COUNCIL REGULATION (EEC) No 3385/85

of 28 November 1985

imposing a definitive anti-dumping duty on imports of basic chromium sulphate originating in Yugoslavia

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 Economic 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 2221/85 (2), imposed a provisional anti-dumping duty on imports of basic chromium sulphate originating in Yugoslavia.

B. Subsequent procedure

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

(3) The main importer requested but was not granted an opportunity to be heard by the Commission, which considered that his application had not been submitted within the period prescribed in Article 2 of Regulation (EEC) No 2221/85.

(4) The Yugoslav producers requested and were granted, under the terms of Article 7 (6) of Regulation (EEC) No 2176/84, an opportunity to meet with the complainants for the purpose of presenting opposing views, particularly with regard to the information concerning the Yugoslav domestic price appearing in the complaint, used by the Commission to determine the normal value and the market penetration of the Yugoslav product on the Italian market.

(5) At the hearing and the meeting the Yugoslav companies insisted that their exports to the Community had significantly decreased. The Commission, therefore, despite strong reservations, considered whether there were exceptional reasons justifying in this particular case an extension of the investigation period. Since, however, the Yugoslav companies and the main importer concerned did not respect the time limit set for submitting the updated information covering the period between 1 October 1984 and 31 July 1985, nor request in due course an extension of that time limit, no account could be taken of events which took place after the investigation period.

(6) Pursuant to Article 38 of the Cooperation Agreement of 2 April 1980 between the European Economic Community and the Socialist Federal Republic of Yugoslavia (3), the Cooperation Council was supplied with all relevant information, and consultations have taken place within the Cooperation Committee.

C. Normal value

(7) Although new evidence on normal value has been received since the imposition of the provisional duty, such evidence shows that the Yugoslav companies misled the Commission in their replies to the questionnaires sent to them by the Commission after the initiation of the anti-dumping proceeding as well as during the on-the-spot investigation conducted by the Commission representatives. Furthermore, the Commission cannot be sure, without conducting new on-the-spot investigations in Yugoslavia, whether the new information provided by the Yugoslav companies is complete or constitutes only fragmentary evidence. Given the fact that the new information has been provided after the expiration of all deadlines fixed in conformity with Regulation (EEC) No 2176/84 and after completion of the Commission's on-the-spot investigation, it is not considered appropriate to conduct new on-the-spot investigations. The Council therefore considers that this new information does not constitute an appropriate basis for determining normal value and that the findings set out in recitals 8 to 10 of Regulation (EEC) No 2221/85 are confirmed.

D. Export price

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

(1) OJ No L 201, 30. 7. 1984, p. 1.
(2) OJ No L 205, 3. 8. 1985, p. 12.
(3) OJ No L 41, 14. 2. 1983, p. 2.

E. Comparison

(9) In comparing normal value with export prices, account was taken, where appropriate and to the extent of the evidence available, of differences in conditions and terms of sale such as transport, insurance, forwarding costs and commissions.

(10) All comparisons were made at ex-works level.

F. Dumping margins

(11) Normal value was compared with the export price of each export transaction. The examination of the facts shows the existence of dumping in respect of exports by Zorka and Zupa Hemijska Industrija. The dumping margins vary according to the exporter, the weighted average margin for each of the exporters being as follows :

— Zorka : 17,0 % ;

— Zupa Hemijska Industrija : 14,3 %.

G. Injury

(12) With regard to the injury caused by the dumped imports no fresh evidence has been submitted and therefore the findings described in recitals 15 to 25 of Regulation (EEC) No 2221/85 are confirmed.

(13) Furthermore, consideration was given to whether the problems faced by the Italian producer, who accounts for a major proportion of Community production, have been caused by factors other than those relating to the dumped imports. In this context the Yugoslav companies explicitly requested that account be taken of imports into Italy of the product concerned originating in other third countries, in particular the German Democratic Republic. However, it appears, on the basis of the information available, that no imports originating in that country were effected in 1982 and 1983; in 1984 they amounted to only 126 tonnes which is far below the quantities imported from Yugoslavia. The third country from which the largest quantities have been imported into Italy is Switzerland, accounting for approximately 600 tonnes in 1983 and 1984. On the basis of the information available, however, the average import price of the Swiss product exceeded the average import price of the Yugoslav product in 1983 and 1984, by 23 % and 16 % respectively. The Council therefore considers that there are no valid reasons for modifying the assessment of the injury.

H. Community interest

(14) In view of the particularly serious difficulties facing the Community industry, the Council has come to the conclusion that it is in the Community's interest that action be taken. The Council has noted that no submissions have been made by processors or users of the product concerned.

I. Definitive duty

(15) In the light of the above considerations, the amount of the definitive anti-dumping duty should be the same as the amount of the provisional anti-dumping duty.

J. Collection of provisional duty

(16) It is considered that the dumped imports of basic chromium sulphate originating in Yugoslavia have caused material injury to the Community industry concerned. Therefore the amounts secured by way of provisional anti-dumping duty should be definitively collected in their entirety,

HAS ADOPTED THIS REGULATION :

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of basic chromium sulphate falling within Common Customs Tariff subheading ex 28.38 A IV — corresponding to NIMEXE code ex 28.38-49 — and originating in Yugoslavia.

2. The amount of the duty shall be equal to 10 % of the net, free-at-Community frontier price per tonne, 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 respective increase or reduction of one month in the period for payment.

3. The provisions in force with regard to customs duties shall apply.

Article 2

The amounts secured by way of provisional anti-dumping duty under Regulation (EEC) No 2221/85 shall be definitively collected.

Article 3

This Regulation shall enter into force on the third day following that 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 November 1985.

For the Council

The President

R. KRIEPS