COMMISSION REGULATION (EEC) No 360/88

of 4 February 1988

imposing a provisional anti-dumping duty on imports of potassium permanganate originating in the People's Republic of China

THE COMMISSION 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 contries not members of the European Economic Community [1], as amended by Regulation (EEC) No 1761/87 of 22 June 1987 [2], and in particular Article 10 (6) thereof,

After consultations within the Advisory Committee established by that Regulation,

Whereas,

A. Procedure

(1) Following a complaint lodged by the European Council of Chemical Manufacturers' Federations (ECCMF) on behalf of a Community producer of potassium permanganate whose output constitutes the totality of the Community production of the product in question, the Commission published a notice in the *Official Journal of the European Communities* [3] announcing the initiation of an anti-dumping proceeding concerning imports into the Community of potassium permanganate falling within Common Customs Tariff subheading ex 28.47 C, corresponding to combined nomenclature code ex 2841 60 00 (from 1 January 1988) originating in Czechoslovakia, the German Democratic Republic and the People's Republic of China; it then commenced an investigation.

(2) Following the investigation, which established the existence of dumping and injury [4], the Chinese exporter, China National Chemicals Import and Export Corporation (Sinochem), and the exporters in Czechoslovakia and the German Democratic Republic offered price undertakings.

(3) The Chinse firm undertook to increase its export prices by an amount sufficient to eliminate the injury caused by dumping. This undertaking was accepted by the Commission [5].

(4) In November 1987 the Commission was informed that potassium permanganate originating in China National Chemicals Import and Export Corporation (Sinochem) was being imported into France and Spain at very low prices, suggesting that the price undertaking was being violated. The Commission studied the information submitted to it and granted the Chinese exporting company a hearing.

B. Violation of the undertaking

(5) The Commission first checked the allegations against the official statistics available. The statistics suggested that the undertaking was being violated.

(6) Furthermore, the Commission has clear evidence that the Chinese exporter invoiced its consignments to the Community at prices lower than those stipulated in the price undertaking.

The company did not dispute the statistics, but said it could not control the activities of its various subsidiaries in China. However, in offering the price undertaking accepted by the Commission, the company promised to comply with a given cif delivered price, free at Community frontier, not only on its own account but also through its subsidiaries, branches and agents.

(7) The company also violated the undertaking by failing to report to the Commission periodically giving details or quantities exported to the Community, unit prices and total value.

C. Reopening of proceeding

(8) The Commission considers that in the circumstances the facts should be reviewed. It has therefore reopened the investigation.

D. Provisional measures

(9) In the light of the evidence available to it confirming the price violation, the Commission considers that acceptance of the undertaking given by China National Chemicals Import and Export Corporation (Sinochem) should be withdrawn. In addition, on the basis of the facts established

[1] OJ No L 201, 30. 7. 1984, p. 1.
[2] OJ No L 167, 26. 6. 1987, p. 9.
[3] OJ No C 63, 18. 3. 1986, p. 5.
[4] Commission Regulation (EEC) No 2495/86 of 1 August 1986, OJ No L 217, 5. 8. 1986, p. 12.
[5] Decision 85/589/EEC of 26 November 1986, OJ No L 339, 2. 12. 1986, p. 32.

showing the injury caused, it is in the interests of the Community to impose a provisional anti-dumping duty forthwith on all imports of potassium permanganate originating in the People's Republic of China, produced and/or exported by China National Chemicals Import and Export Corporation (Sinochem).

E. Rate of duty

(10) In accordance with Article 10 (6) of Regulation (EEC) 2176/84, the anti-dumping duty should be set on the basis of the facts estabished before acceptance of the undertaking. Accordingly, provisional duty shall be set either at a rate equivalent to the amount by which the free-at-Community-frontier price, before duty, to the first importer in the Community falls below 2,30 ECU net per kilogram, or at 28 % of that price, whichever is the higher, in conformity with Commission Regulation (EEC) No 2495/86 of 1 August 1986 [1].

HAS ADOPTED THIS REGULATION:

Article 1

The Commission's acceptance of the undertaking on 2 December 1986 [2] is hereby withdrawn.

Article 2

1. A provisional anti-dumping duty is hereby imposed on imports of potassium permanganate corresponding to combined nomenclature code ex 2841 60 00, originating in the People's Republic of China and produced and/or exported by China National Chemicals Import and Export Corporation (Sinochem).

2. The duty shall be equal to either the amount by which the free-at-Community-frontier net price per kilogram, before duty, falls below 2,30 ECU, or 28 % of that price, whichever is the higher.

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 3

Without prejudice to Article 7 (4) (b) and (c) of Council Regulation (EEC) No 2176/84, the parties concerned may make known their views in writing and apply to be heard by the Commission within one month of the entry into force of this Regulation.

Article 4

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*. Subject to Articles 11, 12 and 14 of Regulation (EEC) No 2176/84, 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, 4 February 1988.

For the Commission

Willy DE CLERCQ

Member of the Commission

[1] OJ No L 217, 5. 8. 1986, p. 12.
[2] OJ No L 339, 2. 12. 1986, p. 32.