COMMISSION REGULATION (EEC) No 2568/82

of 17 September 1982

imposing a provisional anti-dumping duty on imports of polyvinyl chloride resins and compounds originating in Czechoslovakia, and accepting undertakings and terminating the proceeding in respect of imports of such products originating in Romania, the German Democratic Republic and Hungary

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 Regulation (EEC) No 1580/82 [2], and in particular Article 11 thereof,

After consultations within the Advisory committee set up pursuant to Article 6 of Regulation (EEC) No 3017/79,

Whereas in July 1981 the Commission received a complaint from the European Council of Chemical Manufacturers' Federations, on behalf of 24 producers of polyvinyl chloride resins and compounds, representing almost the whole of the Community industry, asking it to open an anti-dumping proceeding;

Whereas the complaint contained sufficient evidence that such products originating in Czechoslovakia, the German Democratic Republic, Hungary and Romania were being dumped, and that material injury was being caused thereby; whereas the Commission accordingly announced, by a notice published in the *Official Journal of the European Communities* [3], the initiation of a proceeding in respect of imports of polyvinyl chloride resins and compounds originating in Czechoslovakia, the German Democratic Republic, Hungary and Romania and commenced an investigation of the matter at Community level;

Whereas the Commission officially so advised the exporters and importers known by it 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;

Whereas some of the parties concerned took this opportunity to present detailed written and/or oral observations;

Whereas, in order to arrive at a preliminary assessment of the dumping margin and injury, the Commission gathered from the Community exporters, importers and producers concerned which agreed to cooperate in the investigation all the information it deemed necessary, and checked that information; whereas, where necessary, it carried out inspections at the companies' premises; whereas information was supplied by the following companies in particular:

— Community importers:

Deutsche Chemapol GmbH (Frankfurt)
Inter-Chemol GmbH (Frankfurt)
Conti Chemie GmbH (Frankfurt)
Karl O. Helm AG (Hamburg)
Kunstoplast-Chemie GmbH (Nienhagen)
Rehau Plastiks AG & Co. (Rehau)
Braas und Co. GmbH (Frankfurt)
Pegulan Werke AG (Frankenthal)
Thyssen Industrie AG (Essen)
IVK (Frankfurt)
Amtel Chimie et Plastiques (Puteaux)
Chemapol France SA (Paris)
Rehau Plastiks SA (Morhange)
Eutraplast (Brussels)
TR International Ltd (London)
Liatsis-Polybros Ltd (Athens)
Simitis Brothers SA (Piraeus)
Dasico A/S (Birkerød)

— Community producers:

BASF AG (Ludwigshafen)
Deutsche Solvay-Werke GmbH (Solingen)
Hoechst AG (Frankfurt)
Chemische Werke Huels AG (Marl)
Lonza-Werke GmbH (Weil am Rhein)
Wacker-Chemie GmbH (Munich)
Société artésienne de Vinyle (Paris)
Ato Chimie (Paris la Défense)
Chloe Chimie (Paris la Défense)
Solvic SA (Paris)
PCUK SA (Courbevoie)
Solvic SpA (Milan)
BP Chemicals Ltd (South Glamorgan)
BIP Vinyls Ltd (Durham)
ICI PLC (London)
Vinatex Ltd (Havant)
Shell Nederland Chemie BV (The Hague)

[1] OJ No L 339, 31. 12. 1979, p. 1.
[2] OJ No L 178, 22. 6. 1982, p. 9.
[3] OJ No C 332, 19. 12. 1981, p. 2.

DSM NV (Sittard)
Solvic SA (Brussels)
Esso Pappas Chemical AE (Athens)

— and exporters :

Chemolimpex (Budapest)
Chimimportexport (Bucharest)
Petrimex (Bratislava)
AHB Chemie (Berlin, German Democratic republic)

Whereas, in its preliminary investigation, the Commission based its calculations on the 1981 weighted average prices for polyvinyl chloride resins in powder form (general purpose suspension and solid PVC), which make up the vast majority of PVC exports to the Community from the countries concerned ;

Whereas, in order to establish whether the abovementioned imports were dumped, the Commission had to take into account the fact that Czechoslovakia, the German Democratic Republic, Hungary and Romania are not market economies ;

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

Whereas other parties suggested that comparison be made with prices in the United States or Canada ; whereas the Commission, having considered the possibility, nevertheless concluded that certain structural factors made comparison with North American manufactures less appropriate ; whereas certain exporters requested that the normal value be based on Swedish export prices ; whereas the Commission, however, could not accept this, since the majority of Sweden's output was sold on the domestic market and Swedish export prices might be influenced by competition from low-cost exports originating in other countries ;

Whereas, on the basis of inspections carried out on the premises of Swedish producers and in the light of the written and oral arguments put forward by the parties concerned, the Commission based its preliminary assessment of the normal value on the prices for general purpose suspension PVC on the Swedish domestic market, taking into account that the means of production of that product are broadly comparable in Sweden, the exporting countries named in the complaint and the Community, that about half of Sweden's requirements are covered by imports, mainly from the Community and other Scandinavian countries, with the exporting countries named in the complaint taking a negligible share of the market, and that Sweden's tariffs on imported PVC are relatively low ; whereas the Commission therefore found that the situation on the Swedish market was an appropriate reflection of the conditions of competition for western European PVC manufactures and that the level of prices was reasonable ;

Whereas the preliminary assessment of dumping was therefore effected by comparing the weighted average Swedish ex-work prices for sales over the period January to December 1981 with the prices for exports to the Community from the countries in question over the same period ;

Whereas, to take due account of the differences affecting price comparability, all discounts and transport costs were deducted from the Swedish prices for loose goods as invoiced to the customers ; whereas an adjustment was made to bring the prices to a 'cash payment' level ; whereas certain export prices charged by the countries named in the procedure were set on a fob and a cif basis and a price adjustment was made where necessary to take into account the transport costs included in those prices and the payment terms ; whereas, in working out the export prices, account was also taken, where possible, of deliveries of lower-quality goods ;

Whereas the above preliminary examination of the facts shows the existence of dumping in respect of the imports considered in the investigation, the dumping margin being equal to the amount by which the normal value as established above exceeds the price for export to the Community ; whereas the margin varies depending on the exporting country and importing Member State concerned ; whereas the margins vary, for example, between 53 and 68 % for imports originating in Czechoslovakia, between 58 and 74 % for Romania, between 26 and 37 % for the German Democratic Republic and between 25 and 45 % for Hungary ;

Whereas, with regard to the injury caused to the Community industry by the dumped imports, the evidence available to the Commission during the preliminary assessment showed that the total Community imports (excluding intra-German trade) of polyvinyl chloride resins from the countries in question rose from 62 100 tonnes in 1979 to 125 200 tonnes in 1981, an increase of 102 % ; whereas over that period the share of the Community market taken by these imports increased from 2·3 to 5·6 % ; whereas that increase in market share was very unevenly distributed among the Member States, being particularly marked in the Federal Republic of Germany which in 1981 alone, setting aside intra-German trade, took 75 300 tonnes or 60 % of the imports in question, accounting for 11·6 % of the market as against only 4 % in 1979 ;

whereas over the same period the imports in question increased their market share from 2·3 to 8·4 % in the Netherlands, from 3·9 to 6·4 % in Belgium, from 1·6 to 3·6 % in France and from 1·7 to 2·0 % in the United Kingdom ;

Whereas the selling prices in the Community of polyvinyl chloride resins originating in the countries in question have undercut those of Community producers of general purpose products by different amounts, up to 20 % in some cases ;

Whereas the evidence available to the Commission also shows that dumped imports increased and considerable market shares were captured at a time when demand in the Community was falling sharply ; whereas Community producers have therefore lost further sales, and have been unable to stabilize the market despite cutting back output considerably ; whereas the dumped imports have been an important factor in depressing prices ; whereas, for the above reasons, Community producers are making unacceptable losses ;

Whereas the Commission has also investigated the influence of other imports of polyvinyl chloride resins into the Community and has found that such imports have declined with the level of demand in the Community, changing their market share little ;

Whereas in assessing the effects of dumping the Commission also took into account that the excess capacity for the manufacture of polyvinyl chloride in the Community exerts considerable pressure on prices which is not attributable to the imports in question ; whereas, under those market conditions, it is impossible to make a profit or cover costs ;

Whereas, in view of the above findings, the Commission has provisionally concluded, in particular in the light of the adjustment problems facing the Community industry, that the harmful effects of the dumped imports constitute in themselves material injury requiring protective measures ; whereas Community processing industries argue that the introduction of protective measures would make them less competitive, and would therefore not be in the Community's interest ; whereas, in view of the particularly serious difficulties facing PVC manufacturers, the Commission has nevertheless come to the conclusion that it is in the Community's interests for immediate action to be taken by introducing a provisional anti-dumping duty ;

Whereas, in calculating the rate of duty, the Commission took into account that the exporters in question suffer varying disadvantages *vis-à-vis* Community producers in the marketing of their products ; whereas the Commission has accordingly concluded that the introduction of a provisional anti-dumping duty of 12 % for Czechoslovakia, 10 % for Romania, 6 % for the German Democratic Republic and 4 % for Hungary would be sufficient to eliminate the injury ;

Whereas, after being informed of these findings, the exporting bodies in Romania (Chimimportexport, Bucharest), Hungary (Chemolimpex, Budapest) and the German Democratic Republic (AHB Chemie, Berlin) offered undertakings to eliminate the injurious effects of the exports ; whereas the Commission considers these undertakings appropriate ; whereas the Advisory Committee set up pursuant to Article 6 of Council Regulation (EEC) No 3017/79 has raised no objections ; whereas the abovementioned exporters' undertakings can therefore be accepted, and the proceeding against them terminated,

HAS ADOPTED THIS REGULATION :

Article 1

The undertakings given by the exporting bodies in Romania (Chimimportexport, Bucharest), Hungary (Chemolimpex, Budapest) and the German Democratic Republic (AHB Chemie, Berlin) are hereby accepted and the proceeding in respect of imports of polyvinyl chloride resins and compounds originating in those countries is hereby terminated.

Article 2

1. A provisional anti-dumping duty is hereby imposed on imports of polyvinyl chloride resins and compounds falling within subheading 39.02 C VII ex a) of the Common Customs Tariff, in the form of powders (including moulding powders), granules, flakes and similar bulk forms (NIMEXE codes 39.02-41 and ex 39.02-43) originating in Czechoslovakia.

2. The rate of anti-dumping duty shall be 12 % in respect of Czechoslovakia on the basis of 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 to the provisional anti-dumping duty.

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

4. The release for free circulation in the Community of the products referred to in paragraph 1 shall be subject to payment of a deposit equivalent to the amount of the provisional anti-dumping duty.

Article 3

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 one 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 until such time as the Council adopts definitive measures and in any event for a maximum period of four months.

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, 17 September 1982.

For the Commission

Lorenzo NATALI

Vice-President