COMMISSION REGULATION (EEC) No 2908/84

of 15 October 1984

imposing a provisional anti-dumping duty on imports of copper sulphate originating in Poland, accepting undertakings given by the Bulgarian and Hungarian exporters of copper sulphate, terminating the investigation regarding exports of copper sulphate from Bulgaria and Hungary and terminating the proceeding regarding those from Spain

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2176/84 of 23 July 1984 on protection against dumped or subsidized imports from countries not members of the European Economic Community (1), and in particular Articles 9, 10 and 11 thereof,

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

Whereas :

A. Procedure

(1) In March 1983 the Commission received a complaint lodged by the European Federation of Chemical Manufacturers Associations on behalf of producers of copper sulphate whose collective output constitutes practically all 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* (2), the initiation of an anti-dumping proceeding concerning imports into the Community of copper sulphate falling within subheading ex 28.38 A II of the Common Customs Tariff, corresponding to NIMEXE code ex 28.38-27, originating in Bulgaria, Hungary, Poland and Spain and commenced an investigation.

(2) The Commission officially so advised the exporters and importers known to be concerned, the representatives of Spain 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 producers and exporters and some importers made their views known in writing. All exporters concerned have requested and have been granted hearings.

(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 :

— *EEC producers :*

  — La Cornubia SA, Bordeaux, France,

  — McKechnie Chemicals Ltd, UK-Widnes,

  — Manica Spa, Rovereto, Italy ;

— *Exporters to EEC :*

  — Industrias Quimicas del Vallés SA, Mollet, Spain ;

— *EEC importers :*

  — Klöckner Chemie en Mineralen BV, Arnhem, Netherlands.

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

The investigation of dumping covered the period April 1983 to March 1984.

B. Normal value

(4) Normal value was provisionally determined for Spanish exports on the basis of the domestic prices of the Spanish producer who exported to the EEC, the Commission being satisfied that these prices were representative and covered all costs of production.

(5) In order to establish whether the imports from Bulgaria, Hungary and Poland 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

(1) OJ No L 201, 30. 7. 1984, p. 1.
(2) OJ No C 90, 31. 3. 1984, p. 2.

complainants had suggested the Spanish market. Certain objections were made to this suggestion alleging that there was little or no competition in the Spanish market, resulting particularly from the fact that it was heavily protected and that domestic Spanish prices could, accordingly, be artificially high and thus inappropriate for the purposes of establishing normal value.

(6) While no proposal was made as to another analogue country, it was suggested that Spanish export prices to third countries might be more appropriate for establishing normal value. The Commission is, however, satisfied that in Spain there is sufficient internal competition between the two existing producers and that price levels are in a reasonable proportion to production costs. As regards Spanish export prices to third countries, the Commission was not satisfied that these prices were not at dumped levels since both domestic prices in Spain and export prices to the Community seemed to be at higher levels than these export prices.

The Commission therefore concluded that it would be appropriate and not unreasonable to determine normal value on the basis of Spanish domestic prices.

C. **Export price**

(7) 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**

(8) In comparing normal value with export prices, the Commission took account, where appropriate, of differences affecting price comparability. In particular, account was taken of differences in quality, purity and copper content, sufficient evidence of which was supplied by the Hungarian and Polish exporters.

Allowance was also made for the incidence of cumulative domestic indirect taxes on sales in the Spanish market and for the incidence of Spanish customs duty levied on imported copper and refunded when copper sulphate is exported, satisfactory evidence of both having been provided.

In all comparisons, account was taken of differences in conditions and terms of payment and adjustment was made, where appropriate, to allow comparison of export prices with a normal value at the same level of trade.

E. **Margins**

(9) The above preliminary examination of the facts shows the existence of dumping in respect of imports of copper sulphate originating in Bulgaria, Hungary and Poland, 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 concerned, the weighted average margin for each of the exporters investigated being as follows:

Bulgaria	39 %
Hungary	19 %
Poland	18 %

Imports to the Community of copper sulphate originating in Spain were found not to have been dumped.

F. **Injury**

(10) With regard to the injury caused by the dumped imports, the evidence available to the Commission shows that imports into the Community from Bulgaria, Hungary and Poland of copper sulphate increased from 396 tonnes in 1980, to 735 tonnes in 1981, to 1 512 tonnes in 1982 and to 3 941 tonnes in 1983 with a consequent increase in market share held by these exporting countries from less than 1 % to 9 % in the same period.

These volumes should be considered in the light of the effect of anti-dumping measures concerning imports of copper sulphate to the Community from Yugoslavia and from both Czechoslovakia and the USSR imposed in March and October 1983 respectively. Dumped imports of copper sulphate from Bulgaria, Hungary and Poland have effectively replaced dumped imports from Yugoslavia and particularly those from Czechoslovakia and the USSR, volumes of which dropped significantly following the imposition of anti-dumping measures.

In addition, the resale prices of the imports under consideration undercut the prices of the Community producers during the investigation period by 10 % to 28 %. These resale prices were lower than those required to cover the costs of Community producers and provide a reasonable profit.

(11) The consequent impact on the Community industry concerned has been a fall in production from 36 000 tonnes to an estimated 34 000 tonnes from the 1982/83 season (August to July) to that of 1983/84; production thus remains at approximately the same level as for 1981/82 when the Yugoslav, Czech and USSR dumped imports first had a significant impact. Prior to

1981/82, Community production figures had exceeded 50 000 tonnes yearly. The consequent low capacity utilization which, for the complainant companies, was on average about 40 % for the period under consideration has led to a maintenance of high unit costs resulting in significant losses on sales in the EEC market which account for almost 90 % of the complainant companies' total sales of copper sulphate. Indeed, one complainant company has ceased production of copper sulphate since October 1983 as a direct result of the impact of the dumped imports.

(12) The Commission has considered whether injury has been caused by other factors such as a reduction in the complainants' sales to third countries or the stagnation of demand within the Community. Although the volume of Community producers' sales in third countries has fallen during the period under consideration, these sales constitute only a relatively small proportion of the complainants' total sales of copper sulphate. Consumption in the Community has risen by some 11 % since 1981/82 but it has been established that this increase has not been reflected in the Community producers' figures for sales of copper sulphate in the EEC. Thus, the substantial increase in dumped imports from the three countries concerned 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 Bulgaria, Hungary and Poland, taken in isolation, have to be considered as constituting material injury to the Community industry concerned.

G. **Community interest**

(13) In view of the serious difficulties facing the Community industry the Commission has come to the conclusion that it is in the Community's interest 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 a provisional anti-dumping duty on imports of copper sulphate from Poland.

H. **Rate of duty**

(14) Having regard to the extent of injury caused, the rate of such duty should correspond to the margin of dumping provisionally estimated.

I. **Undertakings and termination**

(15) The Bulgarian and Hungarian exporters concerned, having been informed of the main findings of the preliminary investigation, offered undertakings concerning their exports of copper sulphate to the Community.

Having regard to the extent of the injury caused the effect of the said undertakings will be to eliminate the margins of dumping provisionally estimated.

(16) In these circumstances, the undertakings offered are considered acceptable and the investigation may, as it concerns Bulgaria and Hungary, be terminated without imposition of anti-dumping duties.

In view of the finding of an absence of dumping regarding imports of copper sulphate originating in Spain, the proceeding, as it concerns that country, may be terminated without imposition of anti-dumping measures.

No objection to this course was raised in the Advisory Committee.

(17) A period should be fixed within which the parties concerned may make their views known and request a hearing.

HAS ADOPTED THIS REGULATION :

Article 1

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

2. The rate of the duty shall be equal to 18 % of the price per tonne net, free-at-Community-frontier, before duty.

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.

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

The undertakings given by Chimimport, Sofia and Chemolimex, Budapest in connection with the anti-dumping proceeding concerning copper sulphate originating in Bulgaria and Hungary are hereby accepted.

Article 3

The anti-dumping investigation concerning imports of copper sulphate originating in Bulgaria and Hungary is hereby terminated.

Article 4

The anti-dumping proceeding concerning imports of copper sulphate originating in Spain is hereby terminated.

Article 5

Without prejudice to Article 7 (4) (b) and (c) of Regulation (EEC) No 2176/84, 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 6

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 2176/84, Article 1 of this Regulation 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, 15 October 1984.

For the Commission

Wilhelm HAFERKAMP

Vice-President