

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 24 October 1983

accepting the undertaking given in connection with the anti-dumping proceeding in respect of imports of lithium hydroxide originating in the People's Republic of China and terminating that proceeding

(83/522/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3017/79 of 20 December 1979 on protection against dumped or subsidized imports from countries not members of the European Economic Community⁽¹⁾, as amended by Regulation (EEC) No 1580/82⁽²⁾, and in particular Article 10 thereof,

After consultations within the Advisory Committee as provided for under the above Regulation,

Whereas :

A. Procedure

- (1) In November 1982 the Commission received a complaint lodged by CEFIC, the European Council of Chemical Industry Federations, on behalf of the sole Community producer of lithium hydroxide, relating to imports of the product in question originating in the the People's Republic of China. The complaint contained evidence of dumping and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding. The Commission accordingly announced, by a

notice published in the *Official Journal of the European Communities*⁽³⁾, the initiation of an anti-dumping proceeding concerning imports into the Community of lithium hydroxide falling within subheading 28.28 B of the Common Customs Tariff, corresponding to NIMEXE code ex 28.28-10 and originating in the People's Republic of China, and commenced an investigation.

- (2) The Commission officially so advised the exporter and importers known to be concerned and the representatives of the exporting country and the complainants, and gave the parties directly concerned the opportunity to make known their views in writing and to request a hearing.
- (3) Most of the importers made their views known in writing and some importers were granted hearings.
- (4) The Commission sought and verified all information it deemed to be necessary for the purposes of a preliminary determination ; it carried out investigations at the premises of the Community producer :
Chemetall GmbH, D-Frankfurt,
and with one of the importers :
Lithium Corporation of Europe Ltd,
UK-Bromborough.
- (5) The enquiry into dumping covered the year ended 31 March 1983.

⁽¹⁾ OJ No L 339, 31. 12. 1979, p. 1.

⁽²⁾ OJ No L 178, 22. 6. 1982, p. 9.

⁽³⁾ OJ No C 98, 12. 4. 1983, p. 2.

B. Normal value

- (6) In order to establish whether the imports from the People's Republic of China were dumped, the Commission had to take account of the fact that this country does not have a market economy and the Commission therefore had to base its determination on the normal value in a market economy country; in this connection the complainant had suggested the United States' domestic market, this being the only non-EEC market-economy country which produces the like product. No objection was made to this suggestion and the Commission is satisfied that there is sufficient internal competition in the United States to ensure that price levels are in a reasonable proportion to production costs; it is, therefore, considered appropriate and not unreasonable to determine normal value for imports originating in the People's Republic of China on the basis of domestic prices in the United States.

C. Export price

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

D. Comparison

- (8) In comparing normal value with export prices, the Commission took account, where appropriate, of differences affecting price comparability and, in particular, of differences in conditions and terms of sale. All comparisons were made at ex-works level.

E. Margins

- (9) The above preliminary examination of the facts shows the existence of dumping in respect of imports of lithium hydroxide originating in the People's Republic of China, the margin of dumping being equal to the amount by which the normal value as established exceeds the price for export to the Community. These margins vary according to the importing Member State, the weighted average margin being 19,6 %.

F. Injury

- (10) Statistical evidence available to the Commission shows that imports into the Community from China increased from 60 tonnes in 1980 to 500 tonnes in 1982 with a consequent increase in market share held by the People's Republic of China from 2,9 to 25,5 % in the same period. The weighted average resale prices of these imports were approximately 17 % lower than those required to cover the costs of the sole

Community producer and provide a reasonable profit. The resultant impact on this producer has been the incurring of a considerable loss which puts into jeopardy the continued production of this product.

- (11) The Commission has considered whether injury has been caused by other factors. In this connection it has taken into account the imports of lithium hydroxide originating in the United States and the Soviet Union which are being investigated simultaneously as a result of the review⁽¹⁾ of the definitive duty imposed by Council Regulation (EEC) No 191/80⁽²⁾, as amended by Regulation (EEC) No 2978/83⁽³⁾, and covering imports from these two countries. However, the substantial increase in dumped imports originating in the People's Republic of China and the prices at which they are offered for sale in the Community led the Commission to determine that the effect of these imports of Chinese origin taken in isolation have to be considered as constituting material injury to the Community industry concerned.

G. Community interest

- (12) Community processing industries have argued that the introduction of protective measures would not be in the Community interest because it would adversely affect their competitive position on extra-Community markets. In view of the particularly serious difficulties facing the only Community producer, its strategic importance and the relatively low incidence of a price increase on the costs of the processing industry (whose exports outside the Community are also relatively low) the Commission has nevertheless come to the conclusion that it is in the Community's interest that action be taken.

H. Undertakings

- (13) The exporter concerned was informed of the main findings of the preliminary investigation and commented on them. An undertaking was subsequently offered by China National Chemicals Import and Export Corporation concerning its exports of lithium hydroxide to the Community. The effect of the said undertaking will be to increase export prices to the Community to the level which the Commission, having taken into account, on the one hand, the selling price necessary to provide an adequate return to the Community producer and, on the other hand, the

⁽¹⁾ OJ No C 98, 12. 4. 1983, p. 2.

⁽²⁾ OJ No L 23, 30. 1. 1983, p. 19.

⁽³⁾ See page 3 of this Official Journal.

purchase price of the Community importers and their costs and profit margins, considered necessary to eliminate injury. These increases in no case exceed the dumping margins found in the investigation.

In these circumstances, the undertaking offered is considered acceptable and the proceeding may, therefore, be terminated without imposition of anti-dumping duties.

No objection to this course of action was raised in the Advisory Committee,

HAS DECIDED AS FOLLOWS:

Article 1

The Commission hereby accepts the undertaking given by China National Chemicals Import and Export Corporation in connection with the anti-dumping proceeding concerning lithium hydroxide

falling within subheading 28.28 B of the Common Customs Tariff and corresponding to NIMEXE code ex 28.28-10, originating in the People's Republic of China.

Article 2

The anti-dumping proceeding concerning imports of lithium hydroxide originating in the People's Republic of China is hereby terminated.

Done at Brussels, 24 October 1983.

For the Commission

Wilhelm HAFERKAMP

Vice-President
