I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 3365/87

of 9 November 1987

imposing a definitive anti-dumping duty on imports of ferro-silico-calcium/ calcium silicide originating in Brazil

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), as amended by Regulation (EEC) No 1761/87 (2), 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 1361/87 (3), imposed a provisional anti-dumping duty on imports of ferro-silico-calcium/calcium silicide originating in Brazil. This duty was extended for a period not exceeding two months by Regulation (EEC) No 2810/87 (4).

B. Subsequent proceeding

(2) Following the imposition of the provisional duty, the exporter being found to have dumped, one importer which had not cooperated in the investigation and one Community producer, requested, and were granted, an opportunity to be heard by the Commission. The Commission informed them in detail of the facts on which it had based its provisional findings. They also made written submissions making known their views on the findings.

(3) Another importer, hitherto unknown to the Commission, made itself known without, however, making any requests or comments. This importer did not cooperate at any stage of the investigation.

(4) Upon their request, parties were also informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive duties and the definitive collection of amounts secured by way of a provisional duty. They were granted a period within which they could make representations subsequent to these disclosure meetings. Their comments were taken into consideration.

C. Dumping

(5) No fresh evidence regarding dumping has been submitted. The conclusion reached at the provisional stage is therefore confirmed.

D. Injury

(6) As mentioned in point 3, a further importer of ferro-silico-calcium/calcium silicide in addition to the ones hitherto known manifested itself to the Commission. If the information given by this importer orally — although not verifiable — were correct, the imports from Brazil were even higher than those provisionally established and, as a result, the market share held by these imports was in excess of that given in point 10 of Regulation (EEC) No 1361/87. No fresh evidence regarding the other elements of injury referred to in points 10 and 13 of that Regulation has been submitted. The conclusions reached at the provisional stage are therefore confirmed.

(7) It was again claimed by an exporter and two importers which purchase the exporter's product that the Community industry could not have suffered any injury from dumped imports because the Community producers refused to supply a specific group of customers, namely the producers of ferro-silico-calcium/calcium silicide cored wire. The arguments put forward were basically identical to those raised previously.

(1) OJ No L 201, 30. 7. 1984, p. 1.
(2) OJ No L 167, 26. 6. 1987, p. 9.
(3) OJ No L 129, 19. 5. 1987, p. 5.
(4) OJ No L 268, 19. 9. 1987, p. 63.

The Commission notes that this allegation has been supported by only one of the Community cored wire producers; the Community industry denies it.

The Commission considered it appropriate to carry out an additional investigation concentrating on this particular element of injury at the premises of the following Community producers:

— Pechiney Electrométallurgie, Paris (France),

— SKW Trostberg AG, Trostberg (Germany),

— FLG Metallurgie GmbH, Düsseldorf (Germany).

As far as the period under investigation is concerned, the Commission has not found that the Community industry refused to supply ferry-silico-calcium/calcium silicide to the cored wire producer making the allegation. Consequently, there is no evidence of self-inflicted injury which would have to be taken into consideration for the purpose of the Commission's injury assessment in the anti-dumping investigation.

Since the complaint lodged under Articles 85 and 86 of the Treaty by the cored wire producer referred to above is still being considered, the considerations made under point 12 of Regulation (EEC) No 1361/87 remain fully valid and need not be developed further.

(8) It is therefore definitively concluded that dumped imports of ferro-silico-calcium/calcium silicide originating in Brazil, taken in isolation, have to be considered as causing material injury to the Community industry.

E. Community interest

(9) No arguments other than those dealt with in points 14 and 15 of Regulation (EEC) No 1361/87 were made. The conclusions drawn therein are endorsed.

F. Rate of duty

(10) No arguments other than those dealt with in points 16 and 17 of Regulation (EEC) No 1361/87 were made. The conclusions drawn therein are endorsed.

It is appropriate to impose the duty in the form of a specific duty which, given the complex company structures and links of exporters and importers concerned should prevent any circumvention of the duty.

The proceeding with regard to exports by Eletrometalur SA, which was found not to have dumped, should be terminated.

G. Undertakings

(11) Following the completion of the preliminary investigation, the Brazilian exporter found to have dumped, namely Bozel Mineração e Ferroligas SA, offered undertakings concerning its exports of ferro-silico-calcium/calcium silicide to the Community.

After consultation, these undertakings were not considered acceptable by the Commission. The exporter was informed of the reasons therefor,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of ferro-silico-calcium/calcium silicide falling within Common Customs Tariff subheadings 73.02 G and 28.57 D, corresponding to NIMEXE codes ex 73.02-99 and ex 28.57-40, originating in Brazil.

2. For the purposes of this Regulation, ferro-silico-calcium/calcium silicide are products containing between 28 % and 35 % of calcium and up to 8 % of iron, either in lumpy or powder form.

3. The amount of the duty shall be 143 ECU per tonne net.

4. The duty shall not apply to products manufactured and exported by Eletrometalur SA Indústria e Comércio. The proceeding concerning this exporter is hereby terminated.

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

Article 2

The amounts secured by way of provisional anti-dumping duty under Regulation (EEC) No 1361/87 shall be definitively collected.

Article 3

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, 9 November 1987.

For the Council

The President

B. HAAKONSEN