COMMISSION REGULATION (EEC) No 3018/82

of 11 November 1982

imposing a provisional anti-dumping duty on imports of certain sodium carbonate originating in the United States of America and accepting certain undertakings concerning the imports of certain sodium carbonate originating in the United States of America

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 Articles 10 and 11 thereof,

After consultations within the Advisory Committee established 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 all the Community producers of dense sodium carbonate ;

Whereas, since this complaint provided sufficient evidence of dumping and material injury resulting therefrom, the Commission accordingly announced by a notice published in the *Official Journal of the European Communities* (3), the opening of a proceeding concerning imports of dense sodium carbonate originating in the United States of America ;

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

Whereas the Commission has given all parties directly concerned the opportunity to make known their views in writing ;

Whereas two exporters concerned, Allied Corporation and Texasgulf Chemicals Company requested, and were granted, an opportunity to make known their views orally ;

Whereas two other prospective exporters, namely FMC Corporation and Stauffer Chemical Company, made known their views in writing ; whereas no other prospective exporter took part in the proceeding ;

Whereas consumer organizations and individual consumers namely the Permanent Committee of the Glass Industries of the European Economic Community, the Glass Manufacturers' Federation of the United Kingdom, Pilkington Ltd, Rockware Glass Ltd and United Glass Ltd, requested and were granted an opportunity to make known their views orally and other consumers did so in writing ; whereas another organization representing major buyers of glass containers in the United Kingdom, the Food Manufacturers' Federation, also requested and was granted an opportunity to make known its views orally ;

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 ;

Whereas in order to verify the domestic market prices in the United States, the export prices and the resale prices in the Community of the sodium carbonate under investigation, the Commission carried out inspections at the premises of Allied Corporation, Morristown, New Jersey and Texasgulf Chemicals Company, Raleigh, North Carolina ;

Whereas the Commission requested and received detailed written submissions from the complainant Community industry with respect to the question of injury and the cause thereof ; whereas this information was verified by the Commission at the premises of the Community industry ;

Whereas during the investigation, in order to determine normal value, the Commission established the weighted average domestic prices of Texasgulf Chemicals and Allied Corporation for the period January to June 1982 ; whereas these prices were compared with, in the case of Texasgulf Chemicals, the export price of each of the three shipments made to the Community during the same period of 1982 and, in the case of Allied Corporation, with the export price of the one export shipment to the Community made in 1982 for which all relevant information could be obtained ; whereas both comparisons were made at ex-factory level ;

Whereas a comparison of normal value and export prices shows the existence of dumping in respect of all shipments under 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 ;

(1) OJ No L 339, 31. 12. 1979, p. 1.
(2) OJ No L 178, 22. 6. 1982, p. 9.
(3) OJ No C 147, 11. 6. 1982, p. 4.

Whereas these margins, expressed as a percentage of the price free-at-Community-frontier, vary for shipments by Texasgulf Chemicals between 12·09 % and 22·17 % ; whereas the weighted average dumping margin is 16·17 % ;

Whereas the dumping margin for the Allied Corporation shipment is 20·25 % ; whereas the weighted average dumping margin for all US export shipments investigated is 17·55 % ;

Whereas, as regards the injury caused to the Community industry, the evidence available to the Commission shows that imports of dense sodium carbonate from the United States increased from 14 100 tonnes in 1979, to 48 500 tonnes in 1981 and to 58 600 tonnes in the first six months of 1982 ;

Whereas during the months of August and September 1982 an estimated further 40 000 tonnes were imported into the Community ; whereas the evidence available concerning the US producers' production and export capacities as well as their import facilities in existence and operational in the Community suggests that further substantial exports to the Community will be made at a level considerably higher than at present ;

Whereas such imports into the Community increased from less than 0·5 % of the consumption in 1979 to 1·5 % in 1981 and to 3·7 % in the first half of 1982 and to an estimated 5·1 % in the third quarter of 1982 ;

Whereas imports into the main Community market concerned increased from 1·7 % of consumption in 1979 to 17·2 % in the first half of 1982 ;

Whereas information submitted to the Commission by some US producers on their intended future sales to the United Kingdom market only would give these producers a strong upward trend in Community market share ;

Whereas Community production decreased from 3 912 million tonnes in 1979 to 3 359 million tonnes in 1981 and an estimated 1 536 million tonnes in the first half of 1982 ; whereas this represents a decrease of 14 % between 1979 and 1981 and an estimated 21 % until the end of the first half of 1982 ;

Whereas the utilization of capacity declined from 83 % in 1979 to 72 % in 1981 ; whereas the first six months of 1982 saw a further decline to 66 % ;

Whereas, as no significant stocks of the product are kept by Community producers, sales decreased at the same rate as production ;

Whereas the Community market share held by Community producers fell accordingly, simultaneously with a decrease in demand ;

Whereas this market share decreased further in the third quarter of 1982 and would again fall if imports of the dumped sodium carbonate were to go ahead as planned ;

Whereas the market share held by Community producers on the main market concerned fell by about 16 % between 1979 and the first half of 1982 ;

Whereas the resale prices of the imported sodium carbonate in general were below those prevailing in the markets concerned, albeit in part only marginally, but they nevertheless prevented price increases intended by producers in order to make sales profitable and led to price depression ;

Whereas, consequently, the Community industry concerned has suffered an erosion of profitability, which has worsened during the past 12 months ;

Whereas the Commission has examined other factors which, individually or in combination, may have adversely affected the Community industry, and in particular imports from other countries and the level of consumption in the Community ;

Whereas there have been imports of dense sodium carbonate from other countries namely certain East European countries ;

Whereas these imports are not separately available in the Community import statistics ; whereas, according to the best evidence available, during the period 1979 to 1981 and up to the end of the first six months of 1982, these imports have been made at an annual level of between 13 000 and less than 30 000 tonnes ; whereas the market share of the other imports never reached 1 % ;

Whereas consumption in the Community decreased by 8·7 % between 1979 and 1981 and shows no sign of increasing in the course of 1982 ; whereas this fall in consumption coincided with the aforementioned increase in dumped imports from the US ;

Whereas all these considerations taken together led the Commission to determine that the effects of the dumped imports of dense sodium carbonate originating in the United States, taken in isolation, have to be considered as causing material injury to the Community industry concerned ;

Whereas the consumers and the other organization expressed themselves in favour of a continuation of imports of dense sodium carbonate originating in the United States of America so as to give them another source of supply and thus increase competition among suppliers ;

Whereas the Commission has nevertheless come to the conclusion that it is in the Community's interests that action be taken ;

Whereas, confronted with the results of the investigation, FMC Corporation and Allied Corporation offered price undertakings regarding future exports to the Community; whereas, the Commission considers these undertakings to be acceptable; whereas no objections were raised within the Consultative Committee; whereas it is consequently not necessary to impose protective measures against imports of the product exported by these companies;

Whereas for other exporters, protection of the Community interests calls for the imposition of a provisional anti-dumping duty on dense sodium carbonate originating in the United States; whereas, having regard to the extent of the injury caused or threatened, the duty should be equal to the weighted average dumping margin provisionally established on the basis of the dumping margins found for the shipments as described above; whereas this margin is 17·55 %;

Whereas it is appropriate to express the provisional anti-dumping duty as a fixed amount in ECU per tonne;

Whereas this amount 24·63 ECU per tonne for imports of dense sodium carbonate from the United States with the exception of exports made by Texasgulf Chemicals Company, for which the amount is 22·24 ECU per tonne;

Whereas a period 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. The Commission hereby accepts the undertakings offered by FMC Corporation and Allied Corporation in connection with the proceeding concerning the import of certain sodium carbonate originating in the United States of America.

2. The proceeding, in so far as it concerns FMC Corporation and Allied Corporation, is hereby terminated.

Article 2

1. A provisional anti-dumping duty is hereby imposed on dense sodium carbonate falling within Common Customs Tariff subheading 28.42 A ex II and corresponding to NIMEXE code ex 28.42-31, originating in the United States of America.

2. The duty shall not apply to dense sodium carbonate exported by FMC Corporation and Allied Corporation.

3. The amount of the duty shall be 24·63 ECU per tonne except for exports made by Texasgulf Chemicals Company for which the amount of the duty shall be 22·24 ECU per tonne.

4. For the purposes of this Regulation, dense sodium carbonate means sodium carbonate with a specific gravity exceeding 0·700 kg/dm^3 and consisting of grains of a diameter exceeding 0·4 mm.

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

6. 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 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 the said Regulation, the duty shall be applicable for four months or until the adoption by the Council of definitive measures, whichever is the earlier.

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, 11 November 1982.

For the Commission

Wilhelm HAFERKAMP

Vice-President