COMMISSION REGULATION (EEC) No 2516/81

of 26 August 1981

imposing a provisional anti-dumping duty on imports of light sodium carbonate originating in Bulgaria

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3017/79 of 20 December 1979 on protection against dumped or subsidized imports from countries not members of the European Economic Community (1), and in particular Article 10 thereof,

After consultations within the Advisory Committee set up under Regulation (EEC) No 3017/79,

Whereas on 21 November 1978 the Commission published in the *Official Journal of the European Communities* (2) 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;

Whereas the Commission conducted a preliminary examination of dumping and injury showing, as set out in Commission Regulation (EEC) No 2599/79 (3), that there was dumping, that there was sufficient evidence of injury and that the interests of the Community called for immediate intervention;

Whereas volunatary price undertakings were accepted from the export organizations in Bulgaria, the German Democratic Republic, Poland and Romania;

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

Whereas the Commission accordingly imposed, by the said Regulation (EEC) No 2599/79, a provisional anti-dumping duty on light sodium carbonate originating in the Soviet Union;

Whereas this provisional duty was confirmed by Council Regulation (EEC) No 407/80 (4), imposing a definitive anti-dumping duty;

Whereas, the duty thus imposed corresponded to the amount by which the import price was less than US $ 105·10;

Whereas in May 1981 representatives of CEFIC and of the EEC sodium carbonate producers expressed their concern to the Commission that there had been breaches of the price undertakings made in this procedure by *inter alia* the Bulgarian exporter;

Whereas an examination of customs statistics regarding Bulgarian exports revealed that certain Bulgarian imports into the Community had been made at prices substantially below the undertaking price;

Whereas the Commission, on 18 May and 24 June 1981, invited the Bulgarian exporter to explain his position and indicated the possible consequences of an unsatisfactory reply; whereas no satisfactory reply has been received;

Whereas, in these circumstances, the protection of the Community's interests call for the withdrawal of acceptance of the Bulgarian exporter's undertaking and immediate application of provisional measures using the information available in accordance with Article 10 (6) of the said Regulation (EEC) No 3017/79;

Whereas, since the information available is that set out in the said Regulation (EEC) No 407/80, the provisional duty should be based on the same data, in particular as regards normal value, as that relating to the definitive duty;

Whereas, consequently, the provisional duty should be equal to the amount by which the import price is less than US$ 105·10;

Whereas, since the collection of this duty on the basis of the free-at-frontier price of the importing Member State could give rise to technical difficulties, it appears appropriate to base it on a free-at-Community-frontier price; whereas this will have no significant consequences with respect to the amount of the duty to be collected;

Whereas, as stated in Regulation (EEC) No 407/80, in order to avoid evasion of the anti-dumping duty, it is necessary to provide for an alternative procedure for the calculation of the duty for cases where the product is not entered for free circulation by the first purchaser in the Community,

(1) OJ No L 339, 31. 12. 1979, p. 1.
(2) OJ No C 277, 21. 11. 1978, p. 4.
(3) OJ No L 297, 24. 11. 1979, p. 12.
(4) OJ No L 48, 22. 2. 1980, p. 1.

HAS ADOPTED THIS REGULATION :

Article 1

The Commission hereby withdraws acceptance of the price undertaking made on 15 October 1979 by the Bulgarian exporter of light sodium carbonate.

Article 2

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

2. Without prejudice to paragraph 4, the amount of the duty shall be equal to the amount by which the free-at-Community-frontier price, before duty, per tonne net, to the first purchaser in the customs territory of the Community, is less then US$ 105·10.

3. The price of US$ 105·10, as mentioned in paragraph 2, 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. (a) Where the product defined in paragraph 1 is not entered for free circulation on the basis of the price to the first purchaser in the Community, a provisional anti-dumping duty of 33 % of US$ 79·02 shall be levied.

(b) Where, however, the declarant provides satisfactory proof to the customs authorities as to the price paid by the first purchaser, paragraphs 2 and 3 shall apply.

5. For the purposes of this Regulation, light sodium carbonate shall be all non-compacted sodium carbonate with a specific weight of less than 0·7 kg/dm^3 and consisting of powder or grains small than 0·4 mm in diameter.

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

7. 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.

Article 3

Without prejudice to Article 7 (4) (b) and (c) of Regulation (EEC) No 3017/79 the party concerned may make known its views, and apply to be heard orally by the Commission, within a month of the entry into force of this Regulation.

Without prejudice to the provisions of Articles 11, 12 and 14 of Regulation (EEC) No 3017/79 the present Regulation shall apply for a period of four months or until the adoption of definitive measures by the Council.

Article 4

This Regulation shall enter into force on the day of 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, 26 August 1981.

For the Commission

Edgard PISANI

Member of the Commission