II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 29 July 1998

terminating the anti-subsidy proceeding concerning imports of cochineal carmine originating in Peru

(notified under document number C(1998) 2410)

(98/478/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community [1], and in particular Article 14(1) thereof,

After consulting the Advisory Committee,

Whereas:

I. PROCEDURE

(1) In September 1997, the Commission received a complaint concerning alleged injurious subsidisation of imports of cochineal carmine originating in Peru.

(2) The complaint was lodged by Xantoflor SA (Monteagudo, Spain) which represents more than 25 % of Community production of the product concerned, and was supported by Alchim SA and Sofral SA (Illkirch, France). Together these producers represent a major proportion of Community production of cochineal carmine as defined in Article 10(8) of Council Regulation (EC) No 2026/97 as none of the other producers expressed its opinion on the complaint.

(3) The complaint contained *prima facie* evidence of the existence of countervailable subsidies on cochineal carmine and material injury resulting therefrom which was considered sufficient to justify the initiation of a proceeding.

(4) Accordingly, the Commission, after consultation, announced in a notice published in the *Official Journal of the European Communities* [2] the initiation of an anti-subsidy proceeding concerning imports into the Community of cochineal carmine falling within CN code ex 3205 00 00 originating in Peru.

(5) The Commission officially advised the exporters and importers known to be concerned, the representatives of the exporting country and the complainant Community producers. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.

II. WITHDRAWAL OF THE COMPLAINT AND TERMINATION OF THE PROCEEDING

(6) Of the three producers that supported the complaint, only Xantoflor SA and Alchim SA supplied the Commission with a comprehensive reply to its questionnaire and thus cooperated with the investigation. These producers account for more than 25 % of total Community production of the product concerned. As no Community producers opposed the present investigation these

[1] OJ L 288, 21. 10. 1997, p. 1.

[2] OJ C 335, 6. 11. 1997, p. 5.

companies' output thus constitutes a major proportion of the Community production, as defined in Article 10(8) of Council Regulation (EC) No 2026/97.

(7) In the course of the investigation Xantoflor SA informed the Commission, by letter of 11 June 1998, that it formally withdrew its complaint concerning imports of cochineal carmine originating in Peru as it had become apparent that circumstances had changed to the extent that the Community industry and in particular Xantoflor may not have been suffering material injury.

(8) As Xantoflor SA and Alchim SA together constitute the Community industry and the output of Alchim SA represents but a small proportion of the total Community production of cochineal carmine, the complaint would not have the support of a major proportion of the Community producers, even if Alchim SA continued to support it.

(9) In accordance with Article 14 of Council Regulation (EC) No 2026/97, when the complainant withdraws its complaint the proceeding may be terminated unless such termination would not be in the Community interest. The present investigation has not brought to light any considerations of Community interest which would be against the termination of the proceedings.

(10) Interested parties were informed of the facts and considerations on the basis of which the Commission intended to terminate the proceeding, were given the opportunity to comment and did not raise any objection.

(11) The Advisory Committee has been consulted and has raised no objection.

(12) In these circumstances, the anti-subsidy proceeding concerning imports of cochineal carmine originating in Peru should be terminated without imposition of protective measures,

HAS DECIDED AS FOLLOWS:

Sole Article

The anti-subsidy proceeding concerning imports of cochineal carmine originating in Peru is hereby terminated.

Done at Brussels, 29 July 1998.

For the Commission

Leon BRITTAN

Vice-President