COMMISSION REGULATION (EEC) No 2599/79

of 22 November 1979

imposing a provisional anti-dumping duty on certain sodium carbonate originating in the Soviet Union

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 1681/79 (2), and in particular Article 15 thereof,

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

Whereas in October 1978 the Commission received a complaint submitted by CEFIC, the European Council of Chemical Manufacturers Federations, on behalf of almost all Community producers of sodium carbonate, setting out evidence as to the existence of dumping of the like product originating in Bulgaria, the German Democratic Republic, Poland, Romania, the Soviet Union, Czechoslovakia and Albania, and of 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 importers and exporters known to be concerned and published in the *Official Journal of the European Communities* a notice of the initiation of an anti-dumping procedure concerning imports of sodium carbonate originating in Bulgaria, the German Democratic Republic, Poland, Romania and the Soviet Union (3) ; exports from Albania and Czechoslovakia were found to be of minor importance and were, therefore, not included in the investigation ;

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

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

Whereas the majority of the parties made use of these opportunities ;

Whereas, for the purposes of a preliminary determination of dumping and injury, the Commission made on the spot investigations at the offices of the exporters' agents and importers, where deemed necessary, namely of Arnold Suhr Belgique SA, Belgium ; Krahn-Chemie GmbH, Federal Republic of Germany ; Soprochim SA, France ; M. Golodetz (Overseas) Ltd, TR International (Chemicals) Ltd, United Kingdom ; SICEA SAS, SNIA Viscosa Spa, Tradeco SpA, Italy ; C van Epenhuysen's Chemische Fabrieken BV, Menduga AG, the Netherlands ; and of all Community producers involved ; whereas the Commission had contacts with several other agents and importers ;

Whereas, when determining the existence of dumping on the abovementioned imports, the Commission had to take account of the fact that Bulgaria, the German Democratic Republic, Poland, Romania and the Soviet Union are non-market economy countries ;

Whereas, for this reason, the Commission has based its preliminary dumping calculations on the prices at which the like product is sold for consumption on the domestic market of a market economy third country ;

Whereas a comparison with prices at which the like product is sold for consumption on the domestic market of Austria appeared to be appropriate and not unreasonable, because, as in the exporting countries, there are raw materials readily available, there are similar production processes based on the manufacture of sodium carbonate by synthetic means, rather than by natural means, and there is production on a substantial scale ; whereas price controls in Austria ensure that price levels stand in a reasonable proportion to production costs ;

Whereas these calculations were made by comparing the Austrian weighted average ex-factory prices for 1978 with the export prices to the Community of the countries under investigation for the same year ; whereas due allowance was made for differences affecting price comparability by deducting from the Austrian ex-factory prices the maximum discounts granted on sales of the largest quantities, a special discount given on bulk transport to the largest customers, sales and service costs supported by the Austrian producer and the maximum discount granted

(1) OJ No L 93, 17. 4. 1968, p. 1.
(2) OJ No L 196, 2. 8. 1979, p. 1.
(3) OJ No C 277, 21. 11. 1978, p. 4.

for immediate payment; whereas export prices were available only on a fob or cif basis but no price adjustments were made for transport costs included in such prices; whereas all aforementioned factors had the effect of reducing the difference between the Austrian ex-factory prices and the export prices;

Whereas it emerges from the preliminary examination of the facts that dumping exists for all imports investigated, the weighted average margins for light sodium carbonate exceeding 33 % in all cases;

Whereas, with regard to injury to the Community industry, the evidence available to the Commission shows that total imports into the Community of sodium carbonate originating in the countries included in the investigation have risen from approximately 83 500 tonnes in 1974 to a level of 273 000 tonnes in 1978 and are still increasing;

Whereas only a very minor part of these imports consists of dense sodium carbonate; whereas the supply of dense sodium carbonate in the Community is subject to strong contractual ties between the Community producers and their main customers for dense sodium carbonate; whereas some of these ties are presently the subject of an investigation by the Commission as possibly restraining competition on the dense sodium carbonate market; whereas recently built and planned production facilities for dense sodium carbonate in some of the exporting countries, notably in Poland and Bulgaria, do not constitute a threat of injury to the Community industry since it cannot at present be determined that there is a likelihood that such increased production capacity will lead to a significant increase in exports to the Community in the foreseeable future; whereas, therefore, the preliminary examination has shown that no injury has been caused by the imports of dense sodium carbonate;

Whereas the imports of light sodium carbonate originating in the countries under investigation represent a share of the total light sodium carbonate market in the Community of 19·7 % and in France, Belgium, Italy, the Netherlands and the Federal Republic of Germany 11·0 %, 23·6 %, 25·8 %, 28·7 % and 34·8 % respectively; of these, imports from the Soviet Union represent 2·7 % of the total Community market and in the main country of importation, Italy, 13·6 % of the market;

Whereas the prices of these imports on the Community markets have been extremely low, particularly during the second and third quarters of 1978 and have increased only slightly afterwards;

Whereas the consequent impact on the Community industry consists of a loss of sales to small customers of light sodium carbonate in bags in all Member States, a loss of bulk customers in some Member States and a depressive effect on the Community producers' prices for light sodium carbonate in bags and in bulk; whereas, as a result, market shares, particularly in the market for bagged light sodium carbonate, have been reduced and returns have decreased to levels where further investments cannot economically be envisaged;

Whereas the other factors which are known to be adversely affecting the Community producers of light sodium carbonate, such as the volume and price of other imports, stagnation in demand and the substitution, in some applications, by other products, have been considered and have been found to be of minor importance;

Whereas there is, therefore, sufficient evidence to show that the dumped imports are demonstrably the principal cause of the difficulties described above;

Whereas in these circumstances the interests of the Community call for immediate intervention consisting of the imposition of a provisional anti-dumping duty on imports of light sodium carbonate;

Whereas the rate of such duty, having regard to the extent of injury caused, should be less than the dumping margins provisionally established but adequate to remove the injury caused;

Whereas the Commission, after having compared the Community producers' weighted average prices, costs and profit and loss situation with the importers' costs and special marketing conditions, concluded that injury would at present be removed if the average import price for light sodium carbonate were not less than $US 105·10 per tonne net, free importing Member State's frontier, before duty;

Whereas the fact that much of the imported light sodium carbonate is de-bagged after importation into the Community in order to be sold in bulk renders it impracticable and inequitable to fix separate rates for sales in bags and sales in bulk;

Whereas it is necessary for these reasons to provide that the amount of the duty applicable to all imports of light sodium carbonate shall be equal to the amount by which the free importing Member State's frontier price, before duty, to the first importer is less than $US 105·10 per tonne net;

Whereas, in the meantime, undertakings were given by the export organizations in Bulgaria, the German Democratic Republic, Poland and Romania which have satisfied the Commission that the introduction of protective measures with respect to products originating in these countries is unnecessary at present;

Whereas no such undertaking was offered by the Soviet export organization;

Whereas, under these circumstances, it is appropriate to exclude the exporting countries from which voluntary undertakings were received from the application of the duty and to ensure its application against exports from the Soviet Union in order both to neutralize the injury caused by those exports and to ascertain that the stabilization of the market sought by the acceptance of these undertakings is not undermined by further dumped imports from the Soviet Union, to the disadvantage of the Community producers and the exporters who offered such undertakings,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on light sodium carbonate falling within Common Customs Tariff subheading 28.42 A II and corresponding to NIMEXE code 28.42-31 and originating in the Soviet Union.

2. The amount of the duty shall be equal to the amount by which the price, free importing Member State's frontier, before duty, per tonne net, to the first purchaser in the customs territory of the Community, is less than $US 105·10.

3. The above free importing Member State's frontier price shall be net if the conditions of sale provide for payment within 30 days from the end of the month of delivery; it shall be increased or reduced by 1 % for each increase or decrease of one month in the time limit for payment.

4. For the purposes of this Regulation, light sodium carbonate shall be all non-compacted sodium carbonate with a specific weight of less than 0·700 kg/dm^3 and consisting of powder or grains smaller than 0·4 mm in diameter.

5. The entry of the product referred to in paragraph 1 into free circulation shall be conditional upon the deposit of security for the amount of the provisional duty.

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

Article 2

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 and to an extension of the provisional duty by the Council, the present Regulation shall apply for a period of three months or until the adoption of definitive measures by the Council.

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

Done at Brussels, 22 November 1979.

For the Commission

Étienne DAVIGNON

Member of the Commission