I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1991/97

of 13 October 1997

repealing the anti-dumping measures imposed on imports of disodium carbonate originating in the United States of America

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1], hereinafter referred to as 'the Basic Regulation', and in particular Articles 9 and 11 (3) thereof,

Having regard to the proposal from the Commission after consulting the Advisory Committee,

Whereas:

A. PREVIOUS PROCEDURE

(1) By Regulation (EC) No 2381/95 [2], the Council imposed a definitive anti-dumping duty on imports of disodium carbonate originating in the USA and decided to collect definitively the provisional duty imposed.

(2) Regulation (EC) No 2381/95 envisaged that the Commission would conduct a review of the measures after one year from the date of their imposition in order to examine, in particular, the situation on the Community soda ash market and the position of users of soda ash in the Community.

(3) A request for an interim review of the measures in question under Article 11 (3) of the Basic Regulation was lodged on 13 July 1996 by four United States producers/exporters, namely FMC Corporation, General Chemical (Soda Ash) Partners, North American Chemical Company and OCI Chemical Corporation, as provided for by the Commission's 'Notice regarding the application of anti-dumping measures in force in the Community following enlargement to include Austria, Finland and Sweden' (95/C 40/07) [3].

B. REVIEW

(4) Based on the above, the Commission decided to initiate, on its own initiative, an interim review of the anti-dumping measures applicable to imports of disodium carbonate originating in the USA pursuant to Article 11 (3) of the Basic Regulation [4].

C. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

1. Product under consideration

(5) The product under consideration is disodium carbonate (soda ash), which is characterized by having as its principal component NA_2CO_3 (Sodium Carbonate anhydrous). It falls within CN code 2836 20 00.

(6) The main uses of soda ash are in the following industries: glass, steel, chemical, detergent, paper and pulp, food and water treatment.

2. Like product

(7) It was established that the soda ash produced and sold in the Community and that produced in the USA and sold therein and exported to the Community were alike as regards their essential basic physical and technical characteristics and their potential use. Consequently, all these products are considered a like product within the meaning of Article 1 (4) of the Basic Regulation.

[1] OJ L 56, 6. 3. 1996, p. 1. Regulation as amended by Regulation (EC) No 2331/96 (OJ L 317, 6. 12. 1996, p. 1.)
[2] OJ L 244, 12. 10. 1995, p. 32.
[3] OJ C 40, 17. 2. 1995, p. 5.
[4] OJ C 253, 31. 8. 1996, p. 23.

D. DEFINITION OF COMMUNITY INDUSTRY

(8) The Community industry consists of the following producers, all members of the complainant European Chemical Industry Council (CEFIC), which cooperated in the investigation:

— Solvay Österreich A.G. (A),
— Solvay SA (B),
— Akzo Chemicals BV (NL),
— Solvay SA (F),
— Rhône-Poulenc SA (F),
— Matthes & Weber GmbH (D),
— Solvay Alkali GmbH (D),
— Sodawerk Stassfurt GmbH (D),
— Solvay SA, Milano (I),
— Solvay Portugal Productos Quimicos SA (P),
— Solvay SA (ES),
— Brunner Mond (UK) Ltd (UK).

E. WITHDRAWAL OF SUPPORT FOR THE PROCEEDING

(9) On 8 April 1997 four Community producers, representing around 80 % of total Community production of soda ash, withdrew their support for the anti-dumping proceeding and consequently for the ongoing review investigation for reasons which are particular to the position of these companies on the Community market. Two Community producers, representing around 20 % of total Community production, continued to support the proceeding and the continuation of the investigation.

(10) This situation occurred at a point in time when the investigation on dumping and injury was not entirely completed.

F. ANALYSIS

(11) The Council considers that, in the light of the provisions of Articles 3 (1), 4 (1) and 5 (4) of the Basic Regulation, a proceeding must be terminated where it is no longer supported by Community producers whose collective output represents a major proportion of the total Community production, unless this termination would not be in the interest of the Community. In accordance with the abovementioned provisions, this major proportion consists of 25 % of the total Community production of the like product.

(12) One producer has argued that the termination of the proceeding is not in the Community interest since it would leave the Community industry unprotected in case of sporadic dumping by the US producers, as took place in the past. This could have a negative impact on the economic, financial and employment situation of the Community industry as well as on the significant investments made. It was further argued that at least the measures in force should only be suspended for nine months in accordance with Article 14 (4) of the Basic Regulation.

(13) The arguments submitted by the producer concerned can be summarised in that a non-major proportion of the Community industry would be injured if the proceeding is terminated. This alone is, however, not a sufficient reason to continue anti-dumping proceedings on the basis of Articles 3 (1), 4 (1) and 5 (4) of the Basic Regulation. No particular Community interest aspects were put forward why measures should be continued in spite of the withdrawal of support of other producers. For these reasons the above arguments have to be rejected. As far as the request for suspension of the measures is concerned, no arguments were put forward showing that the conditions in Article 14 (4) of the Basic Regulation are met. Therefore, the request for a suspension could not be accepted either.

G. CONCLUSIONS

(14) In conclusion, the Council does not see any reason which would justify continuing the proceeding. Regulation (EC) No 2381/95 should therefore be repealed.

(15) The Commission informed the interested parties of its intention to repeal the anti-dumping measures on disodium carbonate originating in the United States of America and no representations other than those mentioned in recitals 12 and 13 were made by these parties,

HAS ADOPTED THIS REGULATION:

Article 1

The anti-dumping measures imposed by Regulation (EC) No 2381/95 on imports of disodium carbonate (soda ash), falling within CN code 2836 20 00 and originating in the United States of America, are hereby repealed.

Article 2

This Regulation shall enter into force as from the day following that 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 Luxembourg, 13 October 1997.

For the Council

The President

J.-C. JUNCKER