II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 4 February 1991

concerning the application for the reimbursement of anti-dumping duties imposed on imports of dense sodium carbonate originating in the United States of America

(Verrerie Cristallerie d'Arques — J. G. Durand et Cie)

(Only the French text is authentic)

(91/80/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 16 thereof,

Whereas :

A. PROCEDURE

(1) In Regulation (EEC) No 550/83 [2], amended by Regulation (EEC) No 3337/84 [3], the Council imposed a definitive anti-dumping duty on imports of dense sodium carbonate originating in the United States of America.

(2) In 1988 certain American producers and/or exporters together with the Standing Committee of Glass Industries of the European Economic Community applied to the Commission for a review of the abovementioned measures. Following the review, the Commission, by Decision 90/507/EEC [4], terminated the review without imposing further anti-dumping measures.

(3) In June 1988 Verrerie Cristallerie d'Arques, J. G. Durand et Cie, an importer of dense sodium carbonate originating in the United States of America, acting through the French authorities, submitted an application for the reimbursement of the anti-dumping duties paid at the beginning of May 1988 on imports of dense sodium carbonate exported by the American Company, Kerr McGee Corporation, to the value of FF [...] [5].

(4) With the agreement of the applicant, and in accordance with point 5 of the Commission notice concerning the reimbursement of anti-dumping duties [6], the procedure was suspended.

As Kerr McGee had not exported any dense sodium carbonate during the investigation period covered by the original anti-dumping procedure, the method of calculating the dumping margin of this exporter, applied at the time of the review, could be used to establish its actual dumping margin.

(5) Following publication of the outcome of the review procedure, during which the exporter had the opportunity to put forward observations, the appli-

(1) OJ No L 209, 2. 8. 1988, p. 1.
(2) OJ No L 64, 10. 3. 1983, p. 23.
(3) OJ No L 311, 29. 11. 1984, p. 26.
(4) OJ No L 283, 16. 10. 1990, p. 38.

(5) Since this Decision is to be published, certain figures have been left out in accordance with the provision on confidential business information set out in Article 8 of Regulation (EEC) No 2423/88.
(6) OJ No C 266, 22. 10. 1986, p. 2.

cant firm was informed of the Commission's conclusions regarding the request for reimbursement and was given the opportunity to put forward its point of view.

(6) In accordance with Article 16 (2) of Regulation (EEC) No 2423/88, the Commission informed the other Member States and gave its opinion on the admissibility and merits of the applications. There were no objections from any Member States.

B. ADMISSIBILITY

(7) The application is admissible as it was made in accordance with Community anti-dumping law, in particular the provisions on deadlines.

C. EXAMINATION OF THE MERITS OF THE APPLICATION

(8) The application is found to be partially justified. It was established during the review procedure that there was an actual dumping margin of 11,9 % which was significantly below the duty paid. Consequently, in accordance with the provisions of Article 16 of Regulation (EEC) No 2423/88, the applicant has a right to be reimbursed that part of the anti-dumping duty which it paid in excess of the actual dumping margin.

D. AMOUNT TO BE REPAID

(9) Consequently, the anti-dumping duty due on the basis of the actual dumping margin has been deducted from the amount of duty paid. The applicant is therefore entitled to a reimbursement of FF [...].

HAS ADOPTED THIS DECISION:

Article 1

The application for the reimbursement of an anti-dumping duty submitted in June 1988 by Verrerie Cristallerie d'Arques, J. G. Durand et Cie, is hereby granted in the sum of FF [...]. The application for the amount exceeding this sum is rejected.

Article 2

The sum indicated in Article 1 shall be reimbursed by France.

Article 3

This Decision is addressed to the French Republic and Verrerie Cristallerie d'Arques, J. G. Durand et Cie, Arques, France.

Done at Brussels, 4 February 1991.

For the Commission

Frans ANDRIESSEN

Vice-President