COUNCIL REGULATION (EC) No 721/94

of 29 March 1994

imposing a definitive anti-dumping duty on isobutanol originating in the Russian Federation

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community [1] (hereinafter referred to as the 'basic Regulation'), 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 basic Regulation,

Whereas :

A. Previous action

(1) By Regulation (EEC) No 2720/93 of 28 September 1993 [2], the Commission imposed a provisional anti-dumping duty on imports of isobutanol originating in the Russian Federation.

B. Subsequent procedure

(2) Following the imposition of the provisional anti-dumping duty, a major processor of isobutanol in the Community made a written submission making known its views on the findings. These arguments have been examined and taken account of where appropriate.

C. Dumping

(3) As the Russian Federation is a non-market economy country, the Commission based the determination of normal value on domestic sales prices of a market economy country, in this case the United States, in accordance with Article 2 (5) (a) (i) of the basic Regulation.

(4) The Community user company contested this determination and claimed that United States export prices should be used instead.

(5) In this case it was found that the United States domestic market was open and competitive, the domestic sales prices were found to be made in the ordinary course of trade and the quantities could be considered representative. Accordingly, in view of the clear preference in the basic Regulation for the use of domestic prices, there is no reason to use export prices in the present case.

D. Injury

(6) In its preliminary findings, the Commission concluded that Community industry suffered material injury from the dumped imports. This view was founded mainly on the convergence of several economic indicators such as strong decline of production and sales volume, significant loss of market share, price depression and deterioration of financial results. During the same period, imports originating from Russia increased significantly in terms of volume as well as of market share.

(7) The processor company mentioned in recital 2 argued that the declining production of the Community industry was the consequence of the introduction, by the industry itself, of a new and more efficient production technology for oxoplants which altered the output radio of isobutanol to other products, thus making the Community industry incapable of producing volumes of isobutanol previously achieved.

(8) It is true that Community industry deliberately reduced its production capacity. However, the reduction of production capacity of 20 % was in line with the shrinking of the market of isobutanol. By contrast, production recorded a decrease rate twice as high, i.e. 39,8 %. As a consequence, the utilization rate of production capacity dropped from 73,8 % in 1988 to 57,3 %. These figures show clearly that the Community industry continued to have considerable potential for expanding its production, but was prevented from doing so by dumped imports.

(9) As far as the situation of the Community industry is concerned, no other arguments were put forward after the imposition of provisional duty. The Council therefore confirms the findings set out in recitals 21 to 35 of Regulation (EEC) No 2720/93.

[1] OJ No L 209, 2. 8. 1988, p. 1. Regulation as last amended by Regulation (EC) No 522/94 (OJ No L 66, 10. 3. 1994, p. 10).
[2] OJ No L 246, 2. 10. 1993, p. 12.

E. Community interest

(10) The same company argued that isobutanol represented a relevant proportion of production costs of some of its intermediate products produced only in Italy and for the Italian market. For these intermediate products this company would have to face competition from producers based in Austria, Hungary and Poland for which Russian isobutanol would be available free of anti-dumping duty.

(11) The future price development of isobutanol cannot be quantified with any accuracy. Nevertheless, in view of the high number of producers in competition to supply the Community market, it can be expected that there will continue to be considerable price competition on the market for isobutanol. Furthermore, the disadvantages to the user company have to be viewed against the background of the threat to the Community producers of being forced out of the market if no measures are taken against the dumped imports.

(12) The user company further argued that, even if the losses on turnover of isobutanol were as high as 33,9 %, the impact on the global profitability of the oxoplant was limited to a 2 % loss, as isobutanol represented only 6 % of total turnover. Therefore isobutanol profitability could not have any influence on the decision to close down a plant.

(13) Assuming that the figure of 2 % for the loss on the global turnover of the oxoplant production is realistic, such a loss is not negligeable. In this connection, account has to be taken of the fact that the production of other by-products is also loss-making. The negative results from the production of isobutanol are, therefore, increasing the problems of a sector which is already heavily affected by economic difficulties.

(14) No other arguments were made with respect to Community interest. The general considerations in recitals 42 to 48 of Regulation (EEC) No 2720/93 are accordingly confirmed.

(15) In these circumstances, it is considered that it is in the Community interest to impose definitive anti-dumping measures to eliminate the injurious effects of dumped imports.

F. Duty

(16) Provisional measures took the form of an anti-dumping duty, which was established as a fixed amount of ecus per tonne corresponding to the dumping margin. No arguments were raised concerning the method of calculating the duty. The relevant findings, as expressed in recitals 20 and 51 of Regulation (EEC) No 2720/93, are therefore confirmed. Accordingly, the amount of the definitive anti-dumping duty should be the same as the amount of the provisional duty.

G. Collection of provisional duty

(17) In view of the level of dumping margin found and the seriousness of the injury caused to the Community producers, it is considered necessary that amounts secured by way of provisional anti-dumping duty should be collected in full with regard to all imports of isobutanol originating in the Russian Federation,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of isobutanol falling within CN code ex 2905 14 90 (Taric code 2905 14 90*10), originating in the Russian Federation.

2. The duty applicable shall be a fixed amount of ECU 102 per tonne.

Article 2

The amounts secured by way of provisional anti-dumping duty pursuant to Regulation (EEC) No 2720/93 shall de definitely collected in full for imports of isobutanol originating in the Russian Federation.

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, 29 March 1994.

For the Council

The President

G. MORAITIS