COMMISSION REGULATION (EEC) No 512/84

of 27 February 1984

imposing a provisional anti-dumping duty on imports of vinyl acetate monomer originating in Canada

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 under the abovementioned Regulation,

Whereas :

A. Procedure

(1) In March 1983, the Commission received a complaint lodged by the European Council of Chemical Manufacturers' Federations (Cefic) on behalf of Community producers of vinyl acetate monomer whose collective output constitutes the total Community production of the products 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 vinyl acetate monomer falling within subheading ex 29.14 A II c) 1 of the Common Customs Tariff, corresponding to NIMEXE code 29.14-32, originating in Canada and commenced an investigation.

(2) The Commission officially so advised the exporter and the importer known to be concerned, 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.

(3) The producer, the exporter and the importer made their views known in writing and requested and have been granted a hearing.

(4) One Community processor of vinyl acetate monomer requested and was granted a hearing for the purpose of presenting its views.

(5) The Commission sought and verified all information it deemed necessary for the purpose of a preliminary determination and carried out investigations at the premises of the following :

EEC producers :

— Rhône Poulenc SA, France,
— Hoechst AG, Germany,
— Wacker Chemie GmbH, Germany,
— BP Chemicals Ltd, UK,
— Montedipe SpA, Italy ;

Non-EEC producer :

Celanese Canada Inc., Canada ;

Non-EEC exporter :

Celanese International Marketing Co. Inc., USA ;

EEC importer :

Celanese SA, Belgium.

(6) The Commission requested and received detailed written submissions from complainant Community producers, the producer in Canada, the exporter and the importer and verified the information therein to the extent considered necessary.

(7) The investigation of dumping covered the period from 1 July 1982 to 30 June 1983.

B. Normal value

(8) Normal value was determined on the basis of the domestic prices of the Canadian producer, who provided sufficient evidence, which were considered to be representative of the domestic market concerned.

C. Export price

(9) Export prices were determined on the basis of the prices actually paid or payable for the products sold for export to the Community. All exports were made to Celanese SA, Belgium, and export prices were constructed on the basis of the prices at which the imported product was first resold to an independent buyer, suitably adjusted to take account of all costs incurred between importation and resale.

(1) OJ No L 339, 31. 12. 1979, p. 1.
(2) OJ No L 178, 22. 6. 1982, p. 9.
(3) OJ No C 180, 17. 7. 1983, p. 3.

D. Comparison

(10) In comparing normal value with export prices the Commission took account, where appropriate, of differences affecting price comparability. These covered mainly the conditions and terms of sale (sales expenses, commissions, sales discounts, etc.). All comparisons were made at ex-works level and the parties concerned agreed with the adjustments made.

E. Margins

(11) The above examination of the facts shows the existence of dumping in respect of Celanese Canada Inc., Canada, 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 importing Member State, the weighted average margin being 54,67 %.

F. Injury

(12) With regard to the injury caused by the dumped imports, the evidence available to the Commission shows that imports into the Community from Canada of vinyl acetate monomer commenced in 1982 after the imposition of an anti-dumping duty on imports of the product in question originating in the United States of America which in 1982 held a market share of 8,8 %. During 1982 imports of vinyl acetate monomer originating in Canada amounted to 10 552 tonnes and they reached the level of 5 530 tonnes during the first half of 1983. These volumes represent market shares held by Canada of 4,6 and 4,5 % respectively.

(13) The weighted average resale prices of imports from Canada were lower by 23,86 % than those required to cover the costs of Community producers and provide a reasonable profit. The monthly weighted average resale prices of these imports undercut the prices of the Community producers during the investigation period by margins varying from 1 to 7 %.

(14) The Community industry in respect of which the impact of the dumped imports must be assessed is the entire Community industry. It should be mentioned here that certain Community producers of vinyl acetate monomer are also using it to produce other products ; imports of vinyl acetate monomer from Canada, thus affect the competitiveness of these Community producers/ processors *vis-à-vis* other Community importers/ processors of vinyl acetate monomer.

(15) The main features of the consequent impact of the dumped imports on the Community industry have been price depression and financial losses.

(16) Because of the competition from dumped Canadian imports, especially during 1982 when the imports commenced, all Community producers were unable gradually to increase their prices so as to allow them after a certain period to obtain prices which would allow them to cover their costs and provide for a reasonable profit. Community producers' profitability has been eroded to such an extent that all producers suffered losses, in most cases very substantial ones.

(17) The Commission has considered whether injury has been caused by other factors such as the volume and prices of other imports or changes in demand. It has been established that total imports from all other countries have substantially decreased since 1980 when they had a market share of 33 % compared with a market share of 9 % in 1982. On the other hand, prices of these imports from other third countries have increased considerably since 1980 and 1981 after anti-dumping measures were taken against imports originating in the United States of America.

(18) In addition to the already existing injury, a considerable threat of injury from imports originating in Canada exists due to the high rate at which dumped exports into the Community have increased since 1982, the ability of producers to increase the existing capacity in Canada without substantial adjustments and the likelihood that the resulting exports will be directed to the Community because of the high import and anti-dumping duties applied by the Community to other exporting countries.

(19) The substantial and sudden increase in the volume of imports of dumped vinyl acetate monomer originating in Canada and the prices at which such dumped imports have been offered for sale together with all the other factors mentioned above, felt particularly in a period where the Community industry has made an effort to recover from the heavy losses suffered in 1980 and 1981, have led the Commission to determine that the effects of the dumped imports of vinyl acetate monomer originating in Canada, taken in isolation, have to be considered as constituting material injury to the Community industry concerned.

G. Community interest

(20) One Community processing company has argued that the introduction of protective measures would not be in the Community interest because it would make the processing industry less competitive. Nevertheless, in view of the particularly serious difficulties facing the Community industry and taking into account its economic and social importance, the Commission has come to the conclusion that it is in the Community's interests that action be taken.

H. Undertakings

(21) The exporter concerned was informed of the main findings of the investigation and commented on them. An undertaking was subsequently offered by Celanese Canada Inc., Canada, the producer, and Celanese International Marketing Co. Inc., USA, the exporter, concerning their exports to the Community of vinyl acetate monomer originating in Canada.

(22) As stated in Regulation (EEC) No 3017/79, in implementing the Community rules against dumping it is essential that the Commission take account of the interpretation of the Agreement on Implementation of Article VI of GATT (1979 Anti-Dumping Code) by the Community's major trading partners. Canadian legislation still does not provide for the possibility of suspending or terminating proceedings by way of the acceptance of an undertaking from exporters. Consequently, the Commission, after consultation with the Member States, considered that it could not accept the undertaking offered.

I. Rate of duty

(23) The rate of the anti-dumping duty, having regard to the extent of the injury caused, should be less than the dumping margins provisionally established but adequate to remove the injury caused.

(24) Having compared the Community producers' weighted average prices and costs, taking into account their profit situation with the sole importer's costs, and making allowances for differences in conditions and terms of sales where necessary, 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 606 ECU per 1 000 kilograms for vinyl acetate monomer.

(25) The exchange rates between the ECU and the currencies of the Member States which have been applied for the purposes of this Regulation are those currently in force.

(26) 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 vinyl acetate monomer falling within subheading ex 29.14 A II c) 1 of the Common Customs Tariff, corresponding to NIMEXE code 29.14-32, originating in Canada.

2. The amount of the duty shall be equal to the amount by which the price per 1 000 kilograms free-at-Community-frontier before duty is less than 606 ECU.

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 reduced or increased by 1 % for each increase or reduction of one month in the period of 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

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 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, 27 February 1984.

For the Commission

Wilhelm HAFERKAMP

Vice-President