COMMISSION REGULATION (EEC) No 322/79

of 16 February 1979

imposing a provisional anti-dumping duty on a certain herbicide originating in Romania

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 Comunity (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 industry producing DNBP technical (Dinoseb) setting out evidence as to the existence of dumping of the like product originating in Romania 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 importers and exporters known to be concerned, published in the *Official Journal of the European Communities* of 29 December 1978 a notice of the initiation of an anti-dumping procedure concerning imports of a certain herbicide originating in Romania (3) and commenced an examination of the facts ;

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 orally to develop their views and to meet and to present opposing views and rebuttal arguments ;

Whereas when determining dumping on the above-mentioned imports, the Commission had to take account of the fact that in Romania trade is on a basis of near or total monopoly and that prices are fixed by the State and that, therefore, a comparison between the export price of the product to the Community and its domestic price is not appropriate ;

Whereas, for these reasons, the Commission has decided to base its dumping calculations on the prices at which, according to information at present available, a like product of a market economy country, in this instance the United States of America, is sold for consumption on the domestic market of that country ;

Whereas these calculations were made at ex-factory level, and in respect of sales made as nearly as possible at the same time, due allowance having been made, on their merits, for transport and ancillary costs, packaging, duties and taxation and for other factors affecting price comparability ;

Whereas this preliminary examination of the matter shows that dumping has taken place, the margin of which exceeds 40 % in markets principally concerned ;

Whereas, with regard to injury to the industry concerned, the evidence available to the Commission shows that imports into the Community of DNBP technical originating in Romania began in 1978 only and by the end of that year had reached a level of approximately 350 to 400 tonnes ;

Whereas the imports concerned represent a market share in the Community of approximately 40 % and in the two main countries of importation 49 % and 68 % respectively ;

Whereas the prices of these imports on the Community markets have been extremely low, thus exercising a depressive effect on the Community producers' prices ;

Whereas this development has taken place to the detriment of the Community industry and therefore placed it in an extremely difficult situation, characterized by sales at prices far below the European costs of production, by a decline in production of approximately 60 %, by a significant loss of sales and market share, by almost complete absence of new orders for 1979, and by the imminent loss of jobs ;

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 decline of exports to countries outside the Community, the dumped imports are causing and threatening to cause material injury to the Community industry ;

Whereas, for these reasons and given the seasonal nature of sales of the product concerned, a Member State requested the Commission, on 9 February 1979,

(1) OJ No L 93, 17. 4. 1968, p. 1.
(2) OJ No L 160, 30. 6. 1977, p. 4.
(3) OJ No C 311, 29. 12. 1978, p. 2.

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 against imports of DNBP technical originating in Romania, consisting in the imposition of a provisional anti-dumping duty the rate of which, having regard to the extent of injury caused, should approximate to the dumping margins provisionally established,

HAS ADOPTED THIS REGULATION :

Article 1

1. A provisional anti-dumping duty is hereby imposed on DNBP technical (Dinoseb) falling within Common Customs Tariff subheading ex 29.07 C III or ex 38.11 D and corresponding to NIMEXE codes ex 29.07-59 or ex 38.11-50, 70, originating in Romania and exported by Chimimportexport, Bucharest. The provisions in force for the application of customs duties shall apply for the application of this duty.

2. The said duty shall be at a rate of 40 % on the basis of the value declared in conformity with Commission Regulation (EEC) No 375/69 of 27 February 1969 [1] on the declaration of particulars relating to the value of goods for customs purposes.

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, 16 February 1979.

For the Commission

Wilhelm HAFERKAMP

Vice-President

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[1] OJ No L 52, 3. 3. 1969, p. 1.