COMMISSION REGULATION (EEC) No 1355/78

of 20 June 1978

impoding a provisional anti-dumping duty on ferro-chromium originating in the Republic of South Africa and Sweden

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 459/68 of 5 April 1968 on protection against dumping or the granting of bounties or subsidies by countries which are not members of the European Economic Community (1), as last amended by Regulation (EEC) No 1411/77 (2), and in particular Article 15 thereof,

After hearing the opinions expressed in the Advisory Committee set up under the said Regulation,

Whereas the Commission has received a complaint submitted in the name of the Community ferro-chromium industry setting out evidence as to the existence of dumping of ferro-chromium originating in the Republic of South Africa and Sweden as well as material injury resulting therefrom ;

Whereas, since the information received indicated that the complaint was admissible and that defensive measures against dumping might be necessary, the Commission officially notified the representatives of the exporting countries and the importers and exporters known to be concerned, published in the *Official Journal of the European Communities* of 13 April 1978 notices of the initiation of enquiries concerning imports of ferro-chromium originating in the Republic of South Africa and Sweden (3) and commenced an examination of the facts for the abovementioned countries ;

Whereas the Commission gave interested parties the opportunity to make known their views in writing ;

Whereas the Commission heard interested parties and gave to parties directly concerned the opportunity to develop their views orally and to meet and to present opposing views and rebuttal arguments ;

Whereas, with a view to a correct determination of the dumping margin for Swedish products the Commission carried out an on-the-spot inspection of the principal Swedish producer ;

Whereas during the examination of the existence of dumping the Commission has found that the sales of the company in question on the Swedish market were relatively low compared to its total sales and that the prices of these domestic sales did not permit a valid comparison of prices ; consequently recourse was had to the criterion of cost of production ;

Whereas such cost of production has been calculated taking into consideration *inter alia* the following elements : raw materials (including the basic mineral which contains chrome oxide, bauxite, quartz and other materials for electrodes and fluxes), energy costs (coke, electricity), labour costs including social costs, other operating costs (including maintenance costs and transport costs), interest paid, to which was added a reasonable amount for administration, selling and other costs and for profits ;

Whereas these preliminary calculations have shown that the fair market price of ferro-chromium on the Swedish market brought up to a cif Community frontier basis, duty unpaid is 36·05 US cents/lb for 'charge chrome', 38·93 US cents/lb for high carbon ferro-chromium and 62·23 US cents/lb for low carbon ferro-chromium ;

Whereas the preliminary determination of a dumping margin for South African products has had to be made on the basis of the facts available to the Commission since an on-the-spot investigation of South African producers has not been possible at the moment ;

Whereas the preliminary examination of the available facts on the cost of production in the Republic of South Africa has shown that the fair market price of ferro-chromium on the South African market brought up to a cif Community frontier basis, duty unpaid is 34·35 US cents/lb for charge chrome, 37·13 US cents/lb for high carbon ferro-chromium and 59·35 US cents/lb for low carbon ferro-chromium ;

(1) OJ No L 93, 17. 4. 1968, p. 1.
(2) OJ No L 160, 30. 6. 1977, p. 4.
(3) OJ No C 90, 13. 4. 1978, p. 3.

Whereas these fair market prices have been compared with the South African and Swedish export prices to the Community ;

Whereas this comparison has been made at the same commercial level, in respect of sales made at the same time, due allowance having been made, on their merits, for differences in the conditions and terms of sale and for other differences affecting price comparability ;

Whereas this preliminary examination shows that dumping has taken place, the margin of which is constituted by the undercutting of the fair market prices ;

Whereas, with regard to injury to the industry concerned, the evidence available to the Commission shows that imports into the Community of ferro-chromium exported by South Africa and Sweden has increased from a level of approximately 94 000 tonnes in 1974 to 204 000 tonnes in 1977 ;

Whereas the imports concerned represent a market share in the Community of 19 % in 1974 and 45 % in 1977 and consequently have a very considerable influence on the market ;

Whereas the prices of these imports on the Community market have fallen considerably, particularly in recent months, thus exercising a depressive effect on the Community producers' prices which no longer cover their costs of production ;

Whereas this development has taken place to the detriment of the Community industry which is in a very difficult situation, characterized by a reduction in production of approximately 17 % between 1974 and 1977, by a large under-utilization of production capacity by large unsold stocks, the temporary cessation of production in one area of the Community and by loss of jobs, short-time working for the personnel of the enterprises concerned, and by the appearance of losses for the companies in question ;

Whereas there is, therefore, sufficient evidence to show that, due consideration having been given to the other factors having a bearing on the situation of this industry, as, for example, the imports from other sources, the imports in question are causing and threatening to cause material injury to the Community industry ;

Whereas a new aggravation of the situation is taking shape, considering the spectacular increase of imports during the first months of 1978 ;

Whereas, for these reasons, a Member State requested the Commission, to take provisional measures immediately in accordance with Article 15 (1) (c) of Regulation (EEC) No 459/68 ;

Whereas, in these circumstances, the interests of the Community call for immediate intervention, consisting in the imposition of a provisional anti-dumping duty relating to imports of ferro-chromium originating in the Republic of South Africa and Sweden ;

Whereas, however, the investigation relating to a Swedish exporter whose deliveries to the Community only have a slight impact is not yet sufficiently advanced to enable preliminary conclusions to be drawn ; whereas it was consequently decided to exclude the exporter from the application of this provisional duty,

HAS ADOPTED THIS REGULATION :

Article 1

1. A provisional anti-dumping duty is hereby imposed on ferro-chromium, falling within Common Customs Tariff subheading 73.02 E I and corresponding to NIMEXE code 73.02-51, originating in the Republic of South Africa and Sweden. This duty does not apply to ferro-chromium manufactured by Ferrolegeringar Trollhatteverken AB, Sweden. The provisions in force for the application of customs duties shall apply for the application of this duty.

2. The amount of such duty shall correspond to the difference between the fair market price in the Republic of South Africa and Sweden as set out in paragraph 3 and the price free Community frontier duty unpaid to the first importer.

3. For the purpose of this Regulation the fair market prices in the Republic of South Africa and Sweden brought up to a cif Community frontier basis, duty unpaid, are as follows :

Composition	Fair market price in US cents per lb of chrome contained	
	South Africa	Sweden
1. ferro-chromium known as 'charge chrome' : — chrome content : 50 — 58 % inclusive — carbon content : 6 — 9 % inclusive — silicon content : 1 — 7 % inclusive	34·35	36·05
2. high carbon ferro-chromium : — chrome content : greater than 58 % — carbon content : 4 — 7 % inclusive — silicon content : 1·5 % maximum	37·13	38·93
3. low carbon ferro-chromium : — maximum carbon content : 0·5 % — maximum silicon content : 1·5 %	59·35	62·23

4. The above fair market prices are net if the conditions of sale provide for payment within 30 days from end of month of delivery ; they are to be increased or reduced by 1 % for any payment terms granting one month more or less.

Article 2

The entry of the products described in Article 1 into free circulation shall be conditional upon the deposit of security for the amount of the provisional duty.

Article 3

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

Without prejudice to the provisions of Articles 16 and 18 of Regulation (EEC) No 459/68, it shall apply until the entry into force of an Act of the Council either adopting definitive measures or extending the provisional duty, and in any event for a maximum period of three months.

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

Done at Brussels, 20 June 1978.

For the Commission

Étienne DAVIGNON

Member of the Commission