COUNCIL REGULATION (EEC) No 1283/82

of 17 May 1982

imposing a definitive anti-dumping duty on oxalic acid originating in China and definitively collecting the amounts secured by way of provisional duty on oxalic acid originating in China and Czechoslovakia

THE COUNCIL 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 12 thereof,

Having regard to the proposal submitted by the Commission after consultation with the Advisory Committee set up under Article 6 of that Regulation,

Whereas in August 1981 the Commission received a complaint submitted by CEFIC (the European Council of Chemical Industry Federations) on behalf of all Community producers of oxalic acid, setting out evidence as to the existence of the dumping of like products originating in Czechoslovakia, the German Democratic Republic, Hungary and China and of material injury resulting therefrom;

Whereas, since there was sufficient evidence to justify initiating proceedings, the Commission published in the *Official Journal of the European Communities* of 19 September 1981 a notice of the initiation of an anti-dumping procedure concerning imports of oxalic acid originating in Czechoslovakia, the German Democratic Republic, Hungary and China [2], so advised the exporters and importers known by the Commission to be concerned, as well as the complainants, and commenced the investigation at Community level;

Whereas, since the 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 171/82 [3], imposed a provisional anti-dumping duty on imports of oxalic acid originating in China and Czechoslovakia;

Whereas, in its preliminary investigation the Commission established that imports to the European Economic Community of oxalic acid from the German Democratic Republic and from Hungary accounted for a small percentage of Community consumption during the reference period; whereas injury, if any, sustained by Community producers and attributable to these imports was considered minimal;

Whereas the Commission accordingly excluded imports of oxalic acid originating in the German Democratic Republic and Hungary from the application of the provisional duty;

Whereas during the subsequent examination regarding the German Democratic Republic and Hungary the Commission received no evidence to alter its preliminary findings regarding injury caused by imports from these countries and has accordingly terminated the proceedings regarding such imports;

Whereas in the course of the subsequent examination regarding imports from China and Czechoslovakia, completed after the imposition of the provisional anti-dumping duty, the interested parties had the opportunity to make known their views in writing, to be heard by the Commission and orally to develop their views, to inspect non-confidential information relevant to the defence of their interests and to be informed of the essential facts and considerations on the basis of which it was intended to make a final determination; whereas the Community producers, the exporters and some of the importers concerned availed themselves of these possibilities by making known their views in writing and orally; whereas the Czechoslovakian exporter also availed itself of the opportunity afforded it by the Commission to meet with the EEC producers and exchange views;

Whereas the Commission has also carried out inspections at the premises of importers from whom no information was available during the preliminary investigation notably Arnold Suhr (Antwerp), and Metallurgie Hoboken-Overpelt (Hoboken) in Belgium and has obtained further information from importers who had made information available during the preliminary investigation;

[1] OJ No L 339, 31. 12. 1979, p. 1.
[2] OJ No C 241, 19. 1. 1981, p. 11.
[3] OJ No L 19, 27. 1. 1982, p. 26.

Whereas as regards the subsequent investigation of dumping in respect of imports of the product concerned from China and Czechoslovakia no evidence was obtained to show that the price in Spain, on which the determination of normal value was based, had decreased since the date of the preliminary determination of the dumping margin ;

Whereas updated information was received from the Chinese and Czechoslovakian exporters regarding their export prices ; whereas, taking into account this information and that received from importers during the subsequent investigation, the Commission revised its calculations of dumping margins for imports of oxalic acid to various Member States ;

Whereas these margins were established for Czechoslovakia by making the same comparison as set out in Regulation (EEC) No 171/82 and for China by comparing the normal value with the ex-works Chinese price adjusted to take account of the different payment conditions ;

Whereas, on this basis the average current dumping margin is 34·2 % for China and 23·9 % for Czechoslovakia ;

Whereas all such imports during the period under consideration were made at dumped prices ;

Whereas, in the course of the subsequent examination of injury, the following new information was received :

— imports into the Community of the oxalic acid in question originating in China and Czechoslovakia rose from approximately 2 696 tonnes in 1978 to 11 464 tonnes in 1980 and are estimated to have reached 5 087 tonnes in 1981,

— the market share held by such imports in the Community was approximately 17 % in 1978, rising to approximately 57 % in 1980, and is estimated to have reached 46 % in 1981,

— production of oxalic acid in the Community has fallen from 14 740 tonnes in 1979 to 7 670 tonnes in 1980 and to 6 025 tonnes in 1981,

— capacity utilization has fallen from 67 % in 1979 to 34 % in 1980 and to an estimated 26 % in 1981,

— sales by Community producers have been reduced by more than 68 % from 1979 to 1981 ;

Whereas as regards the other aspects of injury, caused by the dumped imports, no new information has been received since the preliminary investigation ;

Whereas the Commission has considered the injury caused by other factors which individually or in combination may also be affecting the Community industry ; whereas the apparent consumption of oxalic acid in the Community fell from approximately 16 000 tonnes in 1978 and 1979 to 11 100 tonnes in 1981, while during the same period Chinese and Czechoslovakian exporters increased their market share ; whereas imports of oxalic acid originating in other third countries have been in small or insignificant quantities to which injury could not be attributed ; whereas, although production methods and raw materials differ between the Community and Chinese producers, such differences were not considered to be of any significance ; whereas under these circumstances the dumped imports originating in China and Czechoslovakia are definitively considered to have caused material injury to a Community industry ;

Whereas two users of Chinese oxalic acid have argued that any price increase of this product would have a negative impact on their processing industries ; whereas, however, given the extent of dumping and of injury resulting therefrom and given the importance of the Community industry affected, the Commission considers that the Community's interests calls for a definitive action ;

Whereas the Czechoslovakian exporter has voluntarily undertaken to increase its prices to a level which eliminates the injurious effects of these exports to the Community ;

Whereas the Commission considers this undertaking to be acceptable and that the proceedings concerning Czechoslovakia should be terminated without imposition of a definitive anti-dumping duty and, consequently, no definitive duty should be imposed on Czechoslovakian exports ;

Whereas, however, the amounts secured by way of provisional anti-dumping duty should be collected up to the amount of the revised dumping margin determined ;

Whereas, as regards imports from China, a definitive anti-dumping duty should be imposed, equal to the margin established in the subsequent investigation ; whereas Community interests also call for the definitive collection in their entirety of the amounts secured by way of provisional anti-dumping duty,

HAS ADOPTED THIS REGULATION :

Article 1

1. A definitive anti-dumping duty is hereby imposed on oxalic acid falling within Common Customs Tariff subheading ex 29.15 A I and corresponding to NIMEXE code ex 29.15-11 originating in China.

2. The rate of the duty referred to in paragraph 1 shall be 34·2 % on the basis of the customs value determined in accordance with Council Regulation (EEC) No 1224/80 of 28 May 1980 on the valuation of goods for customs purposes (1).

3. The provisions in force concerning customs duties shall apply for the application of the duty referred to by this Article.

Article 2

The amounts secured by way of provisional anti-dumping duty under Regulation (EEC) No 171/82 shall be definitively collected in their entirety as regards imports from China. In the case of imports originating in Czechoslovakia, the amounts secured by way of provisional anti-dumping duty shall be definitively collected up to an amount not exceeding 23·9 % of the customs value determined in accordance with Regulation (EEC) No 1224/80.

Article 3

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, 17 May 1982.

For the Council

The President

P. de KEERSMAEKER

(1) OJ No L 134, 31. 5. 1980, p. 1.