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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 273/83

of 1 February 1983

imposing a definitive anti-dumping duty on imports of light sodium carbonate originating in Bulgaria, the German Democratic Republic, Poland, Romania and the Soviet Union

THE COUNCIL 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 12 thereof,

Having regard to the proposal submitted by the Commission after consultation within the Advisory Committee set up by that Regulation,

Whereas, pursuant to a complaint lodged by the European Council of Chemical Manufacturers' Federations (Cefic) on behalf of the entire Community industry concerned, the Commission announced, in the *Official Journal of the European Communities* (3), the re-opening of the previously terminated anti-dumping proceeding;

Whereas, by Regulation (EEC) No 2667/82 (4), the Commission imposed the provisional duty indicated hereafter on light sodium carbonate originating in Bulgaria, the German Democratic Republic, Poland, Romania and the Soviet Union, *viz:*

(a) in the case of Bulgaria:

— 14·09 % of the price per tonne net, free-at-Community frontier, before duty, or

— the difference between the price per tonne net, free-at-Community frontier, before duty, and the sum of 113·85 ECU,

whichever amount is the higher;

(b) in the case of the German Democratic Republic:

— 40·86 % of the price per tonne net, free-at-Community frontier, before duty, or

— the difference between the price per tonne net, free-at-Community frontier, before duty, and the sum of 127·24 ECU,

whichever amount is the higher;

(c) in the case of Poland:

— 9·68 % of the price per tonne net, free-at-Community frontier, before duty, or

— the difference between the price per tonne net, free-at-Community frontier, before duty, and the sum of 113·85 ECU,

whichever amount is the higher;

(d) in the case of Romania:

— 18·79 % of the price per tonne net, free-at-Community frontier, before duty, or

— the difference between the price per tonne net, free-at-Community frontier, before duty, and the sum of 117·62 ECU,

whichever amount is the higher;

(e) in the case of the Soviet Union:

— 37·26 % of the price per tonne net, free-at-Community frontier, before duty, or

— the difference between the price per tonne net, free-at-Community frontier, before duty, and the sum of 129·60 ECU,

whichever amount is the higher;

Whereas, following the imposition of the provisional duty, the exporters from Bulgaria, Poland, Romania and the German Democratic Republic requested to be heard orally by the Commission; whereas these requests were granted and the exporters were heard by

(1) OJ No L 339, 31. 12. 1979, p. 1.
(2) OJ No L 178, 22. 6. 1982, p. 9.
(3) OJ No C 93, 14. 4. 1982, p. 5.
(4) OJ No L 283, 6. 10. 1982, p. 9.

the Commission, with the exception of the Romanian exporter who, despite being invited by the Commission, chose not to attend the hearing;

Whereas the complainant, the European Council of Chemical Manufacturers' Federations (Cefic) made known its views in writing and also requested, and was granted, an opportunity to be heard orally by the Commission;

Whereas a number of importers made known their views concerning the provisional duty, both in writing and, upon request, orally;

Whereas the Commission received a written submission from Alginate Industries Ltd, Kelso, UK, a company whose interest in this case was previously unknown to the Commission, stating that it was a past, and potential future, importer of light sodium carbonate from the Soviet Union and making known its views concerning the duty; whereas Alginate requested, and was granted, an opportunity to be heard orally by the Commission and was informed, upon request, of essential facts and considerations on the basis of which its was intended to recommend definitive acition; whereas, as regards the determination of the dumping margin, none of the information which the Commission has received since the imposition of the provisional anti-dumping duty has caused it to necessarily alter its view that the Austrian market price is an appropriate and not unreasonable basis for determining the normal value of the product in question;

Whereas, as regards the level of export prices of Soviet sodium carbonate, Alginate together with another firm which is involved in the imports, Golodetz Overseas Ltd, London, have submitted new evidence;

Whereas, taking into account this new evidence and the evidence already available to it, the Commission has revised its calculation of the dumping margin of exports of light sodium carbonate originating in the Soviet Union; whereas this margin, expressed as a percentage of the free-at-Community frontier price, and based on the two Community markets where Soviet sodium carbonate has been exported in 1981 and 1982, is 35·54 %;

Whereas, as regards the level of export prices of other exporters, no new evidence has been submitted; whereas the Commission has consequently established the same dumping margins as for the preliminary findings;

Whereas, as regards injury caused to the Community industry, more detailed evidence has been made available to the Commission concerning the Community market for bagged light sodium carbonate;

Whereas the sales of bagged light sodium carbonate by the Community industry have decreased by 24·3 % between 1978 and 1981; whereas according to the evidence available to the Commission these sales have decreased by a further 10 % in the course of 1982; whereas this decrease is higher than the decrease of overall bulk and bag sales of the product concerned; whereas, according to the best evidence available, the share of the Community market held by dumped imports of bagged light sodium carbonate reached 26 % in 1981 and appears to have increased further during 1982;

Whereas the resale prices in the Community of the imported bagged light sodium carbonate under investigation are lower than those of the Community producers; whereas the difference is smaller than the dumping margins; whereas this difference is greater than the difference between the resale price in the Community of imported sodium carbonate in bulk and the price of Community producers;

Whereas the abovementioned has contributed disproportionately to the erosion of the Community industry's profitability;

Whereas, as regards the other considerations concerning the injury caused to the Community industry by the dumped imports on which the Commission based its decision to impose a provisional anti-dumping duty, no new evidence has been made available to the Commission;

Whereas no other evidence has been found as regards other factors which may have adversely affected the Community industry;

Whereas, in the Commission's view, the facts as finally determined show that the injury caused by the dumped imports of light sodium carbonate originating in Bulgaria, the German Democratic Republic, Poland, Romania and the Soviet Union, irrespective of that caused by other factors, has to be considered as material;

Whereas the exporters from Bulgaria, the German Democratic Republic, Poland and Romania offered price undertakings; whereas, after consultation, these undertakings were not found to be acceptable;

Whereas, in these circumstances, protection of the Community's interests calls for the imposition of a definitive anti-dumping duty on imports of light sodium carbonate originating in Bulgaria, the German Democratic Republic, Romania, Poland and the Soviet Union; whereas the rate of such duty, having regard to the extent of injury caused, should be less than the dumping margin established but adequate to remove the injury caused; whereas it is appropriate to supple-

ment the variable duty by a specific duty in order to prevent circumvention of the measures; whereas it is furthermore appropriate to increase this duty by a flat-rate duty on imports of bagged light sodium carbonate of 9·50 ECU per tonne; whereas imports in so-called big bags of more than 500 kilograms should be excluded from this supplement since they are, according to the best evidence available, debagged by the importers and the light sodium carbonate sold in bulk;

Whereas, given all the circumstances, injury would be removed if the rate of duty applicable to all imports of light sodium carbonate originating in the countries under investigation corresponded to 14·09 % for Bulgaria, 40·86 % for the German Democratic Republic, 9·68 % for Poland, 18·79 % for Romania and 16·30 % for the Soviet Union or if the amount of that duty was equal to the difference between the free-at-Community frontier price, before duty, and the sum of 113·85 ECU for Bulgaria, 127·24 ECU for the German Democratic Republic, 113·85 ECU for Poland, 117·62 ECU for Romania and 129·96 ECU for the Soviet Union, where such difference in value is greater than the abovementioned percentages and, in addition, a supplement of 9·50 ECU per tonne is fixed for imports in bags of a weight of less than 500 kilograms per bag,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on light sodium carbonate falling within subheading 28.42 A ex II of the Common Customs Tariff and corresponding to NIMEXE code ex 28.42-31, originating in Bulgaria, the German Democratic Republic, Poland, Romania and the Soviet Union.

2. The amount of the duty shall be:

(a) for all imports in bulk or bag:

(aa) in the case of Bulgaria:

— 14·09 % of the price per tonne net, free-at-Community frontier, before duty, or

— the difference between the price per tonne net, free-at-Community frontier, before duty, and the sum of 113·85 ECU,

whichever is the higher;

(bb) in the case of the German Democratic Republic:

— 40·86 % of the price per tonne net, free-at-Community frontier, before duty, or

— the difference between the price per tonne net, free-at-Community frontier, before duty, and the sum of 127·24 ECU,

whichever amount is the higher;

(cc) in the case of Poland:

— 9·68 % of the price per tonne net, free-at-Community frontier, before duty, or

— the difference between the price per tonne net, free-at-Community frontier, before duty, and the sum of 113·85 ECU,

whichever amount is the higher;

(dd) in the case of Romania:

— 18·79 % of the price per tonne net, free-at-Community frontier, before duty, or

— the difference between the price per tonne net, free-at-Community frontier, before duty, and the sum of 117·62 ECU,

whichever amount is the higher;

(ee) in the case of the Soviet Union:

— 16·30 % of the price per tonne net, free-at-Community frontier, before duty, or

— the difference between the price per tonne net, free-at-Community frontier, before duty, and the sum of 129·96 ECU,

whichever amount is the higher.

(b) for imports in bags of a weight of less than 500 kilograms each, the abovementioned duty plus a supplement of 9·50 ECU per tonne net.

3. 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.

4. For the purposes of this Regulation, 'light sodium carbonate' means non-compacted sodium carbonate with a specific weight of less than 0·700 kg/dm^3 and consisting of powder or grains smaller than 0·4 mm in diameter.

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

Article 2

1. The sums secured by way of provisional anti-dumping duty on imports originating in Bulgaria, the German Democratic Republic, Poland and Romania and introduced by Regulation (EEC) No 2667/82 shall be definitively collected.

2. The sums secured by way of provisional anti-dumping duty on imports originating in the Soviet Union and introduced by Regulation (EEC) No 2667/82 shall be definitively collected up to the amount of :

— 16·30 % of the price per tonne net, free-at-Community frontier, before duty, or

— the amount by which the price per tonne net, free-at-Community frontier, before duty, is less than 129·96 ECU,

whichever is the higher, plus a supplement of 9·50 ECU per tonne net for imports in bags of a weight of less than 500 kilograms each.

Article 3

This Regulation shall enter into force on the third day following 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, 1 February 1983.

For the Council

The President

Otto SCHLECHT