COMMISSION REGULATION (EEC) No 1479/83
of 7 June 1983
imposing a provisional anti-dumping duty on imports of copper sulphate originating in Czechoslovakia and the USSR

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 as provided for by the above Regulation,

Whereas,

Procedure

In November 1982 the Commission recieved a complaint lodged by the European Association of Chemical Manufacturers (Cefic) on behalf of producers of copper sulphate whose collective output constitutes practically all Community production of the product in question. This complaint was supplementary to one submitted by the same complainants relating to imports into the Community of copper sulphate originating in Yugoslavia which, following investigation by the Commission, resulted in the imposition by Council Regulation (EEC) No 486/83 (3) of a definitive anti-dumping duty on such imports. The supplementary complaint contained evidence of dumping and of material injury resulting therefrom, which was considered sufficient to justify an extension of the proceeding to include imports of the product from Czechoslovakia and the USSR. The Commission accordingly announced, by a notice published in the *Official Journal of the European Communities* (4), the extension of the anti-dumping proceeding concerning imports into the Community of copper sulphate falling within subheading ex 28.38 A II of the Common Customs Tariff, NIMEXE code 28.38-27, originating in Yugoslavia, to include imports of this product originating in Czechoslovakia and the USSR, and commenced an investigation.

The Commission officially so advised the exporters and importers known to be concerned and the complainants and gave the parties directly concerned the opportunity to make known their views in writing and to request a hearing.

All the known Community producers, the Czechoslovak and USSR exporters and some importers made their views known in writing. The Czechoslovak exporter concerned and some importers of the Czechoslovak product requested and were granted a hearing.

Submissions were made by certain Community purchasers and processors of the product.

The Commission sought and verified all information it deemed to be necessary for the purposes of a preliminary determination and carried out investigations at the premises of the following :

— M'Kechnie Chemicals Ltd, Widnes, UK,
— La Cornubia SA, Bordeaux, France,
— Norddeutsche Affinerie GmbH, Hamburg, Germany
— Metallo Chimique NV, Beerse, Belgium,
— Manica Spa, Rovereto, Italy,
— Sobren Chemiehandel GmbH, Düsseldorf, Germany,
— Bayer AG, Leverkusen, Germany.

The Commission requested and received detailed written submissions from all complainant Community producers and several importers and verified the information therein to the extent considered necessary.

The investigation of dumping covered the period from January to December 1982.

Normal value

In order to establish whether the imports from Czechoslovakia and the USSR were dumped, the Commission had to take account of the fact that these countries do not have market economies and the Commission therefore had to base its determinations on the normal value in a market-economy country ; in this connection, the complainants had suggesed the Yugoslavian market since this normal value had already been established in this market for the proceeding relating to Yugoslavian imports of copper sulphate into the Community ; no objection was made to this suggestion.

The Commission is satisfied that as between Yugoslavia and the exporting countries there are no extraordinary differences in production processes or scale of production.

(1) OJ No L 339, 31. 12. 1979, p. 1.
(2) OJ No L 178, 22. 6. 1982, p. 9.
(3) OJ No L 55, 2. 3. 1983, p. 4.
(4) OJ No C 331, 17. 12. 1982, p. 2.

The Commission therefore concluded that it would be appropriate and not unreasonable to determine normal value on the basis of the constructed value in Yugoslavia as specified in Regulation (EEC) No 486/83.

Export pices

Export prices were determined on the basis of the prices actually paid or payable for the products sold for export to the Community.

Comparison

In comparing normal value with export prices the Commission took account, where appropriate, of differences affecting price comparability; both the Czechoslovak and the Russian product was of a slightly lower quality and required a further process or an additive to bring it to the standard of the Yugoslav, or the Community producers', product; allowance was also made for the additional cost of packaging and palletting to make the Czechoslovak and USSR products comparable with the Yugoslav product at a cif Community frontier level, at which level all comparisons were made.

Since the normal value was established in Yugoslav dinars and since the export prices of the Czechoslovak and USSR copper sulphate were in a number of EEC currencies, all currencies were converted to, and the comparison was made in ECU; the exchange rates used were the average rates for the reference period.

Margins

The above preliminary examination of the facts shows the existence of dumping in respect of both the Czechoslovak and the USSR exports to the Community, the margin of dumping being equal to the amount by which the normal value as established exceeds the price for export to the Community;

These margins vary according to the exporter and the importing Member State concerned, the weighted average margin for each of the exporters investigated being as follows:

Czechoslovakia 43 %, USSR 43 %.

Injury

With regard to the injury caused by the dumped imports the evidence available to the Commission shows that imports into the Community from Czechoslovakia and the USSR of copper sulphate increased from 5 900 tonnes in 1980 to 6 800 tonnes in 1982 with a consequent increase in market share held by the exporting countries from 13 to 17 % in the same period; if these imports are aggregated with the dumped Yugoslav imports the increase is from 7 000 tonnes in 1980 to 12 100 tonnes in 1982, the respective market shares rising from 15,4 to 30,2 %.

The resale prices of the Czechoslovak and USSR imports undercut the prices of the Community producers during the investigation period by up to 29 and 34 % respectively and were lower than those required to cover the costs of Community producers and provide a reasonable profit.

The consequent impact of these imports and the dumped Yugoslav imports of copper sulphate on the Community industry has been a reduction in the Community producers' output of 36 % from 1980 to 1982 and a commensurate decrease in their capacity utilization; their sales in the Community decreased from 1980 to 1982 by 20 % and their market share from 81 to 64 % during the same period.

The Community producers, as a result of the price undercutting by the exporters concerned, have been unable to obtain prices in the Community adequate to cover costs and provide a reasonable profit.

The Commission has considered whether injury has been caused by other factors such as the decline in consumption in the Community; it has, however, been established that despite this decline, the volume of imports from the countries concerned has continued to increase, thus giving these imports a significantly increased market share while imports from other third countries in 1982 have remained at the 1980 level.

Thus the substantial increase in dumped imports and the prices at which they are offered for sale in the Community led the Commission to determine that the effects of the dumped imports of copper sulphate originating in Czechoslovakia and the USSR have to be considered as constituting material injury to the Community industry concerned.

Community interest

A Community processer of copper sulphate has argued that the introduction of protective measures would not be in the Community interest because it would make such a processor less competitive, notably in export markets. In view of the particularly serious difficulties facing the Community industry and the relatively low incidence of a price increase on the costs of the processing industry, the Commission has, however, come to the conclusion that it is in the Community's interests that action be taken. In order to prevent further injury being caused during the remainder of the proceeding, this action should take the form of provisional anti-dumping duties.

Rate of duty

Having regard to the extent of the injury caused, the rate of such duty should be less than the dumping margins provisionally established but adequate to remove the injury caused.

Having compared the Community producers' weighted average prices and costs, taking account of their profit situation, with the individual importers' costs and special marketing conditions, where available, the Commission has determined the amount of duty necessary to eliminate the injury to be 15 % for imports from Czechoslovakia and 17 % for imports from the USSR.

A period should be fixed within which the parties concerned may make their views known and request an oral hearing.

HAS ADOPTED THIS REGULATION :

Article 1

1. A provisional anti-dumping duty is hereby imposed on copper sulphate falling within Common Customs Tariff subheading ex 28.38 A II, corresponding to NIMEXE code 28.38-27, originating in Czechoslovakia and the USSR.

2. The amount of the duty shall be equal to the following percentages of the price per tonne net, free-at-Community-frontier, before duty :

(a) 15 % for copper sulphate originating in Czechoslovakia ;

(b) 17 % for copper sulphate originating in the USSR.

The free-at-Community-frontier prices shall be net if the conditions of sale provide for payment within 30 days from the date of shipment ; they shall be increased or reduced by 1 % for each increase or decrease of one month in the period for payment.

3. The provisions in force concerning customs duties shall apply for the application of the 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 one month of the entry into force of this Regulation.

Article 3

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities.*

Subject to Articles 11, 12 and 14 of Regulation (EEC) No 3017/79, it shall apply for a period of four months, unless the Council adopts definitive measures before the expiry of that period.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 7 June 1983.

For the Commission

Étienne DAVIGNON

Vice-President