COMMISSION REGULATION (EEC) No 348/83

of 10 February 1983

imposing a provisional anti-dumping duty on imports of hexamethylenetetramine originating in the German Democratic Republic and the Soviet Union, and accepting undertakings and terminating the proceeding in respect of imports of hexamethylenetetramine originating in Czechoslovakia and Romania

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 as provided for under the above Regulation,

Whereas in July 1982 the Commission received a complaint lodged by the Conseil européen des fédérations de l'industrie chimique (CEFIC) on behalf of the Community producers of hexamethylenetetramine whose collective output constitutes the majority of Community production of the product in question; whereas the complaint contained evidence of dumping and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding; whereas the Commission accordingly announced, by a notice published in the *Official Journal of the European Communities* (3), the initiation of an anti-dumping proceeding concerning imports into the Community of hexamethylenetetramine, corresponding to NIMEXE code 29.26-35, originating in Czechoslovakia, the German Democratic Republic, Romania and the Soviet Union and commenced an investigation;

Whereas the Commission officially so advised the exporters and importers known to be concerned;

Whereas the Commission has given the parties directly concerned the opportunity to make known their views in writing and to request an oral hearing;

Whereas the majority of the exporters and one importer have made their views known in writing and two exporters have requested and been granted oral hearings;

Whereas no submissions were made by Community processors of hexamethylenetetramine;

Whereas 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 EC producers: B and N Chemicals Supply Co. Ltd, UK-Haverhill; Produits Chimiques Ugine Kuhlmann, F-Courbevoie; Resem, I-Milano; Société Nationale des Poudres et Explosifs, F-Paris; Synthite Ltd, UK-West Bromwich and the following importer: Albright and Wilson Ltd, UK-West Oldbury;

Whereas the Commission investigation of dumping covered the period from January to June 1982;

Whereas, in order to establish whether the imports from Czechoslovakia, the German Democratic Republic, Romania and the Soviet Union 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; whereas, in this connection, the complainants had suggested the United States market; whereas two exporters objected to this suggestion because the average prices quoted for the United States market were partially based on special types of hexamine which are not under investigation; whereas, however, these exporters were unable to suggest an alternative market-economy country;

Whereas in view of those objections, the Commission studied the possibility of using Japan as the analogue country; whereas it was found that in Japan there are production processes similar to those used in the exporting countries, that there are raw materials readily available, that there is production on a substantial scale and that there is strong internal competition between the five major independent producers which ensures that price levels are in a reasonable proportion to production costs;

Whereas the Commission therefore concluded that it would be appropriate and not unreasonable to determine normal value on the basis of domestic prices in Japan;

Whereas export prices were determined, in the case of two exporters, on the basis of the prices actually paid or payable for the product exported to the Community; whereas the other two exporters did not provide the Commission with any relevant information; whereas, therefore, the Commission had to construct the export prices on the basis of available import statistics;

(1) OJ No L 339, 31. 12. 1979, p. 1.
(2) OJ No L 178, 22. 6. 1982, p. 9.
(3) OJ No C 211, 13. 8. 1982, p. 2.

Whereas exports of the product are generally made in crystal and lubricated powder types at slightly varying prices; whereas no difference in price exists on the Japanese market for these two types; whereas, therefore, weighted average export prices were, where possible, determined for these different types;

Whereas, in comparing normal value with export prices, due adjustments have, where necessary, been made to bring export price and normal value to a comparable basis; whereas these adjustments concerned mainly payment and delivery terms, transport and insurance costs as well as different forms of packaging; whereas all comparisons were made on ex-works level;

Whereas the Romanian exporter claims to export hexamethylenetetramine in an unlubricated powder form which allegedly constitutes a difference in physical characteristics valued by the exporter at between 30 and 40 % of the export price;

Whereas no relevant evidence as to the difference in production costs in the analogue country was offered by the exporter; whereas the Commission has nevertheless tried to establish the difference in production costs between lubricated and unlubricated hexamine powder; whereas the Commission found that purchasers are never charged separately for the lubrication neither by the Japanese nor by the Community producers; whereas it was not possible to establish the lubrication costs in Japan; whereas the Commission therefore used the best evidence available, that is the lubrication costs of the Community industry; whereas these costs were found to be 27 ECU per tonne and an adjustment was consequently granted;

Whereas the above preliminary examination of the facts shows the existence of dumping in respect of exports from Czechoslovakia, the German Democratic Republic, Romania and the Soviet Union, the margin of dumping being equal to the amount by which the normal value as established exceeds the price for export to the Community;

Whereas these margins vary according to the exporter and the importing Member State concerned; whereas the weighted average margin for each of the exporters investigated was as follows: 55,91 % for Czechoslovakia, 56,06 % for the German Democratic Republic, 55,95 % for Romania and 80,78 % for the Soviet Union;

Whereas, with regard to the injury caused by the dumped imports, the evidence available to the Commission shows that imports into the Community from Czechoslovakia, the German Democratic Republic, Romania and the Soviet Union of hexamethylenetetramine increased from 3 444 tonnes in 1979 to 4 804 tonnes in 1981 and to 3 003 tonnes in the first six months of 1982 with a consequent increase in market share held by the exporting countries from 12,3 to 23,5 and 26,4 % respectively;

Whereas the weighted average resale prices of these imports undercut the prices of the Community producers during the investigation period by margins varying from 4,3 to 31 %, whereas the resale prices of these imports were in most cases lower than the variable production costs of the Community industry and in all cases lower than the production costs;

Whereas the consequent impact on the Community industry has been that the production of hexamethylenetetramine fell from 24 432 tonnes in 1979 to 16 962 tonnes in 1981 and remained at that level in 1982, a decrease in average monthly production over the period of 30,6 %; whereas average utilization of production capacity has fallen from 67 to 46 % over the same period;

Whereas the share of the Community market held by the Community producers declined from 82,4 to 71,7 % over the same period, imports from other third countries being negligible;

Whereas the evidence available to the Commission shows that the Community producers competing in this market have been unable to raise their selling prices sufficiently to cover increases in production costs; whereas, in their attempts to maintain a traditional market share and to compete with low-priced imports; Community producers have felt compelled to sell at prices below production costs; whereas the losses thus incurred have multiplied in the last two years; whereas one producer has suspended production because losses had become economically intolerable;

Whereas the Commission has considered whether injury has been caused by other factors such as stagnation of demand; whereas consumption in the Community declined by 26,9 % between 1979 and 1981; whereas, however, it has been established that this decline affected the Community production more than it affected the dumped imports;

Whereas 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 hexamethylenetetramine originating in Czechoslovakia, the German Democratic Republic, Romania and the Soviet Union, taken in isolation, have to be considered as constituting material injury to the Community industry concerned;

When confronted with the findings of the preliminary investigation, the exporters of hexamethylenetetramine originating in Czechoslovakia and Romania offered price undertakings concerning their exports to the Community;

Whereas the effect of the said undertakings will be to increase import prices to the level necessary to eliminate dumping;

Whereas the Commission has, therefore, determined that it is not now necessary to take protective action in respect of imports of hexamethylenetetramine originating in Czechoslovakia and Romania;

Whereas, in these circumstances, the undertakings offered are considered acceptable and the proceeding may be terminated without imposition of anti-dumping duties;

Whereas no objection to this course was raised in the Advisory Committee;

Whereas, however, in order to prevent injury being caused during the investigation, the interests of the Community require immediate intervention in the form of the imposition of a provisional anti-dumping duty on imports of hexamethylenetetramine originating in the German Democratic Republic and the Soviet Union; whereas the rate of such duty, having regard to the extent of injury caused, should correspond to the difference between normal value and export prices;

Whereas the price increases resulting from such duty would only just suffice to eliminate the losses incurred by the Community industry;

Whereas the Commission has concluded that the provisional anti-dumping duty should be the amount by which the free-at-Community-frontier price, before duty, is less than 953,46 ECU per tonne, palletized, for hexamethylenetetramine in crystal or lubricated forms and 926,46 ECU in unlubricated form; whereas, if imports are made in unpalletized form, the free-at-Community-fronter price per tonne, before duty, should be reduced by 10 ECU;

Whereas 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. The Commission hereby accepts the undertakings given by Petrimex of Bratislava, Czechoslovakia, and Danubiana of Bucharest, Romania, in connection with the anti-dumping proceeding concerning hexamethylenetetramine falling within subheading 29.26 B II A of the Common Customs Tariff, corresponding to NIMEXE code 29.26-35 and originating in Czechoslovakia and Romania.

2. The anti-dumping proceeding concerning hexamethylenetetramine originating in Czechoslovakia and Romania is hereby terminated.

Article 2

1. A provisional anti-dumping duty is hereby imposed on hexamethylenetetramine falling within subheading 29.26 B II A of the Common Customs Tariff, corresponding to NIMEXE code 29.26-35 and originating in the German Democratic Republic and the Soviet Union.

2. The amount of the duty shall be equal to the amount by which the price per tonne net on pallets, free-at-Community-frontier before duty is less than 953,46 ECU if in crystal or lubricated powder forms, and 926,46 ECU if in unlubricated powder from. For imports without pallets the duty shall be reduced by 10 ECU per tonne.

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 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.

Article 4

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, 10 February 1983.

For the Commission

Antonio GIOLITTI

Member of the Commission