

COMMISSION OF THE EUROPEAN COMMUNITIES

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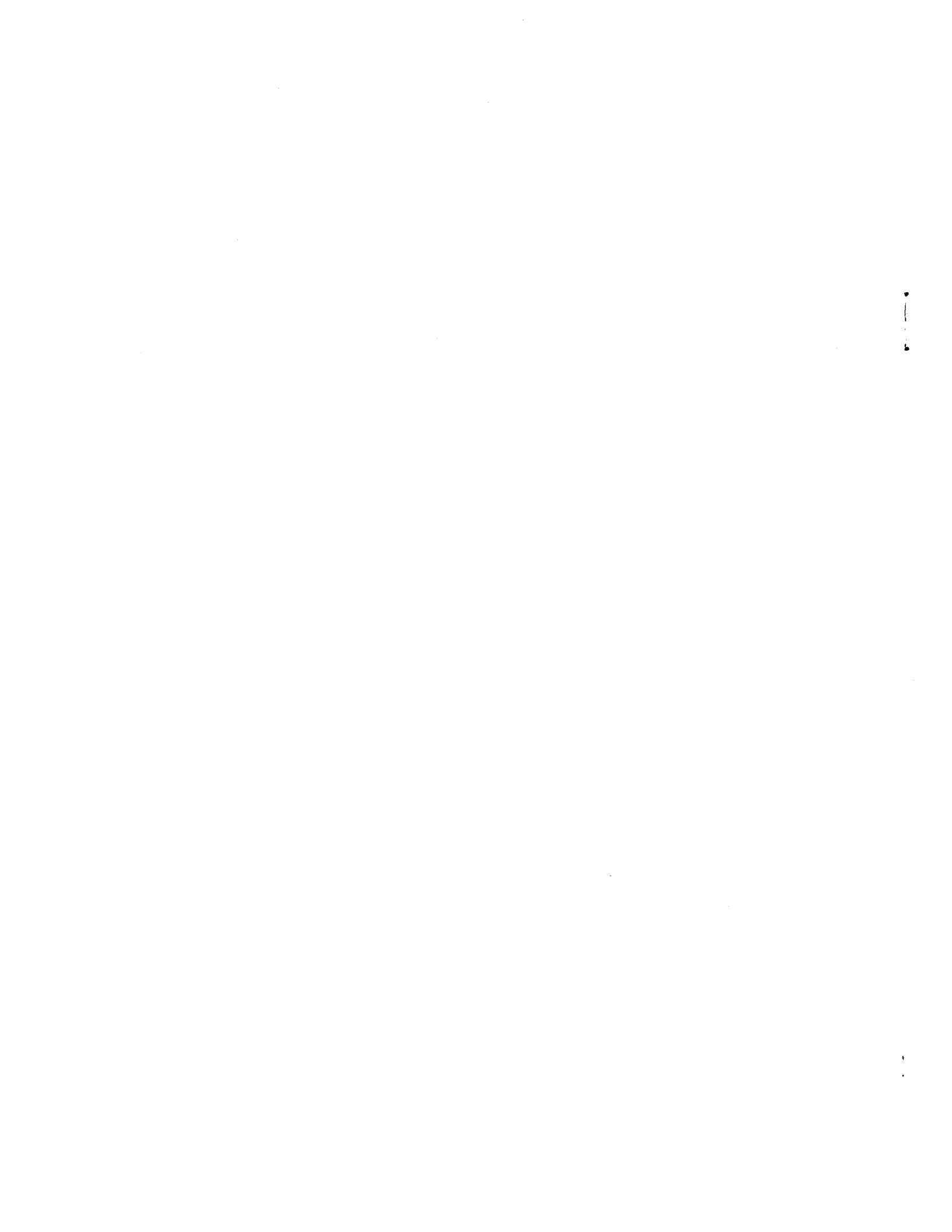
Proposal for a

COUNCIL REGULATION (EEC)

imposing a definitive anti-dumping duty on copper sulphate originating in Yugoslavia and definitively collecting the amounts secured by way of provisional duty

(submitted to the Council by the Commission)

COM(83) 73 final



EXPLANATORY MEMORANDUM

In May 1982 the Commission received a complaint submitted by CEFIC (the European Council of Chemical Industry Federations) on behalf of a Community producer, Manica SpA, Rovereto, whose output constitutes a major proportion of Community production and almost all Italian production.

The complaint alleged dumping of copper sulphate by Yugoslavian exporters and material injury resulting therefrom. These allegations were supported by evidence sufficient to justify the Commission initiating proceedings and an opening notice was published on 22 June 1982. The Commission's preliminary investigation substantiated the existence of dumping and resulting injury on the Italian and Greek markets, the complainants main areas of operation for the reference period which was taken as the copper sulphate season of July 1981 to June 1982. The margin of dumping found was 32% but the calculation of the level of injury led to the imposition by the Commission of a provisional anti-dumping duty of 15.4%.

The Yugoslav exporters claimed that since the complainant had purchased substantial quantities of their copper sulphate for resale in both Italy and Greece they have suffered no injury. The Commission was satisfied, however, that these purchases were made in an effort to maintain the complainant's customer base and did not affect the level of injury which, particularly in terms of reduced production and employment, was considerable.

In the preliminary investigation normal value was established with reference to the prices on the Yugoslav domestic market, allowance being made for the element of import duty on raw copper used in the manufacture of copper sulphate but refunded should the copper sulphate be exported. This allowed a proper comparison between normal value and export prices. Following the imposition of the provisional duty, however, the Yugoslav exporters submitted evidence of, and requested that allowance also be made for, a turnover tax of 17.4% paid on all domestic sales of copper sulphate. However the producers' income net of this tax did not ^{allow them} ~~to recoup~~ all costs normally incurred in the production of copper sulphate and therefore domestic prices could not now be used for the purposes of establishing normal value.

For the subsequent investigation the normal value was accordingly based on the producers' costs of production, a small margin for profit being added. In this case the comparison between normal value and export prices showed a dumping margin of 42.6%.

Updated evidence was obtained on injury particularly as regards the complainant's costs which were significantly higher than the Yugoslav delivered prices in the Community.

On the basis of these facts therefore the Commission proposes that the Council impose by Regulation a definitive anti-dumping duty of 19.5% on imports of copper sulphate to the Community originating in Yugoslavia and collect definitively in their entirety the amounts secured by way of provisional duty.

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THE COUNCIL 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 12 thereof,

Having regard to the proposal submitted by the Commission after consultations within the Advisory Committee provided for by the above Regulation,

Whereas in May 1982 the Commission received a complaint submitted by CEFIC (the European Council of Chemical Industry Federations) on behalf of a Community producer, Manica SpA, Rovereto, whose output constitutes a major proportion of Community production of copper sulphate;

Whereas the complaint contained evidence of dumping and of material injury resulting therefrom which was considered sufficient to justify initiating a proceeding; whereas the Commission accordingly published in the Official Journal of the European Communities (3) a notice of the initiation of an anti-dumping proceeding concerning imports into the Community of copper sulphate corresponding to NIMEXE code 28.38-27 originating in Yugoslavia and commenced investigation at Community level;

(1) OJ No L 339, 31.12.1979, p. 1

(2) OJ No L 178, 22.06.1982, p. 9

(3) OJ No C 161, 26.06.1982, p. 2

Whereas, since the preliminary examination of the matter showed that there was dumping, that there was sufficient evidence on injury and that the interests of the Community called for immediate intervention, the Commission, by Regulation (EEC) No 2936/82 (1), imposed a provisional anti-dumping duty on imports of copper sulphate originating in Yugoslavia;

Whereas in the course of the subsequent examination, completed after the imposition of the provisional anti-dumping duty, the interested parties had the opportunity to make known their views in writing, to be heard by the Commission, to inspect non-confidential information relevant to the defence of their interests and to be informed of the essential facts and considerations on the basis of which it was intended to make a final determination; whereas the Community producer and the exporters concerned made known their views in writing and orally;

Whereas, as regards the reference period, the Commission as in the preliminary investigation took the copper sulphate season of August 1981 to July 1982;

Whereas, as regards normal value, the Yugoslav exporters, during the subsequent investigation, requested that adjustment be made to their domestic prices to take account of a turnover tax paid by the copper sulphate producers at a level of 17.4% on sales of copper sulphate on the Yugoslav domestic market;

Whereas the Commission made allowance for this tax by deducting the amount from the domestic prices;

Whereas, however, the Yugoslav producers' income on sales of copper sulphate net of this turnover tax was less than their costs both fixed and variable normally incurred in the production of copper sulphate; whereas, accordingly, the normal value provisionally determined by the Commission on the basis of the domestic prices of the two producers concerned could not be considered valid for the subsequent investigation since sales of the product on the domestic market do not permit proper comparison being made, since such sales were made at a loss throughout the reference period; whereas the Commission determined, therefore, that the normal value for the two companies should be established by means of a constructed value based on costs of production;

(1) OJ No L 308, 04.11.1982, p. 7

Whereas both companies informed the Commission that their costs are determined by government and are effectively identical; whereas the constructed value was compared by taking one company's total cost of materials and manufacture, including overheads, and adding a profit margin of 3 %; whereas this level of profit was considered reasonable in taking account of the Yugoslav producers' and the complainant's submissions regarding current market conditions in Yugoslavia;

Whereas, as in the provisional determination of normal value on the basis of domestic prices, the constructed value was reduced by taking account of the incidence of the Yugoslav customs duty levied on imported copper and refunded when copper sulphate is exported;

Whereas ex-works export prices were established for all export transactions to the Community during the reference period, taking into account, where appropriate, agents' commission and transport and insurance costs to the Community frontier;

at ex-works level

Whereas a comparison between the normal value and the export prices showed a weighted average dumping margin of 42.6 % of the average price CIF Community frontier;

Whereas with regard to injury, the Commission, in its subsequent investigation, obtained updated information relating particularly to the Community producer's costs which had increased by approximately 20% in the latter part of the reference period for which information was not previously available; whereas this information required the Commission to revise its calculation on the level of duty necessary to eliminate the injury caused by the dumped products;

Whereas the Commission in the course of its subsequent examination has received no evidence to further alter its findings regarding injury;

Whereas accordingly the interests of the Community require the imposition of a definitive anti-dumping duty on imports of copper sulphate originating in Yugoslavia; whereas having regard to the extent of the injury established during the subsequent investigation and for the purposes of the elimination thereof the rate of the duty should be 19.5 %; whereas Community interests also call for the definitive collection in their entirety of the amounts secured by way of provisional anti-dumping duty,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on copper sulphate falling within Common Customs Tariff subheading ex 28.38 A II and corresponding to Nimexe code 28.38-27 originating in Yugoslavia. The amount of the duty shall be equal to 19.5% of the price per tonne net, free at Community frontier, before duty.

2. The amount of the duty referred to in paragraph 1 shall be determined on the basis of the customs value determined in accordance with Council Regulation (EEC) No 1224/80 of 28 May 1980 on the valuation of goods for customs purposes (1).

3. The provisions in force concerning customs duties shall apply for the application of the duty referred to in paragraph 1.

Article 2

The amounts secured by way of provisional anti-dumping duty under Regulation (EEC) No 2936/82 shall be definitively collected in their entirety.

Article 3

This Regulation shall enter into force on the day 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 Brussels

For the Council

¹OJ N° L 134, 31.5.1980, p. 1