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*(Acts whose publication is obligatory)*

# COUNCIL REGULATION (EEC) No 176/89

## of 23 January 1989

## imposing a definitive anti-dumping duty on imports of copper sulphate originating in Bulgaria or the Soviet Union

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 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 from the Commission, submitted after consultations within the Advisory Committee set up by that Regulation,

Whereas :

### A. Procedure

(1) In March 1984, the Commission opened an anti-dumping proceeding concerning imports of copper sulphate originating in Bulgaria (2). In October 1984, the Commission accepted the undertaking offered by the Bulgarian firm Chimimport (3) and terminated the investigation in February 1985 (4).

In August 1986 the Commission initiated a review of the anti-dumping measures which had been in force since 1983 (5), concerning imports of copper sulphate originating in the Soviet Union (6). In August 1987, the Commission accepted the price undertaking offered by the Soviet firm Sojuzchimexport, under the anti-dumping proceeding mentioned above (7) and terminated the investigation (8).

In May 1988, the European Council of Chemical Manufacturers' Federations (Cefic) submitted allegations to the Commission that these two undertakings were being breached. The Commission examined the information submitted to it and offered both exporters the opportunity to comment. No satisfactory explanation was given by either party. The Commission noted that the allegations against both exporters were supported by the official import statistics, and that neither of the exporters concerned contested these figures.

(2) By Regulation (EEC) No 2386/88 (9), the Commission withdrew the acceptance of the undertakings offered by the Bulgarian firm Chimimport in October 1984 and by the Soviet firm Sojuzchimexport in August 1987 and, in the Community's interest, immediately imposed a provisional anti-dumping duty on imports into the Community of copper sulphate originating in Bulgaria or the USSR.

(3) At the same time, the Commission reopened the investigations concerning imports into the Community of copper sulphate originating in Bulgaria or the Soviet Union (10).

### B. Further procedure

(4) The Commission officially informed the exporters and importers known to be concerned and gave the parties directly concerned the opportunity to make known their views in writing and to request a hearing.

(5) The Bulgarian firm Chimimport, the Soviet firm Sojuzchimexport and all the complainant Community manufacturers made known their views in writing.

(6) The Commission collected and verified all the information it deemed necessary and carried out checks at the premises of the following firms :

— La Cornubia SA, Bordeaux, France,

— Manica SpA, Rovereto, Italy,

— Quimigal, Lisbon, Portugal,

— Industrias Químicas del Valles, Barcelona, Spain,

— Incomet, Madrid, Spain.

(1) OJ No L 209, 2. 8. 1988, p. 1.
(2) OJ No C 90, 31. 3. 1984, p. 2.
(3) OJ No L 275, 18. 10. 1984, p. 12.
(4) OJ No L 41, 12. 2. 1985, p. 13.
(5) OJ No L 274, 7. 10. 1983, p. 1.
(6) OJ No C 200, 9. 8. 1986, p. 4.
(7) OJ No L 235, 20. 8. 1987, p. 18.
(8) OJ No L 235, 20. 8. 1987, p. 22.
(9) OJ No L 205, 30. 7. 1988, p. 68.
(10) OJ No C 200, 30. 7. 1988, p. 9.

(7) The investigation into dumping covered the period from 1 July 1987 to 30 June 1988.

## C. Normal value

(8) In seeking to establish once more whether imports of copper sulphate from Bulgaria and the Soviet Union were being dumped, the Commission had to take account of the fact that Bulgaria and the Soviet Union were not market economy countries, and it had therefore to base its calculations on the normal value of the product in a market economy country.

(9) The Commission had initially decided to take Yugoslavia as the reference country in establishing normal value. However, the non-cooperation of the Yugoslav firm which was consulted made this solution impossible. In these circumstances, Cefic proposed Mexico as being an analogous country.

(10) The Commission accepted Mexico as an analogous country since :

— according to the facts available, there were no major differences in the technology and production processes for copper sulphate,

— there was genuine competition in the manufacturing of copper sulphate, because there were at least five producers on the Mexican domestic market.

(11) Normal value was calculated on the basis of prices charged on the Mexican domestic market. There was sufficient evidence to allow the Commission to establish that representative quantities of copper sulphate had been sold on the Mexican market during the reference period.

## D. Export prices

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

## E. Comparison

(13) For a valid comparison between normal value and export prices, the Commission took account where necessary of differences affecting price comparability where the existence of a direct link between the prices and sales in question was duly established. In particular, the Commission took account of differences in purity and copper content, in respect of which sufficient information was supplied by the Bulgarian and Soviet exporters. The Commission also took into account differences in credit, transport and insurance terms.

(14) Normal value and export prices were compared at ex works level.

## F. Margins

(15) This examination of the facts shows that imports of copper sulphate originating in Bulgaria or the Soviet Union were being dumped. The dumping margins were calculated according to the difference between the normal value established and the price on export to the Community as a percentage of the total cif free-at-Community-frontier value, for each of the exporters. The resulting dumping margins are as follows :

— Bulgaria : 81 %,

— Soviet Union : 79 %.

## G. Injury

(a) *Volume and price of imports*

(16) As regards the injury caused by the dumped imports, the evidence available to the Commission shows that imports into the Community of copper sulphate from Bulgaria and the Soviet Union rose between 1 July 1987 and 30 June 1988 by 229 % compared with the previous year. This increase brings their market share to 14,3 % over the reference period. This rise occurred despite the effect of the undertakings offered by the Bulgarian and Soviet exporters, acceptance of which was withdrawn by the Commission in Regulation (EEC) No 2386/88.

(17) The prices of imports from both Bulgaria and the Soviet Union were lower than those charged by Community producers. Over the reference period, the prices charged by the two exporters concerned were on occasion below the price of copper on the London Metal Exchange (LME), yet the price of copper, the principal raw material, accounts for only about 70 % of the production cost of copper sulphate.

(b) *Impact on the Community industry*

(18) Over the period from 1 January to 30 June 1988 the Community industry's sales fell by approximately 10 % compared with the same period of the previous year, and its market share fell by about 15,5 %, leading to continued stagnation of capacity utilization at the low level of 64 %. In addition, the Community industry was unable to pass on in the price of copper sulphate the increase in the price of copper and in all the other production costs for the product, which have increased considerably, rising over the period from 1 January to 30 June 1988 by an average of 52 % compared with the same period in 1987. Prices have fallen to a level which does not allow the Community industry to cover its production costs. Its financial situation has therefore deteriorated and investment has suffered. During the reference period two Community

manufacturers ceased production, partly as a result of the effects of the dumped imports. These closures led to a reduction in the workforce employed in copper sulphate production.

(c) *Causal link*

(19) The Community industry's difficulties coincided with the increase in imports from the countries concerned and the low price level of these imports on the Community market.

(20) The Commission investigated whether the injury had been caused by other factors such as a fall in the complainants' sales in third countries, a fall in Community demand or an increase in imports from countries other than those concerned by this proceeding. A detailed analysis shows that these factors have had no effect on the injury caused to Community copper sulphate production, since Community exports and demand have remained at the same level and there has been no increase in imports from countries other than those concerned by this proceeding.

(21) The Bulgarian exporter contended that its exports had not caused any injury to the Community industry, arguing that the ultimate destination of its exports to the Community was Africa and North America. This argument, which the Bulgarian exporter backed with statements from the Belgian and United Kingdom importers, was not accepted. According to official Community statistics and the information obtained by the Commission, 77 % of Bulgaria's total exports of copper sulphate during the period under investigation went to other Member States, namely Germany, France, Ireland, Italy, the Netherlands and Portugal, for which no evidence of re-export was produced.

(d) *Conclusion*

(22) It is clear from the above that despite the measures in force, the volume of dumped imports from the two countries concerned and the prices of these imports, taken in isolation, have caused material injury to the Community industry concerned.

## H. Community interest

(23) In view of the serious difficulties facing the Community industry and the increase in imports from the countries concerned, and in particular the cessation of production by two Community producers during the reference period, there is a danger that failure to adopt effective protective measures against the dumping in question would lead to continued undermining of the Community industry's position and would threaten its long-term viability. In these circumstances, the Commission has concluded that the Community interest requires the imposition of definitive anti-dumping measures concerning imports of copper sulphate originating in Bulgaria or the Soviet Union.

## I. Definitive duty

(a) *Rate of duty*

(24) In determining the rate of the duty, the Commission has taken account of the dumping margins and the amount of duty necessary to eliminate the injury. To this end, the Commission has determined the weighted average production costs of the Community manufacturers, and has added a reasonable margin for profit.

The profit margin taken into account was 5 % of the production costs. It emerged from the investigation, and from previous investigations, that this margin was necessary to allow a copper sulphate producer to operate a plant under reasonable, modern technical conditions.

Production costs, plus this profit margin, were compared with free-at-Community-frontier export prices, plus customs duties and a profit margin for the importer. The difference between the two was taken as the level of injury to be removed.

As in the case of both the exporters concerned the level of injury was lower than the dumping margins established, the amount of definitive duties to be imposed should be the amount required to remove the injury.

(b) *Form*

(25) The Commission considered that, to ensure the effectiveness of the protective measures and to facilitate customs clearance, the definitive duty should take the form of an *ad valorem* duty.

## J. Definitive collection of the provisional duty

(26) Because of the size of the dumping margins established and the serious nature of the injury caused to the Community industry, the Council considers it necessary to collect definitively the amounts secured by way of provisional anti-dumping duty, either in full or up to the amount of the definitive duty imposed where the latter is lower than the provisional duty,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. A definitive anti-dumping duty is hereby imposed on imports of copper sulphate originating in Bulgaria or the Soviet Union, falling within CN code 2833 25 00.

2. The rate of the duty shall be equal to the percentages indicated below of the free-at-Community-frontier price for each country:

— Bulgaria: 58 %,

— Soviet Union: 56 %.

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

*Article 2*

The amounts secured by way of provisional anti-dumping duties under Regulation (EEC) No 2386/88 shall be definitively collected up to the rate of the definitive duty, where the latter is less than the rate of the provisional anti-dumping duty, or at the rate of the provisional duty in other cases.

*Article 3*

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, 23 January 1989.

*For the Council*

*The President*

F. FERNANDEZ ORDOÑEZ