COUNCIL REGULATION (EEC) No 486/83

of 28 February 1983

imposing a definitive anti-dumping duty on copper sulphate originating in Yugoslavia and definitively collecting the amounts secured by way of provisional duty

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 with the Advisory Committee established by the above Regulation,

Whereas in May 1982 the Commission received a complaint submitted by CEFIC (the European Council of Chemical Industry Federations) on behalf of a Community producer, Manica SpA, Rovereto, whose output constitutes a major proportion of Community production of copper sulphate ;

Whereas the complaint contained evidence of dumping and of material injury resulting therefrom which was considered sufficient to justify initiating a proceeding ; whereas the Commission accordingly published in the *Official Journal of the European Communities* (3) a notice of the initiation of an anti-dumping proceeding concerning imports into the Community of copper sulphate (corresponding to NIMEXE code 28.38-27) originating in Yugoslavia and started an investigation at Community level ;

Whereas, since the preliminary examination of the matter showed that there was dumping, that there was sufficient evidence of injury and that the interests of the Community called for immediate intervention, the Commission, by Regulation (EEC) No 2936/82 (4), imposed a provisional anti-dumping duty on imports of copper sulphate originating in Yugoslavia ;

Whereas in the course of the subsequent examination, completed after the imposition of the provisional anti-dumping duty, the interested parties had the opportunity to make known their views in writing, to be heard by the Commission, to inspect non-confidential information relevant to the defence of their interests and to be informed of the essential facts and considerations on the basis of which it was intended to make a final determination ; whereas the Community producer and the exporters concerned made known their views in writing and orally ;

Whereas, as regards the reference period, the Commission, as in the preliminary investigation, took the period between August 1981 to July 1982 ;

Whereas, as regards normal value, the Yugoslav exporters, during the subsequent investigation, requested that adjustment be made to their domestic prices to take account of a turnover tax paid by the copper sulphate producers at a level of 17,4 % on sales of copper sulphate on the Yugoslav domestic market ;

Whereas the Commission made allowance for this tax by deducting the amount from the domestic prices ;

Whereas, however, the Yugoslav producers' income on sales of copper sulphate net of this turnover tax was less than their costs, both fixed and variable, normally incurred in the production of copper sulphate ; whereas, accordingly, the normal value provisionally determined by the Commission on the basis of the domestic prices of the two producers concerned could not be considered valid for the subsequent investigation since sales of the product on the domestic market do not permit proper comparison being made, since such sales were made at a loss throughout the reference period ; whereas the Commission determined, therefore, that the normal value for the two companies should be established by means of a constructed value based on costs of production ;

Whereas both companies informed the Commission that their costs are determined by Government authorities and are effectively identical ; whereas the constructed value was compared by taking one company's total cost of materials and manufacture, including overheads, and adding a profit margin of 3 % ; whereas this level of profit was considered reasonable in taking account of the Yugoslav producers' and the complainant's submissions regarding current market conditions in Yugoslavia ;

(1) OJ No L 339, 31. 12. 1979, p. 1.
(2) OJ No L 178, 22. 6. 1982, p. 9.
(3) OJ No C 161, 26. 6. 1982, p. 2.
(4) OJ No L 308, 4. 11. 1982, p. 7.

Whereas, as in the provisional determination of normal value on the basis of domestic prices, the constructed value was reduced in order to take account of the incidence of the Yugoslav customs duty levied on imported copper but refunded when copper sulphate is exported ;

Whereas ex-works export prices were established for all export transactions to the Community during the reference period, taking into account, where appropriate, agents' commission and transport and insurance costs to the Community frontier ;

Whereas a comparison at ex-works level between the normal value and the export prices showed a weighted average dumping margin of 42,6 % of the average price cif Community frontier ;

Whereas, with regard to injury, the Commission, in its subsequent investigation, obtained, updated information relating particularly to the Community producer's costs, which had increased by approximately 20 % in the latter part of the reference period for which information was not previously available ; whereas this information required the Commission to revise its calculation on the level of duty necessary to eliminate the injury caused by the dumped products ;

Whereas the Commission, in the course of its subsequent examination, has received no evidence to further alter its findings regarding injury ;

Whereas, accordingly, the interests of the Community require the imposition of a definitive anti-dumping duty on imports of copper sulphate originating in Yugoslavia ; whereas, having regard to the extent of the injury established during the subsequent investigation and for the purposes of the elimination thereof, the rate of duty should be 19,5 % ; whereas Community interests also call for the definitive collection in their entirety of the amounts secured by way of provisional anti-dumping duty,

HAS ADOPTED THIS REGULATION :

Article 1

1. A definitive anti-dumping duty is hereby imposed on copper sulphate, falling within subheading ex 28.38 A II of the Common Customs Tariff and corresponding to NIMEXE code 28.38-27, originating in Yugoslavia. The amount of the duty shall be equal to 19,5 %.

2. The amount of the duty referred to in paragraph 1 shall be determined on the basis of the customs value determined in accordance with Council Regulation (EEC) No 1224/80 of 28 May 1980 on the valuation of goods for customs purposes (1).

3. The provisions in force concerning customs duties shall apply to the duty referred to in paragraph 1.

Article 2

The amounts secured by way of provisional anti-dumping duty under Regulation (EEC) No 2936/82 shall be definitively collected in their entirety.

Article 3

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, 28 February 1983.

For the Council

The President

F. ZIMMERMANN

(1) OJ No L 134, 31. 5. 1980, p. 1.