COUNCIL REGULATION (EC) No 931/2003

of 26 May 2003

amending the anti-dumping measures imposed by Regulation (EC) No 1011/2002 on imports of powdered activated carbon (PAC) originating in the People's Republic of China

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], and in particular Article 11(3) thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Measures in force

(1) In June 2002, the Council, by Regulation (EC) No 1011/2002 [2] imposed definitive anti-dumping duties on imports of powdered activated carbon (PAC) originating in the People's Republic of China (PRC). The duties took the form of a specific duty.

2. Initiation

(2) On 29 October 2002, the Commission announced by a notice (Notice of Initiation) published in the *Official Journal of the European Communities* [3] the initiation of a partial interim review of the anti-dumping measures applicable to imports into the Community of PAC originating in the PRC.

(3) The review was initiated on the initiative of the Commission in order to examine the appropriateness of the form of the measures in force. The current measure, i.e. a duty in the form of a specific duty, does not cater for situations in which imported goods have been damaged before entry into free circulation.

3. Investigation

(4) The Commission officially advised exporting producers, the importers and the users known to be concerned and their associations, the representatives of the exporting country concerned and the Community producers about the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the Notice of Initiation.

(5) A number of exporting producers in the country concerned, as well as Community producers and Community importers/traders made their views known in writing. All parties who so requested within the set time limit and who demonstrated that there were particular reasons why they should be heard were granted the opportunity to be heard.

(6) The Commission sought and verified all the information it deemed necessary for the purpose of a determination of the appropriateness of the form of the measures in force.

B. RESULTS OF THE INVESTIGATION

(7) Article 145 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code [4] foresees, for the determination of the customs value, an apportioning of the price actually paid or payable in situations where goods have been damaged before entry into free circulation. In such situations, customs value is reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.

(8) In order to avoid that an excessive amount of anti-dumping duty is levied, the specific duty should, in case of damaged goods, be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.

(9) No interested party submitted any substantiated comments or arguments against this proposal.

(10) It is therefore concluded that in the absence of any substantiated argument from interested parties, in cases where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value, the specific duty shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable,

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 1972/2002 (OJ L 305, 7.11.2002, p. 1).
[2] OJ L 155, 14.6.2002, p. 1.
[3] OJ C 262, 29.10.2002, p. 2.
[4] OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 444/2002 (OJ L 68, 12.3.2002, p. 11).

HAS ADOPTED THIS REGULATION:

Article 1

The following paragraph shall be added to Article 1 of Regulation (EC) No 1011/2002:

'3. In cases where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value pursuant to Article 145 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (*), the amount of anti-dumping duty, calculated on the basis of the amounts set above, shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.

(*) OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 444/2002 (OJ L 68, 12.3.2002, p. 11).'

Article 2

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 26 May 2003.

For the Council

The President

G. DRYS