

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 25 July 1984

accepting undertakings given in connection with the anti-dumping proceeding concerning imports of copper sulphate originating in Yugoslavia and terminating the proceeding

(84/404/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 consultation within the Advisory Committee as provided for by the said Regulation,

Whereas :

A. Procedure

- (1) In March 1983 the Council imposed a definitive anti-dumping duty⁽³⁾ on imports of copper sulphate originating in Yugoslavia, and following extension of the procedure a definitive duty⁽⁴⁾ was imposed in October 1983 on imports of copper sulphate from Czechoslovakia and the USSR and an undertaking⁽⁵⁾ offered by one Czech exporter was accepted. In September 1983 the Commission received a request from the authorities of a Member State, Italy, requesting the re-opening of the proceeding and alleging

that imports of copper sulphate from Yugoslavia were again being dumped and thereby causing renewed injury to the Community industry. Accordingly the Commission announced, by a notice published in the *Official Journal of the European Communities*⁽⁶⁾, the re-opening of the anti-dumping proceeding concerning imports into the Community of copper sulphate originating in Yugoslavia, and falling within subheading ex 28.38 A II of the Common Customs Tariff, corresponding to NIMEXE code 28.38-27, and commenced an investigation.

- (2) The Commission officially so advised the exporters and importers known to be concerned, 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.

The majority of the known producers, one exporter and some importers made their views known in writing.

No submissions were made by Community purchasers or processors of copper sulphate.

- (3) The Commission sought and verified all information it deemed to be necessary and carried out investigations at the premises of the following EEC producer : Manica SpA, Rovereto, Italy.

⁽¹⁾ OJ No L 339, 31. 12. 1979, p. 1.

⁽²⁾ OJ No L 178, 22. 6. 1982, p. 9.

⁽³⁾ OJ No L 55, 2. 3. 1983, p. 4.

⁽⁴⁾ OJ No L 274, 7. 10. 1983, p. 1.

⁽⁵⁾ OJ No L 281, 13. 10. 1983, p. 22.

⁽⁶⁾ OJ No C 301, 8. 11. 1983, p. 2.

The Commission requested and received detailed written submissions from Community producers and verified the information therein to the extent considered necessary. One exporter, Zorka-Sabac, submitted its views in writing but did not supply the requested information and evidence on volumes, prices and costs and thus the Commission was obliged in accordance with Article 7 (7) (b) of Regulation (EEC) No 3017/79 to use the facts available to it in order to establish normal value and make the appropriate comparison with export prices. The investigation covered the period from the imposition of the definitive duty (March 1983) until November 1983.

B. Normal value

- (4) The Commission, during the previous investigation, established that the exporters' sales in the domestic Yugoslav market were made at a loss and accordingly based normal value on a constructed value calculated by taking the exporters' costs of materials and manufacture, including overheads, and adding a reasonable margin for profit. In view of the non-cooperation of the Yugoslav exporters in the present case the Commission, in establishing a normal value on the same basis, has taken account of the best evidence available to it, being that submitted by the Italian authorities and by the Community industry. This evidence showed a significant increase, since the previous investigation, in the cost of raw materials required for the production of copper sulphate and in particular the cost of copper, which accounts for 75 % of the production costs.

In addition, account was taken of increased costs for labour, other materials and overheads on the basis of the published statistics on the Yugoslav economy. A normal value for the reference period was established by updating the figures relating to the constructed normal value for the previous investigation to cover the present reference period.

C. Export price

- (5) 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

- (6) In order that an appropriate comparison could be made the Commission estimated, on the basis of the information available to it, the costs incurred

in transporting the product from the factory to the Community frontier. These costs were deducted from the export prices and the comparisons were accordingly made at an ex-works level.

E. Margins

- (7) The above comparison shows the existence of dumping in respect of the exporter which made itself known to the Commission, the margin of dumping being equal to the amount by which the normal value as established exceeds the price for export to the Community i.e. 61 %.

For those exporters who neither replied to the Commission's questionnaire nor made themselves known otherwise in the course of the investigation, dumping was determined on the same basis, and accordingly it was considered appropriate to use the same dumping margin for this group of exporters.

F. Injury

- (8) With regard to the injury caused by the dumped imports, the evidence available to the Commission shows that imports into the Community (Italy and Greece) of copper sulphate from Yugoslavia remained at a similar level in 1983 (6 070 tonnes) to that in 1982 (6 110 tonnes). Thus Yugoslav imports maintained their market share in the Community (about 14 %) despite the imposition of a provisional anti-dumping duty of 15,4 % in November 1982 and a definitive anti-dumping duty of 19,5 % in March 1983. The resale prices of these imports undercut the prices of the Community producers during the present reference period by up to 30 %. These resale prices were lower than those required to cover the costs of Community producers and provide a reasonable profit and in some instances were lower even than the cost to the Community producers of the raw material required to produce their copper sulphate.
- (9) The Community industry in respect of which the impact of the dumped imports must be assessed is particularly that situated in Italy, whose traditional markets have been Italy and Greece. Since the imposition, at the end of 1982, of the anti-dumping measures on imports of Yugoslav copper sulphate, the Italian producer has increased sales mainly in the Italian market, which accounts for 84 % of its sales in the Community. This increase, however, merely reflects the increase in consumption in this market between 1982 and 1983 and, despite the improvement, capacity utilization levels have remained low (50 % in 1983) leading to high unit

costs which, combined with the price depression caused by the dumped imports, have led to continued losses on sales of copper sulphate in the Community.

- (10) In addition, the effect of the dumped Yugoslav imports on the remaining Community producers has also been significant as regards their sales in Italy and potential sales in Greece. In the rest of the Community Yugoslav prices have had a depressive effect both directly on those of the Community producers and indirectly where the Italian producer has been forced to attempt to sell increasing quantities of the product concerned in areas other than its traditional markets where it can no longer compete with the dumped imports.
- (11) The Commission has considered whether injury has been caused by other factors such as the volume and prices of imports from other sources or the reduction in consumption in the Community. It has, however, been established that the major source of imports in the Italian and Greek markets has been Yugoslavia. Elsewhere in the Community the major sources have been the USSR and Czechoslovakia, and anti-dumping measures were imposed in 1983 with regard to these imports. Accordingly, the continued high volume of Yugoslav imports and the prices at which they are offered for sale in the Community led the Commission to determine that the effects of the dumped imports of copper sulphate originating in Yugoslavia taken in isolation, have to be considered as constituting material injury to the Community industry concerned.

G. Community interest

- (12) In view of the particularly serious difficulties facing the Community industry concerned, the Commission has come to the conclusion that it is in the Community's interests that action be taken in order to eliminate the injury being caused to this industry.

H. Undertakings

- (13) The Yugoslav authorities, having been informed of the results of the investigation, requested that the matter be discussed in the Cooperation Council as provided for by the Cooperation

Agreement between the European Economic Community and the Socialist Federal Republic of Yugoslavia (¹).

The two exporters concerned, Zorka-Sabac and Zupa, subsequent to discussions within the Cooperation Council, offered undertakings concerning their exports of copper sulphate to the Community.

The effect of the said undertakings will be to increase import 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 Community producers and, on the other hand, the purchase price of the Community importers and their costs and profit margin considered necessary to eliminate injury. These increases in no case exceed the dumping margins found in the investigation.

In these circumstances, the undertakings offered are considered acceptable and the proceedings may, therefore, be terminated without the continued imposition of anti-dumping duties.

No objection to this course was raised in the Advisory Committee.

HAS DECIDED AS FOLLOWS:

Article 1

The undertakings given by Hemijska Industrija 'Zorka-Sabac', Sabac, Yugoslavia and Zupa, Krusevac, Yugoslavia in connection with the anti-dumping proceeding concerning copper sulphate originating in Yugoslavia and falling within Common Customs Tariff subheading ex 28.38 A II, corresponding to NIMEXE code 28.38-27 are hereby accepted.

Article 2

The anti-dumping proceeding referred to in Article 1 is hereby terminated.

Done at Brussels, 25 July 1984.

For the Commission

Wilhelm HAFERKAMP

Vice-President

(¹) OJ No L 41, 14. 2. 1983, p. 1.