COMMISSION REGULATION (EEC) No 2243/82

of 12 August 1982

imposing a provisional anti-dumping duty on imports of methylamine, dimethylamine and trimethylamine originating in the German Democratic Republic and accepting an undertaking and terminating the procedure in respect of imports of methylamine, dimethylamine and trimethylamine 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 3017/79 of 20 December 1979 on protection against dumped or subsidized imports from countries not members of the European Economic Community (1), as amended by Council Regulation (EEC) No 1580/82 (2), and in particular Article 11 thereof,

After consultations within the Advisory Committee set up under Article 6 of that Regulation,

Whereas in December 1981 the Commission received a complaint lodged by the European Council of Chemical Manufacturers' Federations (CEFIC) on behalf of all Community manufacturers of methylamine, dimethylamine and trimethylamine against imports from Romania and on behalf of the major part of Community manufacturers against imports from the German Democratic Republic;

Whereas, since the complaint provided sufficient evidence of dumping in respect of the like products originating in the German Democratic Republic and Romania and of material injury resulting therefrom, the Commission accordingly announced by a notice published in the *Official Journal of the European Communities* (3) the initiation of a procedure concerning imports of methylamine (MMA), dimethylamine (DMA) and trimethylamine (TMA), collectively known as methylamines, originating in the German Democratic Republic and Romania and commenced an investigation of the matter at Community level;

Whereas the Commission officially so advised the exporters and importers known to be concerned, as well as the representatives of the exporting countries and the complainants;

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 determination of dumping and injury, the Commission sought to obtain and verify all information which it deemed to be necessary and carried out inspections at the premises of all Community producers represented by the complainant namely: UCB SA, Belgium, Industria Chimica del Ticino SpA, Italy, AKZO Zout Chemie Nederland BV, the Netherlands, Imperial Chemical Industries Ltd, UK and BASF AG, Federal Republic of Germany;

Whereas in order to establish whether imports of methylamines from the German Democratic Republic and Romania were dumped, the Commission had to take into account the fact that both countries 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 United States of America domestic market;

Whereas, on the basis of contacts with the US producers and an inspection carried out at the premises of US producers representing the major part of the free US market, a comparison with the normal value of methylamines manufactured in the US would appear reasonable for the purposes of a preliminary finding of dumping, since the manufacturing processes technical standards and technology are similar and the US is not a protected market;

Whereas the German Democratic Republic and Romanian exporters replied to the Commission's questionnaire; whereas the Commission carried out inspections at the premises of the major importers into the Community, namely Farmoplant, Spa in Italy, and Rhône-Poulenc, SA, Nitrochemie, SA, and Produits Chimiques Ugine Kuhlmann, SA in France, to verify the prices given by the exporters and receive information concerning other costs such as transport, stocking, terms of payment and rebates affecting price comparability; whereas other Community importers made known their views in writing;

(1) OJ No L 339, 31. 12. 1979, p. 1.
(2) OJ No L 178, 14. 6. 1982, p. 9.
(3) OJ No C 79, 31. 3. 1982, p. 2.

Whereas the Romanian export prices at the ex-works level and the German Democratic Republic export prices at the cif EEC border duty unpaid level were compared to the normal value for the year 1981 taking into account differences in transport cost and associated costs to the Community frontier and differences in payment terms affecting price comparability;

Whereas account was taken of the fact that methylamines can be found in an anhydrous form (100 % basis) or in solution with water (on a 60 % or 40 % basis); whereas all the calculations and figures given below are on 100 % basis;

Whereas the preliminary results of this exercise, using the prices given by the two exporters and using a method of calculation as favourable to the exporters as possible, showed a weighted average dumping margin of 71·7 % for the German Democratic Republic and 68·7 % for Romania;

Whereas, with regard to injury caused to the Community industry, the evidence available to the Commission shows that imports into the Community of methylamines originating in the German Democratic Republic and Romania rose from 3 520·5 tonnes in 1979 to 4 975·5 tonnes in 1981 and the exports already made by these two countries for the first quarter of 1982 amount to 3 566 tonnes;

Whereas the market share held by these imports in the Community was 17 % in 1979, 26 % in 1981 and initial estimates show a further increase is likely in 1982; whereas the German Democratic Republic and Romania's market shares in the Community in 1981 were 24·2 % and 1·8 % respectively;

Whereas with regard to prices the evidence available suggests that initial attempts by the Community producers to increase prices to cover costs led to a considerable loss of sales and they were, therefore, forced to align their prices downwards in an attempt to keep market share;

Whereas this decrease in prices has resulted in considerable losses for the Community producers;

Whereas the Commission's investigation also showed that the prices to the first independent buyer of the products imported from the German Democratic Republic and Romania were up to 30·3 % and 22·2 % respectively lower than those required by Community producers to enable them cover costs; whereas for all price comparisons account has been taken of the fact that users incur extra costs in importing from the countries concerned; whereas these costs are estimated at 1·5 % of the value of the products delivered to the first independent buyer;

Whereas no significant differences exist in the production process or the quality of the imported products when compared to those sold by Community producers;

Whereas production of methylamines in the Community has fallen from 91 518 tonnes in 1979 to 82 449 tonnes in 1981; whereas capacity utilization has fallen from 59·5 % in 1979 to 52·4 % in 1981;

Whereas sales on the free market by Community producers have been reduced by more than 20 % from 1979 to 1981; whereas Community producers' free market share has been decreased from 87·6 % in 1979 to 80·9 % in 1981;

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 the apparent consumption of methylamines fell in the Community from 29 500 tonnes in 1979 to 26 600 tonnes in 1981 the dumped German Democratic Republic and Romanian products increased their market share, from 17 % to 26 % in the same period, thus increasing the difficulties in the European industry; whereas imports of methylamines originating in other third countries have been insignificant;

Whereas, in addition to the already existing injury, a considerable threat of injury from imports from the German Democratic Republic and Romania exists due to the high rate of increase of the dumped exports in the last few months into the Community, the high production capacity in the countries of origin and the likelihood that the resulting exports will be to the Community countries because of the difficulties in transporting methylamines by sea;

Whereas in view of the foregoing, the Commission has provisionally concluded that, viewed in isolation, the adverse effects of the dumped imports are such as to cause material injury;

Whereas users of methylamines in the Community have indicated that anti-dumping measures may increase the price of the products, and, thus, decrease their competitiveness in the processing industry; whereas the Commission has given full consideration to this argument; whereas, nevertheless, the degree of injury caused by the dumped imports is such that protective measures are considered to be in the Community interest;

Whereas, in these circumstances, and in order to prevent further injury being caused during the procedure, the interests of the Community call for immediate intervention by the imposition of a provisional anti-dumping duty on imports of methylamines originating in the German Democratic Republic and Romania ; whereas the Commission considers that a duty lower than the margins of dumping established would be sufficient to eliminate the injury caused to the Community industry by the dumped imports, as measured by the price necessary for the most efficient Community producer to reestablish profitability ;

Whereas the Romanian exporter, after being informed of the results of the Commission's investigation, voluntarily undertook to increase its price to a level sufficient to eliminate the injury margin provisionally established ; whereas the Commission, after consultation, considers the undertaking offered by the Romanian exporter to be acceptable ; whereas the proceeding should consequently be terminated in respect of exports originating in Romania, thereby excluding them from the application of the duty,

HAS ADOPTED THIS REGULATION :

Article 1

1. A provisional anti-dumping duty is hereby imposed on methylamine, dimethylamine and trimethylamine falling within Common Customs Tariff subheading ex 29.22 A I and corresponding to NIMEXE code ex 29.22-11 originating in the German Democratic Republic.

2. The rate of the duty shall be 28·8 % 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, as amended, 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, as amended, this Regulation shall be applicable for four months or until the adoption by the Council of definitive measures.

Article 3

The undertaking offered by Chimimportexport, Bucharest, Romania is hereby accepted.

Article 4

The anti-dumping procedure concerning imports of methylamine, dimethylamine and trimethylamine originating in Romania is hereby terminated.

Article 5

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, 12 August 1982.

For the Commission
Étienne DAVIGNON
Vice-President

[1] OJ No L 134, 31. 5. 1980, p. 1.