

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(80) 485 final

Brussels, 4 August 1980

Proposal for a
COUNCIL REGULATION (EEC)

amending Regulation (EEC) No 191/80 imposing a
definitive anti-dumping duty on lithium hydroxide
originating in the United States of America and the
Soviet Union

(submitted to the Council by the Commission)

COM(80) 485 final

EXPLANATORY MEMORANDUM

By Regulation (EEC) No. 191/80 of 30 January 1980 the Council imposed a definitive anti-dumping duty on lithium hydroxide originating in the United States of America and the Soviet Union. Since then, Metallgesellschaft AG, the only Community producer has requested a review of this definitive duty because of an increase in the internal price in the United States of America on which the determination of normal value both for American and Russian exports was based.

The Commission therefore commenced a review of the facts and published a notice concerning this matter in the Official Journal of the European Communities of 19 July 1980. This review shows that the normal value established in the definitive anti-dumping duty has since increased and that new dumping margins have reappeared for American and Soviet exports of Lithium hydroxide which again have a depressive effect on the Community producer's prices obliging it to continue to sell below its production costs. In these circumstances the Commission is proposing a Council Regulation amending the definitive duty on Lithium hydroxide originating in the United States of America and the Soviet Union.

This proposal is being presented at this stage, even though the deadline fixed in the above-mentioned notice of review for receipt of information does not expire until 3 August 1980. For this reason it is possible that certain amendments may require to be made to the text of the regulation prior to its adoption by the Council. However, since it is essential to protect the interest of the Community producer the necessary written procedure must be presented by July 22, latest date before the holiday period.

Proposal for a
COUNCIL REGULATION (EEC)

amending Regulation (EEC) No 191/80
imposing a definitive anti-dumping duty on lithium hydroxide originating in
the United States of America 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) No
3017/79 of 20 December 1979 on protection against
dumped or subsidized imports from countries not
members of the European Economic Community (1),
and in particular Article 14 thereof;

Having regard to the proposal submitted by the
Commission after consultation with the Advisory
Committee set up under Article 6 of Regulation (EEC)
No 3017/79,

Whereas, by Regulation (EEC) No 191/80(2), the Council imposed a
definitive anti-dumping duty on Lithium hydroxide originating in the
United States of America and the Soviet Union;

Whereas Metallgesellschaft AG, the sole Community producer, asked
for this definitive duty to be re-examined and presented evidence
showing that such a re-examination was needed;

Whereas the Commission accordingly undertook the above re-examination
and published an opinion on the matter in the Official Journal of the
European Communities (3);

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

(2) OJ No L 23, 30.1.1980, p. 19

(3) OJ No C 18A, 19.7.1980, p. 4

based by this amount in order to take account of the increase in the domestic United States price;

Whereas with regard to all the other elements affecting the dumping calculation no new information was received or further arguments advanced which would have altered the calculations; whereas consequently the current dumping margins are 5.1% for Lithium Corporation of America, 4.4% for Foote Mineral Company and 4.6% for Russian exports;

Whereas in the course of the subsequent examination of injury it was established that imports into the Community of lithium hydroxide originating in the United States of America and the Soviet Union had reached a level of 1503 tonnes in 1979; whereas the imports concerned reached a market share of 66.8% during the same period and are consequently having an even greater effect on the market than that established during the definitive examination;

Whereas the prices of these imports into the Community are again exercising a depressive effect on the Community producer's prices, obliging it to continue to sell at prices below its production costs;

Whereas with regard to all the other elements affecting the determination of injury, no new information was received nor further arguments advanced which could have altered that determination;

Whereas, therefore, the facts as re-examined show that, due consideration having been given to the other factors having a bearing on the situation of this industry, for example, the decline of exports to countries outside the Community,

the dumped imports are causing or threatening to cause material injury to the Community industry concerned;

Whereas, in these circumstances, protection of the Community's interests calls for the

adjustment of the definitive measures introduced by Regulation (EEC) No 191/80 in respect of Lithium hydroxide originating in the United States of America and the Soviet Union;

Whereas in the course of the re-examination of the matter,

the interested parties had the opportunity to make known their views in writing, to be heard by the Commission and to orally develop their views, 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 adjust the definitive measures; whereas the Community producer and some of the exporters concerned availed themselves of these possibilities by making known their views in writing and orally;

Whereas during the re-examination it was established that the domestic price in the United States of America, on which the determination of normal value was based, for both the American and Russian exports, had increased by 4.6% since the date of the definitive determination of the dumping margin; whereas in consequence, it is necessary to adjust the normal value on which the definitive duty was

definitive

two

Whereas one of the American exporters, Foote Mineral Company, voluntarily undertook,

to increase its prices to levels which were considered satisfactory; whereas this undertaking was accepted by the Commission, which accordingly decided to terminate the procedure concerning this company and to exclude it from the application of the definitive duty; whereas in the course of the re-examination offered to bring its undertaking into line with the latest price level on the American market; whereas this new undertaking has been accepted by the Commission and consequently this company remains excluded from the application of the duty,

this same company

5. (a) Where the product defined in paragraph 1 is not released for consumption on the basis of the price to the first purchaser in the Community, the definitive anti-dumping duty shall be at the following rates:

- 5 % of the normal value of US \$1.66 per lb for imports originating in the United States of America,
- 4.4 % of the normal value of US \$1.66 per lb for imports originating in the Soviet Union

HAS ADOPTED THIS REGULATION:

Article 1

Article 1(3) and (5) of Regulation (EEC) No 191/80 are hereby replaced by the following:

- (b) Where, however, the declaring party can provide satisfactory proof to the customs authorities that the price paid by the first purchaser:
 - (i) exceeds or is equal to the normal value of US \$1.66 per lb, no duty shall be applied, or
 - (ii) is lower than the normal value of US \$1.66 per lb by less than 5 %, for imports originating in the United States of America, or by less than 4.4% for imports originating in the Soviet Union, the duty shall be equal to the amount by which the said price is lower than the normal value."

For the purposes of this Regulation, the normal value of lithium hydroxide originating in the United States of America and the Soviet Union, adjusted to a free-at-Community-frontier basis, before duty, shall be US \$1.66 per lb."

Article 2

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
The President