination.

(14) Export prices were determined on the basis of prices actually paid or payable for the Bulgarian, Czechoslovakian, Polish or Romanian product sold for export to the Community.

(15) In comparing normal value with export prices, the Commission services took account, when circumstances permitted and when sufficient evidence was available of differences affecting price comparability, including transport and insurance costs and payment conditions. All comparisons were made on an ex-works basis.

(16) The comparison showed that Bulgarian, Czechoslovakian, Polish and Romanian imports were being dumped during the reference period. Weighted average dumping margins calcultated as a percentage of the cif price of the product at the Community frontier, excluding customs duties, amounted to:

61,20 % for the Bulgarian product,
52,13 % for the Czechoslovakian product,
42,14 % for the Polish product, and
43,22 % for the Romanian product.

(17) In the view of the finding of no injury in respect of imports from Yugoslavia and Hungary (recital 18) it was not necessary for the Commission to determine whether these imports were dumped.

D. INJURY

(18) The information available to the Commission services revealed that imports from Hungary amounted to 79 tonnes in 1988 and from Yugoslavia to 20 tonnes during the same year. The market share of these imports was less than 0,3 % and 0,1 % respectively. Given the conditions of the market of the product in question, the Commission considers that such low import volumes cannot have had a discernible impact on the Community industry.

The evidence available to the Commission services also revealed that there is no export capacity in Hungary able to threaten Community production and that there is no representative production in Yugoslavia.

Consequently, the Commission is of the opinion that imports from Yugoslavia and Hungary are not capable of contributing to injury.

(19) The Commission examined whether it was appropriate to consider the cumulated impact of the imports from Bulgaria, Czechoslovakia, Poland and Romania. The Commission found that the products under investigation originating in each of these countries were sold during the investigation period through comparable channels of distribution. Furthermore, as set out in recital (9), the products originating in these four countries were similar to the Community products. Consequently, the Commission considered that the products concerned competed with each other and with those of the Community producers in the Community market. For these reasons, the Commission considered that the cumulation of the impacts of the dumped imports of methenamine originating in Bulgaria, Czechoslovakia, Poland and Romania was appropriate provided that the exports from these countries all contribute to injury.

(20) Imports from Bulgaria varied between 1 103 tonnes in 1985 and 722 tonnes in 1988, peaking to 1 127 tonnes in 1987.

Imports from Czechoslovakia varied between 1 509 tonnes in 1985 and 1 493 tonnes in 1988, peaking at 1 832 tonnes in 1986.

Imports from Romania increased from 320 tonnes in 1985 to 370 tonnes in 1987 and to 748 tonnes in 1988.

Imports from Poland increased from 239 tonnes in 1985 to 407 tonnes in 1988.

(21) The corresponding market shares of imports from Bulgaria and Czechoslovakia varied respectively from 4,3 % and 5,9 % in 1985 to 2,6 % and 5,3 % in 1988. The market shares of imports from Poland and Romania increased respectively from 0,9 % and 1,3 % in 1985 to 1,9 % and 2,6 % in 1988.

(22) Total cumulated imports from Bulgaria, Czechoslovakia, Poland and Romania increased from 3 171 tonnes in 1985 to 3 370 tonnes in 1988, developing in line with the increase in consumption and in Community production and sales of the products in question.

The corresponding cumulated market shares of the imports concerned remained practically stable at a significant rate of 12 % throughout the period 1985 to 1988.

(23) The evidence verified by the Commission also indicated that the prices at which the dumped imports from Bulgaria, Czechoslovakia, Poland and Romania were sold in the Community undercut the prices of Community producers during the investigation period significantly.

The price undercutting was calculated in the Member States where Community producers had factories or were selling substantial quantities of methenamine and to which Bulgaria, Czechoslovakia, Poland and Romania were exporting the product concerned. The comparison was made between the price of the dumped product at Community border, duty paid and cleared and the price of the local Community producer adjusted at an ex-works level or the price at which a representative Community producer was selling the product free at the border of the importing country concerned, duty paid and cleared.

The weighted average prices of Bulgarian, Czechoslovakian, Polish and Romanian products were respectively 20,1 %, 22,2 %, 9,8 % and 11,6 % below the prices of comparable products of Community producers.

(24) The Commission found that during the investigation period, the production costs increased sharply. Methenamine is a condensation product of ammonia and formaldehyde, which itself is obtained from methanol. Over the period concerned, the cost of combined methanol and ammonia increased by about 30 %. At the same

time, the sales prices of Community producers remained practically stable, pegged down by the presence of the low priced dumped products, which led in some cases to substantial losses or to a reduction of profits in others.

(25) Therefore, the Commission concluded that the dumped imports from Bulgaria, Czechoslovakia, Poland and Romania contributed to injury.

(26) As far as the causal link between the dumped imports and the material injury is concerned, the Commission noted that, since methenamine is a standardized product as stated in recital (9), the buyers' decisions were mainly orientated by the prices at which the products were offered.

The product cannot be held in stock over a long period because of the risk of degradation of its chemical properties and has to be re-treated if it has been in stock for a certain time. Producers are therefore more inclined to make price concessions than to postpone sales if market prices are low. Under these conditions the presence of substantial quantities of dumped products had a decisive influence on the market price in the Community, forcing Community producers to adjust their prices downwards. In certain cases Community producers had to accept prices in order to meet competition of the dumped imports which did not even permit them to recover their variable costs.

Therefore, the Commission considered that the material injury was caused by the dumped imports originating in Bulgaria, Czechoslovakia, Poland and Romania.

(27) The Commission examined whether the injury sustained by the producers concerned was caused by factors other than dumped imports and in particular by imports from other third countries.

From 1986 to 1988 these imports have decreased from 989 tonnes to 583 tonnes while consumption was increasing from 26 735 tonnes to 28 240 tonnes. Their combined market share has decreased from 3,7 % in 1986 to 2,1 % in 1988. In addition, the Commission had no indication that these imports have undercut the Community product prices. The injurious impact, if any, of these imports is therefore to be considered negligible.

E. COMMUNITY INTEREST

(28) Methenamine production in the Community is integrated in large chemical complexes. If the plants are making losses over a long time period there is a strong tendency to abandon this line of production. In the past over-capacity and continuous price depression aggravated by the inflow of dumped products have led to the gradual disappearance of Community production of methenamine. In the absence of protective measures the continuation of production of the four remaining plants in the Community is severely jeopardized in particular in France, Italy and Germany, while the United Kingdom producer seems to be less affected. In consequence, the Community would become more dependent on foreign sources of methenamine, which is used in the production of synthetic resins, rubbers, explosives and pharmaceuticals. Because of the interdependence of certain chemical processes the closure of methenamine plants could, in certain instances, also create considerable problems with regard to dangerous emissions of formaldehyde gas generated in the production of liquid formaldehyde and paraformaldehyde. As formaldehyde gas can be cheaply absorbed in the production of methenamine the closure of these plants would necessitate the installation of separate expensive equipment to remove emissions of formaldehyde and to burn up the waste air.

(29) The Commission also took into account the interests of the users of Bulgarian, Czechoslovakian, Polish and Romanian methenamine and considered that the secondary effects of the necessary price increases will be insignificant. No submission to the contrary was made by or on behalf of Community purchasers of the methenamine concerned.

(30) Given the serious difficulties facing the Community industry concerned, the Commission has concluded in view of the above, that it is in the Community interest to impose protective measures against the imports in question.

(31) Having regard to the injury caused, the Commission intended to impose provisional duties at a rate adequate to remove the injury caused but not exceeding the dumping margins established. A rate equivalent to the price undercuttings found for each exporting country was considered as sufficient to remove the injury caused by imports of methenamine originating in Bulgaria, Czechoslovakia, Poland and Romania.

F. UNDERTAKING

(32) The Bulgarian, Czechoslovakian, Polish and Romanian producer/exporters offered undertakings concerning exports to the Community originating in Bulgaria, Czechoslovakia, Poland and Romania respectively.

These undertakings will have the effect of bringing the prices of exports to the Community up to a level or keeping them at a level which the Commission, in view of its considerations referred to in recital (31), considers sufficient to eliminate the injury suffered by the Community industry. Moreover the Commission notes that in case of violation of this price undertaking it can impose immediate provisional duties and the Council can then impose definitive duties based on the facts established in the present investigation, without carrying out new investigations concerning dumping and injury resulting therefrom.

G. CONCLUSION

(33) In the light of the above findings with regard to the imports from Hungary and Yugoslavia, since no injury or threat of injury caused by them was found during the investigation, no action should be taken against the imports concerned and the proceeding should be terminated.

(34) With regard to the imports from Bulgaria, Czechoslovakia, Poland and Romania and on the basis of the preliminary findings, it is considered that the interests of the Community require the imposition of protective measures.

The Commission is of the opinion that the price undertakings offered can be accepted without anti-dumping duties being imposed on imports of the product in question originating in Bulgaria, Czechoslovakia, Poland and Romania.

(35) The Advisory Committee has been consulted with regard to this course of action and has raised no objection to the proposals.

HAS DECIDED AS FOLLOWS:

Article 1

The proceeding concerning imports of methenamine (hexamethylenetetramine) falling within CN code ex 2933 90 10 originating in Hungary and in Yugoslavia is hereby terminated.

Article 2

The undertakings offered by the Bulgarian, Czechoslovakian, Polish and Romanian producer/exporters in the context of an anti-dumping proceeding concerning imports of methenamine (hexamethylenetetramine) falling within CN code ex 2933 90 10, originating in Bulgaria, Czechoslovakia, Poland and Romania are hereby accepted.

Done at Brussels, 10 April 1990.

For the Commission

Frans ANDRIESSEN

Vice-President