COUNCIL REGULATION (EEC) No 2133/78

of 8 September 1978

imposing a definitive anti-dumping duty on kraft liner paper and board originating in the United States of America

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 113 thereof,

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 17 thereof,

Having regard to the proposal made by the Commission after hearing the opinions expressed in the Advisory Committee set up under Regulation (EEC) No 459/68,

Whereas the Commission received a complaint submitted in the name of the Community kraft liner paper and board industry setting out evidence as to the existence of the dumping of like products originating in various countries as well as material injury resulting therefrom ;

Whereas, since it appeared from the information received 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 Journals of the European Communities* of 17 December 1977, 3 March 1978 and 3 May 1978 notices of the initiation of enquiries concerning imports of kraft liner originating in the United States of America (3), Sweden, Finland, Austria, Portugal, Canada (4) and the Soviet Union (5), and commenced an examination of the facts for all the abovementioned countries ;

Whereas, since preliminary examination of the matter showed that there was dumping, that there was sufficient evidence of injury and that the interests of the Community called for immediate intervention, the Commission, by Regulation (EEC) No 511/78 (6), imposed a provisional anti-dumping duty on kraft liner paper and board originating in the United States of America the period of validity of which was extended by Regulation (EEC) No 1226/78 (7) ;

Whereas, in order to examine the existence of dumping, the Commission compared the export prices to the Community with those prevailing on the domestic markets concerned ;

Whereas these comparisons were made at the ex-factory level, and in respect of sales made at the same time, due allowance having been made, on their merits, for differences in transport and ancillary costs, in the conditions and terms of sale, in duties and taxation and for other differences affecting price comparability ;

Whereas this examination of the matter shows that there is dumping, the margin of which varies considerably according to the exporting firm and the date of the transaction ;

Whereas, with regard to injury to the industry concerned, the evidence available to the Commission shows that Community imports of kraft liner originating in the United States, Sweden, Finland, Austria, Portugal, Canada and the Soviet Union have increased from approximately 1·1 million tonnes in 1975 to 1·6 million tonnes in 1977 ;

Whereas the share of the imports concerned on the Community market amounted to 70 % in 1975 and 80 % in 1977 and therefore has 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 ;

Whereas this development has taken place to the detriment of the Community industry, which is in a difficult situation characterized by large unsold stocks, complete cessation of production in one area of the Community with consequent loss of jobs and short-time working for the staff of the undertakings concerned, and a reduction in profits or heavy losses for several of the firms concerned ;

(1) OJ No L 93, 17. 4. 1968, p. 1.
(2) OJ No L 160, 30. 6. 1977, p. 4.
(3) OJ No C 304, 17. 12. 1977, p. 3.
(4) OJ No C 54, 3. 3. 1978, p. 2.
(5) OJ No C 105, 3. 5. 1978, p. 5.
(6) OJ No L 69, 7. 3. 1978, p. 9.
(7) OJ No L 153, 9. 6. 1978, p. 1.

Whereas, therefore, the facts as finally established show that, due consideration having been given to the other factors having a bearing on the situation of this industry such as, for instance, the rather limited imports from other sources and competition from substitutable products, the dumped imports are causing or threatening to cause material injury to the Community industry concerned ;

Whereas, in the meantime, the Austrian, Canadian, Finnish, Portuguese, Soviet and Swedish exporters have given voluntary undertakings to revise prices to levels considered satisfactory ; whereas these undertakings have been accepted by the Commission, which has accordingly decided to terminate the procedures in question ;

Whereas, in these circumstances, the interests of the Community call for the imposition of a definitive anti-dumping duty on imports of kraft liner paper and board originating in the United States and the definitive collection of the amounts secured by way of provisional duty in respect of kraft liner paper and board of American origin ;

Whereas, in order to ensure fair treatment of imports at different prices, the amount of the duty should be the difference between the declared price of the goods and their fair market price in the United States of America, brought up to a cif Community frontier basis,

HAS ADOPTED THIS REGULATION :

Article 1

A definitive anti-dumping duty is hereby imposed on kraft liner paper and board falling within Common Customs Tariff subheading ex 48.01 C II and corresponding to NIMEXE codes 48.01-15, 21, 27 and 31, originating in the United States of America.

The provisions in force for the application of customs duties shall apply in respect of this duty.

Article 2

1. The amount of this duty shall correspond to the difference between the fair market price in the United States of America as set out in paragraph 2 and the free-at-frontier Community price, duty unpaid, per tonne net to the first purchaser in the customs territory of the Community.

2. For the purpose of this Regulation, the fair market prices in the United States of America, brought up to a cif Community frontier basis, duty unpaid, are as follows :

	per tonne
Nominal weight 175 grams or more and less than 337 grams per square metre :	US$ 258
Nominal weight 150 grams or more and less than 175 grams per square metre :	US$ 268
Nominal weight less than 150 grams per square metre :	US$ 278

The fair market prices :

— shall be reduced by 1 % if payment is made immediately on receipt of the goods by the first purchaser in the customs territory of the Community,

— shall be net if payment is made within 30 days of the receipt of the goods by the first purchaser in the customs territory of the Community,

— shall be increased by 1 % for each subsequent 30-day period of credit.

Where prices are invoiced by reference to area, the fair market price per 100 square metres shall be calculated in accordance with the following formula :

$$\frac{\text{Fair market price in US\$ per tonne} \times \text{nominal gram weight per square metre}}{10\,000}$$

The actual gram weight may vary by ± 5 % from the nominal gram weight.

3. The duty shall not apply where the importer proves to the satisfaction of the competent national authorities that the price differential referred to in paragraph 1 is due to the goods being damaged.

Article 3

The amounts secured by way of provisional duty under Regulation (EEC) No 511/78 shall be definitively collected in so far as they do not exceed the amounts resulting from the application of this Regulation.

Article 4

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

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

Done at Brussels, 8 September 1978.

For the Council

The President

K. van DOHNANYI