COMMISSION REGULATION (EEC) No 3578/83

of 15 December 1983

imposing a provisional anti-dumping duty on imports of choline chloride originating in the German Democratic Republic 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 Article 11 thereof,

After consultations within the Advisory Committee as provided for by the abovementoned Regulation,

Whereas :

A. Procedure

(1) In April 1983 the Commission received a complaint lodged by the European Council of Chemical Manufacturers' Associations (CEFIC) on behalf of Community producers of choline chloride whose collective output constitutes a major proportion of Community production of the product in question. The complaint contained evidence of dumping and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding. 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 choline chloride falling within subheading ex 29.24 B of the Common Customs Tariff, corresponding to NIMEXE code ex 29.24-90, originating in the German Democratic Republic (DDR) and in Romania and commenced an investigation.

(2) The Commission officially so advised the exporters and importers known to be concerned and the representatives of the exporting country and the complainants and gave the parties directly concerned the opportunity to make known their views in writing and to request a hearing.

All of the known Community producers, the exporters concerned and certain importers made their views known in writing. Both exporting countries have requested and have been granted hearings.

No submissions were made by or on behalf of Community purchasers or processors of choline chloride.

(3) 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 Community producers : UCB SA, Brussels, AKZO Zout Chemie BV, Amsterdam, Industria Chimica Del Ticino SpA, Novara and PCUK SA, Paris ; and US producers : Syntex, Springfield, Missouri and International Minerals and Chemicals Corporation, Mundelein, Illinois.

The Commission requested and received detailed written submissions from all known Community producers, the exporters concerned and certain importers and verified the information therein to the extent considered necessary.

The investigation of dumping covered the period April 1982 to April 1983.

B. Normal value

(4) In order to establish whether the imports from the DDR and Romania 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 suggested the US market. An exporter objected to this suggestion alleging that there was little or no competition on the US market and that the US Government was playing an increasing role in the control of this and other sectors of US industry to the extent that the USA could no longer be called a market economy from which a normal value could be established. This exporter proposed that Japan should be used as the analogue country but made no submissions regarding the choline chloride market in that

(1) OJ No L 339, 31. 12. 1979, p. 1.
(2) OJ No L 178, 22. 6. 1982, p. 9.
(3) OJ No C 109, 23. 4. 1983, p. 3.

country. The Commission, after preliminary investigation, is satisfied, however, that in the USA there is considerable internal competition in the choline chloride market and that price levels are in a reasonable proportion to production costs. There would also seem to be no significant differences in production processes or scale of production between the exporters concerned and the US producers and the Commission is satisfied that the products are essentially the same. In addition, the Commission is satisfied that domestic prices in other market-economy countries such as Japan were no lower than those in the USA during the reference period. The Commission therefore concluded that it would be appropriate and not unreasonable to determine normal value on the basis of domestic prices in the USA.

C. **Export price**

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

D. **Comparison**

(6) In comparing normal value with export prices the Commission took account, where appropriate, of differences affecting price comparability, and specifically conditions and terms of sale, there being no suggestion of any significant differences in physical characteristics of the products.

All comparisons were made at an ex-works level.

E. **Margins**

(7) The above preliminary examination of the facts shows the existence of dumping in respect of both the DDR and Romanian exporters, 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 :

— DDR 77 %,
— Romania 41 %.

F. **Injury**

(8) With regard to the injury caused by the dumped imports, the evidence available to the Commission shows that imports into the Community from the DDR and Romania of choline chloride increased from 3 900 tonnes in 1980 to 5 800 tonnes in 1982 with a consequent increase in market share held by the exporting countries from 19 to 25 % in the same period.

The resale prices of these imports undercut the prices of the Community producers during the investigation period by up to 23 % and were lower than those required to cover the costs of Community producers and provide a reasonable profit.

(9) The consequent impact on the complainants has been, despite a slight increase in production, a reduction in their market share. The complainants' prices have been depressed by the effect of the prices of the dumped imports, resulting in significant losses during the reference period.

(10) The Commission has considered whether injury has been caused by other factors such as imports from sources other than the two countries concerned and it has been established that such factors have not affected the Community producers to any significant extent. Therefore 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 choline chloride originating in the DDR and Romania, taken in isolation, have to be considered as constituting material injury to the Community industry concerned.

G. **Community interest**

(11) The Commission has considered whether it would be in the Community's interests to take protective measures and has come to the conclusion that, in view of the serious difficulties facing the complainants, action should be taken. In order to prevent further injury being caused during the remainder of the proceeding, this action should take the form of a provisional anti-dumping duty.

H. **Rate of duty**

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

Having taken into account, on the one hand, the selling price necessary to provide an adequate profit to representative Community producers and, on the other hand, the purchase price of Community importers and their costs and profit margins, the Commission determined the amount of duty necessary to eliminate the injury to be 27 % for imports of DDR product and 17 % for imports of Romanian product.

(13) 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 imports of choline chloride falling within subheading ex 29.24 B of the Common Customs Tariff, corresponding to NIMEXE code ex 29.24-90, originating in the German Democratic Republic and in Romania.

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) 27 % for choline chloride originating in the German Democratic Republic ;

(b) 17 % for choline chloride originating in Romania.

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. For the purposes of this Regulation, product means 100 % choline chloride.

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 entry into force of this Regulation.

Article 3

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

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

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

Done at Brussels, 15 December 1983.

For the Commission

Wilhelm HAFERKAMP

Vice-President