COUNCIL REGULATION (EEC) No 3337/84

of 27 November 1984

imposing a definitive anti-dumping duty on certain imports of dense sodium carbonate originating in the United States of America

THE COUNCIL 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 Community (1), and in particular Article 12 thereof,

Having regard to the proposal submitted by the Commission after consultations within the Advisory Committee as provided for under the above Regulation,

Whereas :

A. Provisional action

(1) The Commission, by Regulation (EEC) No 2253/84 (2), imposed a provisional anti-dumping duty on certain imports of dense sodium carbonate originating in the United States of America and accepted undertakings in respect of imports of the product by the Allied Chemical Corporation and Texasgulf Chemicals Company. The provisional duty was in addition to an already existing definitive duty imposed by Council Regulation (EEC) No 550/83 (3). The interested parties were invited to make further comments.

B. Subsequent procedures

(2) Following the imposition of the provisional anti-dumping duty one exporter concerned requested, and was granted, an opportunity to be heard by the Commission. The Community producers also made written submissions making known their views on the duty.

(3) One exporter requested to be informed of certain facts and essential considerations on the basis of which it was intended to recommend definitive action and this request was granted.

(1) OJ No L 201, 30. 7. 1984, p. 1.
(2) OJ No L 206, 2. 8. 1984, p. 15.
(3) OJ No L 64, 10. 3. 1983, p. 23.

C. Dumping

(4) No new evidence on dumping has been received since the imposition of the provisional duty and the Commission, therefore, considers its findings on dumping as set out in Regulation (EEC) No 2253/84 to be definitive.

D. Injury

(5) No fresh evidence regarding injury to the Community industry has been submitted.

The Commission has therefore confirmed the conclusions on injury reached in Regulation (EEC) No 2253/84.

(6) In the Commission's view, therefore, the facts as finally determined have shown that the injury being caused by dumped imports of dense sodium carbonate originating in the United States of America, taken in isolation from that caused by other factors, has to be considered as material.

E. Community interest

(7) The interests of the injured Community industry and those of the Community processing industry have been considered. The Council considers that protection of the Community's interests calls for the imposition of a definitive anti-dumping duty on imports of dense sodium carbonate originating in the United States of America.

F. Undertakings

(8) Two producers of dense sodium carbonate in the United States of America, FMC and Stauffer Chemicals, who had never exported to the Community, offered undertakings regarding possible future exports.

(9) On previous occasions where non-exporters offered undertakings in respect of possible future exports to the Community, these undertakings were accepted or refused on the merits of each case. This practice has been reviewed and, as a result, it has been concluded that, in general, undertakings from potential exporters should not be accepted, on the following grounds :

(a) it is difficult to determine an appropriate export price for a company that has not exported to the Community, since any data which may be available are likely to relate to another period or to another destination and would therefore be of questionable relevance ;

(b) it is also likely to be difficult or impossible in the case of the potential exporter to determine the volume of any possible future exports and, therefore, what impact they would have on the Community. This is important in cases where, for those parties already exporting, a price level is set, by an undertaking or the imposition of a duty, to eliminate injury to the Community industry and where the volume of sales of the imported product is likely to be a decisive element in the computation of this price level. Any exports by companies which have not previously exported but which have given undertakings would be likely to lead to changed circumstances as compared to those prevailing during the period under investigation and could necessitate a revision of the price level required ;

(c) an anti-dumping investigation should, in the interests of all parties concerned be conducted expeditiously. If potential exporters were to be investigated, this would result in an unreasonable administrative burden on the investigative authorities, would lead to a prolongation of the investigation and would thus impede their effectiveness in view of the statutory time requirements.

Although the non-acceptance of undertakings offered by non-exporters could be disadvantageous for them, it is considered in the light of the foregoing, that in general this course of action is not unreasonable. Moreover, if they begin to export to the Community, it may be appropriate to apply Articles 14 and 16 of Regulation (EEC) No 2196/84 relating respectively to reviews and refunds of anti-dumping duties.

(10) With regard to FMC and Stauffer Chemicals, the likely conditions and circumstances under which exports to the Community would be made were examined in the light of the above. For both companies, the difficulties outlined in respect of the determination of an appropriate export price and the assessment of the impact of future additional imports on the Community were encountered. This has led to the conclusion that a departure from the approach now adopted, namely that undertakings from non-exporters should, in general, be refused, is not warranted. It was therefore decided, after consultation, not to accept the undertakings offered by FMC and Stauffer Chemicals.

G. Definitive duty

(11) In the light of the above determination the amount of the definitive anti-dumping duty should be equal to the aggregate of the amount of the previous definitive duty and the additional provisional anti-dumping duty. It replaces the definitive duty imposed by Regulation (EEC) No 550/83.

H. Collection of provisional duty

(12) The amounts secured by way of provisional anti-dumping duties should be collected,

HAS ADOPTED THIS REGULATION :

Article 1

Regulation (EEC) No 550/83 is hereby repealed.

Article 2

1. A definitive anti-dumping duty is hereby imposed on imports of dense sodium carbonate falling within subheading 28.42 A ex II of the Common Customs Tariff corresponding to NIMEXE code ex 28.42-31, originating in the United States of America.

2. The amount of the duty shall be 67,49 ECU per tonne. This duty shall not apply to dense sodium carbonate exported by Allied Chemical Corporation and Texasgulf Chemicals Company.

3. The provisions in force concerning customs duties shall apply.

4. For the purposes of this Regulation, dense sodium carbonate means sodium carbonate with a specific gravity exceediing 0,700 kg/dm^3.

Article 3

The sums secured by way of provisional anti-dumping duty under Regulation (EEC) No 2253/84 shall be definitively collected.

Article 4

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, 27 November 1984.

For the Council

The President

P. BARRY