COMMISSION REGULATION (EEC) No 2936/82
of 28 October 1982
imposing a provisional anti-dumping duty on copper sulphate originating in Yugoslavia

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 by the said Regulation,

Whereas in May 1982 the Commission received a complaint lodged by the European Council of Chemical Manufacturers' Federations (CEFIC) on behalf of Manica Spa (Rovereto), a manufacturer accounting for a major part of Community production of copper sulphate ;

Whereas since the complaint provided sufficient evidence of dumping in respect of the like product originating in Yugoslavia, 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 proceedings concerning imports of copper sulphate originating in Yugoslavia and commenced an investigation of the matter at Community level ;

Whereas the Commission officially so advised the producers and exporters in Yugoslavia and the importers known to be concerned, as well as the exporting country and the complainant ;

Whereas the Commission has given all parties directly concerned the opportunity to make known their views in writing and to be heard orally ; whereas both producers and all exporters to the Community in Yugoslavia as well as importers of copper sulphate from Yugoslavia took advantage of this opportunity ;

Whereas, in order to arrive at a 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 Jugohemija, the main Yugoslav export/import organization for this product, in Belgrade, of the two Yugoslav producers Zorka Sabac and Zupa and their export agents Jugohemija, Adria Commerce and Progress ; whereas these investigations covered all Community imports of Yugoslav copper sulphate during the reference period ;

Whereas the Commission requested and received a detailed written submission from the complainant Community producer with respect to the question of injury and causation thereof ; whereas the Commission also carried out an investigation at the premises of the complainant ;

Whereas, in determining the normal value of the product in question, an average ex-works price was established for the year to May 1982 in the Yugoslav domestic market ; whereas the investigation showed that both Yugoslav producers had the same selling price, the level of this price being fixed by the Yugoslav Government ; whereas these prices were confirmed by reference to invoices ; whereas, furthermore, the investigation showed that these domestic prices covered all production costs ;

Whereas the Yugoslav producers and exporters requested that the domestic price should be adjusted in order to take account of the fact that during the reference period the price for Yugoslav copper used for the production of copper sulphate for sales on the domestic market was approximately 15 % higher than that obtainable on the world commodity market used for the production of copper suphate for export sales ; whereas the investigation showed, however, that the use of copper from different sources of supply did not result in any different characteristics of copper sulphate sold on the domestic market, on the one hand, and of copper sulphate for exportation, on the other hand, nor in any of the differences affecting price comparability for which adjustments have to be made under Article 2 (10) (a) to (d) of Regulation (EEC) No 3017/79 ; whereas the Yugoslav domestic price was, however, reduced by taking account of the incidence of the Yugoslav customs duty levied on imported copper and refunded when copper sulphate is exported ;

Whereas ex-works export prices were established for all export transactions to the Community during the reference period, taking into account, where appropriate, agents' commission and transport and insurance costs to the Community frontier ;

(1) OJ No L 339, 31. 12. 1979, p. 1.
(2) OJ No L 178, 22. 6. 1982, p. 9.
(3) OJ No C 161, 26. 6. 1982, p. 2.

Whereas a comparison between the normal value and these export prices showed a weighted average dumping margin of 34 % of the average price cif Community frontier;

Whereas, with regard to the injury caused by the dumped imports to the Community industry, the evidence available to the Commission during the investigation showed that total imports of copper sulphate from Yugoslavia to the Community increased from 980 tonnes in 1980 to 3 500 tonnes in 1981, an increase of approximately 257 %, which took place exclusively on the Italian market, and to 4 275 tonnes during the first six months of 1982, a further increase of more than 200 %, in this instance one-third of the sales being made on the Greek market, the remainder in Italy;

Whereas the investigation showed that there has been significant price undercutting to the extent that the complainant's costs of production for copper suphate were significantly higher than the cif-Community-frontier price of the Yugoslav product;

Whereas with regard to the impact on the Community industry the investigation showed that the production of copper sulphate by the complainant decreased from 18 684 tonnes in the 1979/80 season, i.e. August to July, the period for which the complainant's evidence was available, to 16 067 tonnes in 1980/81 and to approximately 9 200 tonnes in 1981/82;

Whereas the capacity used by the complainant for the production of copper sulphate dropped from 74 % in 1979/80 to 64 % in 1980/81 and to 31 % in 1981/82;

Whereas the stock of copper sulphate held by the complainant increased from approximately 300 tonnes at the end of the 1978/79 season to 1 300 tonnes for 1979/80; whereas these stocks had increased to 2 000 tonnes by the end of June 1982;

Whereas the number of people employed by the complainant dropped by 20 % from the end of 1979 to the end of 1982; whereas more redundancies are threatened if the complainant is forced to maintain production at its present or a lower level;

Whereas sales by the complainant of copper sulphate on the Italian market decreased from 14 399 tonnes in 1980/81 to 9 700 tonnes in 1981/82; whereas exports of copper sulphate by the complainant to Greece dropped from 3 408 tonnes in 1980/81 to 400 tonnes in 1981/82 to the benefit of Yugoslav exports;

Whereas, during the same period the market share held by the dumped product in Italy increased from 5 % in 1980 to 54 % in 1981 and in Greece from 0 % in 1981 to 100 % during the first six months of 1982; whereas this increase in Greek sales was due to the Yugoslav producer obtaining, after tender, a contract to supply the sole Greek distributor at the expense of the complainant who had previously held the contract;

Whereas the gross profits realized by the complainant on all sales dropped by approximately 50 % from 1980/81 to 1981/82; whereas copper sulphate represents approximately 77 % of the total sales of the complainant;

Whereas the Commission has considered the injury caused by other factors, which individually or in combination, are also affecting the complainant, in particular the levels of consumption and the level of non-dumped imports in the relevant markets;

Whereas although consumption has fallen considerably in 1981 and 1982 on the Italian and Greek markets the market share held by the Yugoslav product in these markets has increased during this period; whereas imports from other Community sources or from third countries have, throughout the period, remained at low levels, imports of Yugoslav copper sulphate currently accounting for approximately 92 % of all such imports to Italy; whereas Yugoslav copper sulphate has accounted for 100 % of imports to Greece for the first six months of 1982;

Whereas, during the reference period, the complainant purchased substantial amounts of copper sulphate from Yugoslavia either directly from the exporters or indirectly via importers in Italy; whereas the Yugoslav producers and exporters alleged that no injury could be attributed to imports of the Yugoslav product to Italy, since the complainant made profits from its resale in that market; whereas, however, the investigation showed that the complainant was obliged to make these purchases in an attempt to limit the effect of injury in order to maintain its customer base, by preventing the sale of the imported product to the complainant's customers at dumped prices;

Whereas in these conditions and in order to prevent further injury being caused during the investigation, the interests of the Community require immediate intervention by the Commission in the form of imposition of a provisional anti-dumping duty on imports of copper sulphate originating in Yugoslavia; whereas, having regard to the extent of the injury provisionally established and for the purposes of the elimination thereof the rate of duty should be 15·4 %;

Whereas a time limit should be fixed within which the parties concerned may, following the imposition of the provisional duty, make their views known and apply to be heard orally by the Commission,

HAS ADOPTED THIS REGULATION :

Article 1

1. A provisional anti-dumping duty is hereby imposed on copper sulphate falling within Common Customs Tariff subheading 28.38 A ex II (NIMEXE code 28.38-27) and originating in Yugoslavia.

2. The duty shall be 15·4 %.

3. The duty shall be on the basis of the value declared in accordance with Commission Regulation (EEC) No 1496/80 of 11 June 1980 on the declaration of particulars relating to customs value and on documents to be furnished [1].

4. The provisions in force concerning customs duties shall apply for the application of the duty.

5. 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 one month of the date of entry into force of this Regulation.

Subject to Articles 11, 12 and 14 of Regulation (EEC) No 3017/79, this duty shall be applicable until such time as the Council adopts definitive measures, and in any event for a maximum period of four months.

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, 28 October 1982.

For the Commission

Wilhelm HAFERKAMP

Vice-President

[1] OJ No L 154, 21. 6. 1980, p. 16.