COMMISSION REGULATION (EEC) No 171/82

of 25 January 1982

imposing a provisional anti-dumping duty on imports of oxalic acid originating in China and Czechoslovakia

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 11 thereof,

After consultations within the Advisory Committee set up under that Regulation,

Whereas in August 1981 the Commission received a complaint lodged by the European Council of Chemical Manufacturers' Federations (CEFIC) on behalf of all Community manufacturers of oxalic acid; whereas the complaint contained evidence of the existence of dumping in respect of like products originating in Czechoslovakia, the German Democratic Republic, Hungary and China and of substantial injury resulting therefrom;

Whereas the said evidence was sufficient to justify initiating an investigation;

Whereas the Commission accordingly announced, by a notice published in the *Official Journal of the European Communities* [2], the initiation of a proceeding concerning imports of oxalic acid originating in Czechoslovakia, the German Democratic Republic, Hungary and China and commenced an investigation of the matter at Community level;

Whereas the Commission officially so advised the exporters and importers known to be concerned;

Whereas the Commission has given the parties directly concerned the opportunity to make known their views in writing and to be heard orally;

Whereas the majority of the parties concerned have taken this opportunity;

Whereas, in order to arrive at a preliminary assessment of the dumping margin and injury, the Commission carried out inspections at the premises of a number of exporters' agents and importers notably in Italy where quantities of oxalic acid from all four countries concerned have been imported, including l'Aprochimide (Muggio), Benfer (Milano), G. Faravelli (Milano) and Usvico (Milano); whereas the Commission contacted a number of other agents and importers; whereas the Commission also carried out inspections at the premises of all complainant Community producers, viz. in France, Rhone-Poulenc SA (Paris), and la Société Française Hoechst SA (Paris) and in Italy, Rumianca SpA (Milano);

Whereas, in its preliminary investigation, the Commission established that imports into the EEC of oxalic acid from the German Democratic Republic and from Hungary accounted for a small percentage of EEC consumption during the reference period; whereas any injury sustained by the EEC 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 its preliminary investigations;

Whereas, in order to establish whether imports of oxalic acid from China and Czechoslovakia were dumped, the Commission had to take into account the fact that China and Czechoslovakia are not market economy countries;

Whereas, for that reason, the Commission had to base its calculations on the normal value in a market economy country; whereas, in that connection, the complaint had cited the Spanish domestic market;

Whereas, on the basis of contacts with the Spanish producer and an inspection carried out on its premises, a comparison with the normal value of oxalic acid manufactured in Spain would appear reasonable at least for the purposes of a preliminary finding of dumping, since the manufacturing processes and technical standards and also the technology are similar;

Whereas, in view of the highly protected nature of the Spanish market and the fact that the Spanish producer is the sole manufacturer of oxalic acid in Spain, it was considered appropriate to take as the basis of normal value the constructed value in Spain making due allowance for a loss made during the reference period and for a profit margin of 6 % which was considered reasonable in the light of the declarations of the Spanish producer;

[1] OJ No L 339, 31. 12. 1979, p. 1.
[2] OJ No C 241, 19. 9. 1981, p. 11.

Whereas, to take due consideration of differences affecting price comparability, account was taken of the difference in conditions of payment between transactions with both Chinese and Czechoslovakian manufacturers and those with the Spanish producer; whereas account was also taken of transport and associated costs to the Community frontier; whereas on the basis of the information obtained regarding imports into Italy and having taken appropriate account of information submitted by the exporters received in both instances after considerable delay, comparisons were made to establish dumping margins between, in the case of the Chinese product, the constructed value in Spain and the adjusted Chinese fob price and, for the Czechoslovakian product, between the cif Community frontier price and the Spanish constructed value, brought up to a free delivered basis;

Whereas the above preliminary examination of the facts shows the existence of dumping in respect of the imports originating in China and Czechoslovakia, the dumping margin being equal to the amount by which the normal values as established above exceed the prices at which the goods are exported to the Community; whereas the lower margin so found amounts to 29·2 %;

Whereas, with regard to the injury caused to the Community industry, the evidence available to the Commission shows that imports into the Community of the oxalic acid in question originating in China and Czechoslovakia rose from approximately 3 540 tonnes in 1979 to 11 464 tonnes in 1980 are estimated to reach 6 200 tonnes in 1981;

Whereas in 1979 the market share held by such imports in the Community was 22 %, rising to 57 % in 1980, and is estimated to remain at approximately the same level in 1981;

Whereas, as regards the exporting countries concerned, China held a 40 % share of the EEC market and Czechoslovakia 17 % in 1980; whereas the market shares are estimated to remain at approximately the same level in 1981;

Whereas all of these imports have been made at dumped prices;

Whereas, as regards the sale prices of the EEC industry, at least one attempt by the largest EEC producer to increase the price of oxalic acid led to considerable loss of sales and there is also evidence that former or potential customers of all three EEC producers have purchased dumped products from the countries concerned with the effect of depressing the EEC producers' prices making it impossible to recover production costs;

Whereas all the Community industry has suffered resultant increased losses associated with the considerable increase in dumped imports of oxalic acid from the countries concerned;

Whereas production of oxalic acid in the Community has fallen from 14 740 tonnes in 1979 to 7 670 tonnes in 1980 and to an estimated 5 980 tonnes in 1981; whereas capacity utilization has fallen from 67 % in 1979 to 34 % in 1980 and to an estimated 26 % in 1981;

Whereas sales by Community producers have been reduced by more than 70 % from 1979 to 1981;

Whereas all Community producers have experienced considerable increases in stocks of oxalic acid held during the period under consideration;

Whereas, with the exception of one Community producer who manufactures oxalic acid as a necessary by-product, the remaining producers have closed down production for lengthy periods during 1980 and 1981, such closures having disruptive effects on employment;

Whereas the Commission has considered the injury caused by other factors which individually or in combination may also be affecting the Community industry; whereas, although consumption of oxalic acid fell in the Community in 1981, the dumped Chinese and Czechoslovakian products maintained their market share, there thus being no reduction in their injurious effect; 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, the Chinese and the Czechoslovakian producers, such differences were not considered of a nature to affect the result of the preliminary investigation;

Whereas, in view of the foregoing, the Commission has provisionally concluded that the dumped imports are causing material injury;

Whereas, in these circumstances and in order to prevent further injury being caused during the proceeding, the interests of the Community call for immediate intervention consisting of the imposition of a provisional anti-dumping duty on imports of oxalic acid originating in China and Czechoslovakia at a rate which, having regard to the extent of the injury caused, should be equal to the minimum dumping margin provisionally established,

HAS ADOPTED THIS REGULATION:

Article 1

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

2. The rate of the duty shall be 29·2 % 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 this duty.

4. The release for free circulation in the Community of the products referred to in paragraph 1 shall be subject to the provision of a security equivalent to the amount of the provisional duty.

Article 2

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

Subject to Articles 11, 12 and 14 of Regulation (EEC) No 3017/79, this Regulation shall be applicable for four months or until the adoption by the Council of definitive measures.

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, 25 January 1982.

For the Commission

Wilhelm HAFERKAMP

Vice-President

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