

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(79) 222 final

Brussels, 23 April 1979

PROPOSAL FOR A COUNCIL REGULATION

imposing a definitive anti-dumping duty on a
certain herbicide originating in Romania.

(presented by the Commission to the Council)

EXPLANATORY MEMORANDUM

The Commission, by Regulation (EEC) No. 322/79 of 16 February 1979, imposed a provisional anti-dumping duty on a certain type of herbicide originating in Romania. This Regulation applies until the entry into force of an Act of the Council adopting definitive measures or, at the latest, until the expiry of a period of three months beginning on 21 February 1979.

A month before the expiry of this time limit the Commission, pursuant to the anti-dumping Regulation (EEC) 459/68, should submit to the Council a proposal relating to the adoption of definitive measures.

Since the imposition of the duty, the Commission's services have continued their examination of the facts in co-operation with the Member States. This examination has enabled the Commission to gather further information, supported by proof, of the "normal value" of this product and of the Romanian export price.

The facts as finally established show that there is dumping and injury and that the amounts secured by way of provisional duty should be definitively collected. These facts also show that the normal value established for the purposes of the provisional duty is fully justified and should be used as the basis for the definitive duty.

In these circumstances, the Commission submits the attached proposal for a Council Regulation imposing a definitive anti-dumping duty on a certain type of herbicide originating in Romania and providing for the definitive collection of the amounts secured by way of provisional duty.

COUNCIL REGULATION (EEC)

imposing a definitive anti-dumping duty on a certain herbicide
originating in Romania

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 459/68 of 5 April 1968 on protection against dumping or the granting of bounties or subsidies, by countries which are not members of the European Economic Community (1), as last amended by Regulation (EEC) No. 1411/77 (2), and in particular Article 17 thereof,

Having regard to the proposal made by the Commission after hearing the opinions expressed in the Advisory Committee set up under Regulation (EEC) No. 459/68,

Whereas the Commission has received a complaint submitted in the name of the Community industry producing DNBP technical (Dinoseb) setting out evidence as to the existence of dumping of the like product originating in Romania as well as material injury resulting therefrom;

Whereas, since the information received indicated that the complaint was admissible and that defensive measures against dumping might be necessary, the Commission officially notified the importers and exporters known to be concerned, published in the Official Journal of the European Communities of 29 December 1978 a notice of the initiation of an anti-dumping procedure concerning imports of a certain herbicide originating in Romania (3) and commenced an examination of the facts;

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- (1) OJ No. L 93, 17.4.1968, p. 1
(2) OJ No. L 160, 30.6.1977, p. 4
(3) OJ No. C 311, 29.12.1978, p. 2

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Whereas, since preliminary examination of the matter showed that there was dumping, that there was sufficient evidence of injury and that the interests of the Community called for immediate intervention, the Commission, by Regulation (EEC) No. 322/79 (4), imposed a provisional anti-dumping duty on a certain herbicide originating in Romania;

Whereas, in the course of the examination of the matter, completed after the imposition of the provisional anti-dumping duty, the Commission gave interested parties the opportunity to make known their views in writing, heard the interested parties and gave to the parties directly concerned the opportunity orally to develop their views and to meet and to present opposing views and rebuttal arguments;

Whereas the information received after the imposition of the above duty did not significantly affect the result of the preliminary investigation but merely provided corroborating evidence;

Whereas when determining dumping on the above-mentioned imports, the Commission had to take account of the fact that in Romania trade is on a basis of near or total monopoly and that prices are fixed by the State and that, therefore, a comparison between the export price of the product to the Community and its domestic price is not appropriate;

Whereas, for these reasons, the Commission has decided to base its dumping calculations on the prices at which a like product of a market economy country, is sold for consumption on the domestic market of that country;

Whereas because of the fact that according to the information submitted to the Commission the United States is the only market economy country apart from the Member States in which DNB technical is produced, the Commission chose the prices of this country as basis for these calculations;

Whereas these calculations were made at ex-factory level, and in respect of sales made as nearly as possible at the same time, due allowance having been made, on their merits, for transport and ancillary costs, packaging, duties and taxation and for other factors affecting price comparability;

Whereas this examination of the matter shows that dumping has taken place, the margin of which exceeds 40% in markets principally concerned;

Whereas, with regard to injury to the industry concerned the evidence available to the Commission shows that imports into the Community of DNB technical originating in Romania began in 1978 only and by the end of that year had reached a level of approximately 350 to 400 tonnes;

Whereas the imports concerned represent a market share in the Community of approximately 40% and in the two main countries of importation 49% and 68% respectively;

Whereas the prices of these imports on the Community markets have been extremely low, thus exercising a depressive effect on the Community producers' prices;

Whereas this development has taken place to the detriment of the Community industry and therefore placed it in an extremely difficult situation, characterized by sales at prices far below the European costs of production, by a decline in production of approximately 60%, by a significant loss of sales and market share, by almost complete absence of new orders for 1979, and by the imminent loss of jobs;

Whereas, therefore, the facts as finally established show that, due consideration having been given to the other factors having a bearing on the situation of this industry, as, for example, the decline of exports to countries outside the Community, the dumped imports are causing and threatening to cause material injury to the Community industry;

Whereas in these circumstances, the interests of the Community call for the definitive collection of the amounts secured by way of provisional duty in respect of DNBP technical of Romanian origin and for the imposition of a definitive anti-dumping duty the rate of which, having regard to the extent of injury caused, should approximate to the dumping margins established;

HAS ADOPTED THIS REGULATION :

Article 1

1. A definitive anti-dumping duty is hereby imposed on DNBP technical (Dinoseb) falling within Common Customs Tariff subheading ex 29.07 C III or ex 38.11 D and corresponding to NIMEXE codes ex 29.07-59 or ex 38.11-50, 70, originating in Romania and exported by Chimimportexport, Bucharest. The provisions in force for the application of customs duties shall apply for the application of this duty.

2. The said duty shall be at a rate of 40% on the basis of the value declared in conformity with Commission Regulation (EEC) No. 375/69 of 27 February 1969 (1) on the declaration of particulars relating to the value of goods for customs purposes.

Article 2

The amounts secured by way of provisional duty under Regulation (EEC) No. 322/79 shall be definitively collected.

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,

(1) OJ. No. L 52, 3.3.69, p. 1

