COMMISSION REGULATION (EEC) No 1015/87

of 8 April 1987

repealing Council Regulation (EEC) No 2109/85 imposing a definitive anti-dumping duty on imports of certain kinds of polystyrene sheet originating in Spain

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal, and in particular Article 380 (3) thereof,

Having regard to Council Regulaton (EEC) No 812/86 of 14 March 1986 on protection against imports which are the subject of dumping between the Community of Ten and the new Member States or between the new Member States during the period throughout which the transitional measures laid down by the Act of Accession of Spain and Portugal apply [1], and in particular Article 11 (3) thereof,

After consulting the Member States concerned, in accordance with Regulation (EEC) No 812/86,

Whereas :

A. Review

(1) By Regulation (EEC) No 2109/85 [2] the Council imposed a definitive anti-dumping duty on imports of extruded white, bicoloured and translucent polystyrene sheet, put up in rolls, of a thickness of between 0,7 and 1,3 mm originating in Spain, falling within subheading ex 39.02 C VI b) of the Common Customs Tariff (corresponding to NIMEXE code ex 39.02-38).

The amount of the duty is equal to 15,9 % of the net free-at-Community-frontier price before duty, except for exports of products of the firm Envases Del Valles, for which the duty is 12,4 %.

In 1986 the Commission was requested by two Spanish exporters to review the anti-dumping duty imposed by Council Regulation (EEC) No 2109/85.

The requests were based on Article 380 of the Act of Accession and on Article 11 of Regulation (EEC) No 812/86.

According to the applicant firms, the change in circumstances following Spain's accession and, in particular, the changes in production costs and export prices due to the tax and customs measures taken by Spain under the Act of Accession justified a review.

After consulting all the Member States, the Commission announced the reopening of the proceeding in a notice published in the *Official Journal of the European Communities* [3] and opened a new investigation.

(2) The Commission gave formal notice of these steps to the exporters and importers known to be concerned and to the Community producers which were the complainants in the earlier proceedings which had resulted in the imposition of the anti-dumping duty in question. It afforded the parties directly involved an opportunity to make known their views in writing and to request a hearing.

(3) In order to obtain all the information considered necessary, the Commission sent questionnaires to the parties known to be concerned, namely three Spanish exporters, three French importers, one Irish importer, one German importer and five French and Belgian producers.

(4) The three Spanish exporters, the three French importers and one French producer answered the questionnaire.

No comments were received from other intrested parties.

No party concerned submitted a request for a hearing in writing within the time limit set.

(5) Despite an extension of the deadline which the Commission granted the five producers at their request to enable each of them to furnish the necessary information on the injury, no reply to the questionnaire has been received from four of them.

B. Injury

(6) These four producers, which together account for most of the production of the like product in the Community of Ten, have withheld the necessary information on injury, thereby hindering the investigation to a considerable extent. The Commission has no data in its possession such as would enable it to establish that protective measures are still justified. Consequently, the Commission considers

[1] OJ No L 78, 24. 3. 1986, p. 1.
[2] OJ No L 198, 30. 7. 1985, p. 1.
[3] OJ No C 238, 20. 9. 1986, p. 3.

that withdrawal of the definitive anti-dumping duty in question would not again lead to injury to the industry in the Community of Ten or that, at least, any injury could not be regarded as material within the meaning of Article 3 of Regulation (EEC) No 812/86.

(7) The Commission has informed the producers of its findings and of its intention to withdraw the definitive anti-dumping duty.

The producers have challenged these findings and denied having refused to cooperate with the investigation. They put forward difficulties in gathering the information required by the Commission within the time allowed.

The Commission poins out that the producers originally raised no objections to the time limits which were extended : it was not until those time limits had expired and the Commission had informed them of its intention to withdraw the definitive anti-dumping duty that they contacted the Commission, and even then they did not supply the information that was needed. These time limits were, moreover, those which are normally laid down by the Commission in such proceedings. Furthermore, the information requested by the Commission was of the same nature as that which the producers had already furnished in the course of the earlier proceedings, and it was not of such complexity that a departure from the usual time limits was justified.

Lastly the Commission considered that according special time limits to the producers in question would discriminate against the other parties who had cooperated with the investigation within the time limits set.

C. Dumping

(8) In the light of the above findings as to injury, the Commission felt there was no need to carry out a more detailed investigation into the dumping.

D. Withdrawal of the definitive anti-dumping duty

(9) Under the circumstances, the Commission considers that Regulation (EEC) No 2109/85 must be repealed.

(10) Pursuant to Article 380 (3) of the Act of Accession of Spain and Portugal, it is for the Commission to implement the repeal,

HAS ADOPTED THIS REGULATION :

Article 1

Regulation (EEC) No 2109/85 is hereby repealed.

Article 2

This Regulation shall enter into force on the day following 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, 8 April 1987.

For the Commission

Peter SUTHERLAND

Member of the Commission