

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(83) 2 final

Brussels, 5 January 1983

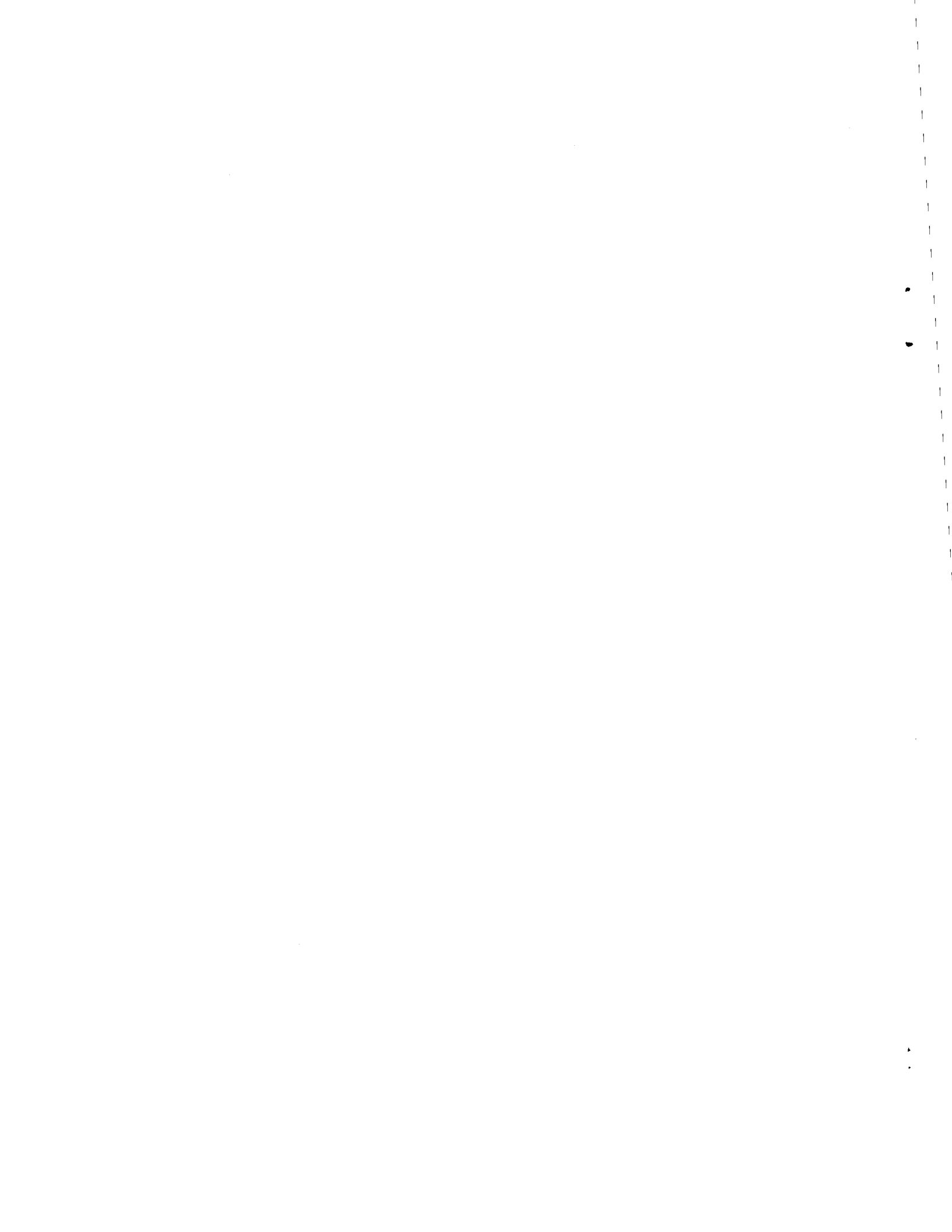
~~Proposal for a~~

COUNCIL REGULATION (EEC)

imposing a definitive anti-dumping duty on imports of certain sodium carbonate originating in Bulgaria, the German Democratic Republic, Poland, Romania and the Soviet Union

(submitted to the Council by the Commission)

COM(83) 2 final



EXPLANATORY MEMORANDUM

1. On 4 October 1982, by Regulation (EEC) No 2667/82(1), the Commission imposed a provisional anti-dumping duty on imports of light sodium carbonate originating in Bulgaria, the German Democratic Republic, Poland, Romania and the Soviet Union. This duty expires on 6 February 1983.
2. After the imposition of the provisional duty, most exporters and some importers requested and were granted hearings during which they made their views known and were presented with the findings of the investigation. The Commission, after careful examination of the arguments put forward, modified the provisionally established dumping margin for imports from the Soviet Union, but found no reason to amend the provisionally established weighted average dumping margins for exports from the other countries concerned.
3. With regard to injury, fresh evidence has been submitted to the Commission since the imposition of the provisional duty. This concerns the injury suffered by the Community industry on the market of light sodium carbonate in bags where the level of the provisional duty did not eliminate the injury. In the Commission's view, the facts as finally determined show that the effects of the dumped imports of light sodium carbonate originating in Bulgaria, the German Democratic Republic, Poland, Romania and the Soviet Union, taken in isolation, have to be considered as constituting material injury.
4. On the basis of these facts, the Commission therefore submits to the Council its proposal for a Council Regulation, imposing definitive anti-dumping duties on imports of light sodium carbonate from Bulgaria, the German Democratic Republic, Poland, Romania and the Soviet Union.

The duty proposed on imports from the Soviet Union is lower than the provisional duty whereas the other duties proposed are of the same level as the provisional duties. As regards imports of light sodium carbonate in bags a premium of 9.50 ECU per tonne on all imports is proposed. It is further proposed that the amounts secured by way of provisional duty should be collected definitively with the partial exception of the provisional duty imposed on imports originating in the Soviet Union.

(1) CJ No L 283, 6.10.1982, p. 9

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Proposal for a
COUNCIL REGULATION (EEC)

imposing a definitive anti-dumping duty on imports of certain sodium carbonate originating in Bulgaria, the German Democratic Republic, Poland, Romania and the Soviet Union

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation (EEC) N° 3017/79 of 20 December 1979 on protection against dumped or subsidized imports from countries not members of the European Economic Community¹, as amended by Regulation (EEC) N° 1580/82², and in particular Article 12 thereof,

Having regard to the proposal submitted by the Commission after consultation within the Advisory Committee provided for by that Regulation;

Whereas, pursuant to a complaint lodged by the European Council of Chemical Manufacturers' Federations (CEFIC) on behalf of the entire Community industry concerned the Commission announced in the Official Journal of the European Communities³ the re-opening of the previously terminated anti-dumping proceeding;

Whereas by Regulation (EEC) N° 2667/82⁴, the Commission imposed the following provisional duty on light sodium carbonate originating in Bulgaria, the German Democratic Republic, Poland, Romania and the Soviet Union, viz.:

a) in the case of Bulgaria:

- 14.09% of the price per tonne net, free at Community frontier, before duty, or
- the amount by which the price per tonne net, free at Community frontier, before duty, is less than 113.85 ECU,

whichever amount is the higher;

¹ OJ N° L 339, 31.12.1979, p. 1

² OJ N° L 178, 22.06.1982, p. 9

³ OJ N° C 93, 14.04.1982, p. 5

⁴ OJ N° L 283, 06.10.1982, p. 9

b) in the case of the German Democratic Republic:

- 40.86% of the price per tonne net, free at Community frontier, before duty, or
- the amount by which the price per tonne net, free at Community frontier, before duty, is less than 127.24 ECU,

whichever amount is the higher;

c) in the case of Poland:

- 9.68% of the price per tonne net, free at Community frontier, before duty, or
- the amount by which the price per tonne net, free at Community frontier, before duty, is less than 113.85 ECU,

whichever amount is the higher;

d) in the case of Romania:

- 18.79% of the price per tonne net, free at Community frontier, before duty, or
- the amount by which the price per tonne net, free at Community frontier, before duty, is less than 117.62 ECU,

whichever amount is the higher;

e) in the case of the Soviet Union:

- 37.26% of the price per tonne net, free at Community frontier, before duty, or
- the amount by which the price per tonne net, free at Community frontier, before duty, is less than 129.60 ECU,

whichever amount is the higher.

Whereas, following the imposition of the provisional duty, the exporters from Bulgaria, Poland, Romania and the German Democratic Republic, requested to be heard orally by the Commission; whereas these requests were granted and the exporters heard by the Commission, with the exception of the Romanian exporter who, despite being invited by the Commission, chose not to attend the hearing;

Whereas the complainant, the European Council of Chemical Manufacturers' Federations (CEFIC) made known its views in writing and also requested, and was granted, an opportunity to be heard orally by the Commission;

Whereas a number of importers made known their views concerning the provisional duty, both in writing and, upon request, orally;

Whereas the Commission received a written submission from Alginate Industries Ltd, Kelso, UK, a company whose interest in this case was previously unknown to the Commission, stating that it was a past, and potential future, importer of light sodium carbonate from the Soviet Union and making known its views concerning the duty; whereas Alginate requested, and was granted, an opportunity to be heard orally by the Commission and was informed, upon request, of essential facts and considerations on the basis of which it was intended to recommend definitive action;

Whereas, as regards the determination of the dumping margin, none of the information which the Commission has received since the imposition of the provisional anti-dumping duty has caused it to alter its view that the Austrian market price is an appropriate and not unreasonable basis for determining the normal value of the product in question;

Whereas, as regards the level of export prices of Soviet sodium carbonate, Alginate Ltd together with another firm which is involved in the imports, Golodetz Overseas Ltd, London, has submitted new evidence;

Whereas, taking into account this new evidence and the evidence already available to it, the Commission has revised its calculation of the dumping margin of Soviet exports of light sodium carbonate; whereas this margin, expressed as a percentage of the price free at Community frontier, and based on the two Community markets where Soviet sodium carbonate has been exported in 1981, is 35,54%;

Whereas as regards the level of export prices of other exporters, no new evidence has been submitted; whereas the Commission has consequently established the same dumping margins as for the preliminary findings;

Whereas, as regards injury caused to the Community industry, more detailed evidence has been made available to the Commission concerning the Community market for bagged light sodium carbonate;

Whereas the sales of bagged light sodium carbonate by the Community industry have decreased by 24,3% between 1978 and 1981; whereas according to the evidence available to the Commission these sales have decreased by a further 10% in the course of 1982; . whereas this decrease is higher than the decrease of overall bulk and bag sales of the product concerned; whereas, according to the best evidence available, the share of the Community market held by dumped imports of bagged light sodium carbonate reached 26% in 1981 and appears to have increased further during 1982;

Whereas the resale prices in the Community of the imported bagged light sodium carbonate under investigation are lower than those of the Community producers by amounts smaller than the dumping margins; whereas this difference is greater than the difference between the resale prices in the Community of imported sodium carbonate in bulk and that produced in the Community;

Whereas the abovementioned has contributed disproportionately to the erosion of the Community industry's profitability;

Whereas as regards the other considerations concerning the injury caused to the Community industry by the dumped imports on which the Commission based its decision to impose a provisional anti-dumping duty, no new evidence has been made available to the Commission;

Whereas no other evidence has been found as regards other factors which may have adversely affected the Community industry;

Whereas, in the Commission's view, the facts as finally determined show that the injury caused by the dumped imports of light sodium carbonate originating in Bulgaria, the German Democratic Republic, Poland, Romania and the Soviet Union, irrespective of that caused by other factors, has to be considered as material;

Whereas the exporters from Bulgaria, the German Democratic Republic, Poland and Romania offered price undertakings; whereas, after consultation, these undertakings were not found to be acceptable;

Whereas, in these circumstances, protection of the Community's interests calls for the imposition of a definitive anti-dumping duty on imports of light sodium carbonate originating in Bulgaria, the German Democratic Republic, Romania, Poland and the Soviet Union; whereas the rate of such duty, having regard to the extent of injury caused, should be less than the dumping margin established but adequate to remove the injury caused, whereas it is appropriate to supplement the variable duty by a specific duty in order to prevent circumvention of the measures; whereas it is furthermore appropriate to increase this duty by a flat-rate duty on imports of bagged light sodium carbonate 9.50 ECU per tonne; whereas imports in so-called big bags of more than 500 kg should be excluded from this supplement since they are, according to the best evidence available, debagged by the importers and the light sodium carbonate sold in bulk;

Whereas, given all the circumstances, injury would be removed if the amount of duty applicable to all imports of light sodium carbonate originating in the countries under investigation corresponded to 14.09% for Bulgaria, 40.86% for the German Democratic Republic, 9.68% for Poland, 18.79% for Romania and 16.30% for the Soviet Union or to the amount by which the free at Community frontier price, before duty, is less than 113.85 ECU for Bulgaria, 127.24 ECU for the German Democratic Republic, 113.85 ECU for Poland, 117.62 ECU for Romania and 129.96 ECU for the Soviet Union, where such difference in value is greater than the abovementioned percentages, and, in addition, a supplement of 9.50 ECU per tonne for imports in bags of a weight of less than 500 kg per bag,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on light sodium carbonate falling within Common Customs Tariff subheading 28.42 A ex II and corresponding to NIMEXE code ex 28.42-31, originating in Bulgaria, the German Democratic Republic, Poland, Romania and the Soviet Union.

2. The amount of the duty shall be:
 - a) for all imports in bulk or bag:
 - aa) in the case of Bulgaria:
 - 14.09% of the price per tonne net, free at Community frontier, before duty, or
 - the amount by which the price per tonne net, free at Community frontier, before duty, is less than 113.85 ECU,
 - whichever is the higher;
 - bb) in the case of the German Democratic Republic:
 - 40.86% of the price per tonne net, free at Community frontier, before duty, or

- the amount by which the price per tonne net, free at Community frontier, before duty, is less than 127.24 ECU,

whichever amount is the higher;

cc) in the case of Poland:

- 9.68% of the price per tonne net, free at Community frontier, before duty, or
- the amount by which the price per tonne net, free at Community frontier, before duty, is less than 113.85 ECU,

whichever amount is the higher;

dd) in the case of Romania:

- 18.79% of the price per tonne net, free at Community frontier, before duty, or
- the amount by which the price per tonne net, free at Community frontier, before duty, is less than 117.62 ECU,

whichever amount is the higher;

ee) in the case of the Soviet Union:

- 16.30% of the price per tonne net, free at Community frontier, before duty, or
- the amount by which the price per tonne net, free at Community frontier, before duty, is less than 129.96 ECU,

whichever amount is the higher.

b) for imports in bags of a weight of less than 500 kg each, the abovementioned duty plus a supplement of 9.50 ECU per tonne net;

3. The free at Community frontier prices shall be net if the conditions of sale provide for payment within 30 days from the date of shipment; they shall be increased or reduced by 1% for each increase or decrease of one month in the period for payment.

4. For the purposes of this Regulation, light sodium carbonate means non-compacted sodium carbonate with a specific weight of less than 0.700 kg/dm^3 and consisting of powder or grains smaller than 0.4 mm in diameter.

5. The provisions in force concerning customs duties shall apply for the application of the duty.

Article 2

1. The sums secured by way of provisional anti-dumping duty on imports originating in Bulgaria, the German Democratic Republic, Poland and Romania introduced by Regulation (EEC) N° 2667/82 shall be definitively collected.

2. The sums secured by way of provisional anti-dumping duty on imports originating in the Soviet Union and introduced by Regulation (EEC) N° 2667/82 shall be definitively collected up to the amount of

- 16.30% of the price per tonne net, free at Community frontier, before duty, or

- the amount by which the price per tonne net, free at Community frontier, before duty, is less than 129.96 ECU,

whichever is the higher, plus a supplement 9.50 ECU per tonne net for imports in bags of a weight of less than 500 kg each.

Article 3

This Regulation shall enter into force on the third day following 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