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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 3650/87

of 3 December 1987

imposing a definitive anti-dumping duty on imports of ferro-silicon originating in Brazil

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2176/84 of 23 July 1984 on protection against dumped or subsidized imports from countries not members of the European Economic Community⁽¹⁾, as amended by Regulation (EEC) No 1761/87⁽²⁾, and in particular Article 12 thereof,

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

Whereas :

A. Provisional action

- (1) The Commission, by Regulation (EEC) No 2409/87⁽³⁾, imposed a provisional anti-dumping duty on imports of ferro-silicon originating in Brazil.

B. Subsequent procedure

- (2) Following the imposition of the provisional duty the Association of Brazilian Ferro-alloys Manufacturers (ABRAFA) and one importer which had hitherto not cooperated in the investigation requested, and were granted an opportunity to be heard by the Commission. The Commission informed them in detail of the facts on which it had based its provisional findings. They also made written submissions making known their views on the findings.
- (3) The parties were also informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of a definitive duty and the definitive collection of amounts

secured by way of a provisional duty. They were granted a period within which they could make representations and their comments were taken into consideration.

C. Dumping

- (4) No fresh evidence regarding dumping has been submitted. The conclusion reached at the provisional stage is therefore confirmed.

D. Injury

- (5) As mentioned in point 2 one hitherto unknown importer of ferro-silicon made itself known to the Commission. This importer claimed to have purchased ferro-silicon from a Brazilian manufacturer which did not cooperate in the proceeding. If the information given by this importer orally — although not verifiable — were correct the imports from Brazil were somewhat higher than those provisionally established and, as a result, the market share held by these imports was in excess of that given in point 11 of Regulation (EEC) No 2409/87. No fresh evidence regarding the other injury elements referred to in points 10, 11 and 12 of that Regulation has been submitted. The conclusions reached at the provisional stage are therefore confirmed. It is therefore definitively concluded that dumped imports of ferro-silicon originating in Brazil, taken in isolation, have to be considered as causing material injury to the Community industry.
- (6) The Brazilian exporter referred to in the second subparagraph of point 3 of Regulation (EEC) No 2409/87 has now revealed that it did not, after all, make export shipments to the Community and should therefore not be referred to as not having cooperated.

E. Community interest

- (7) No arguments other than those dealt with in point 13 of Regulation (EEC) No 2409/87 were made. The conclusions drawn therein are endorsed.

⁽¹⁾ OJ No L 201, 30. 7. 1984, p. 1.

⁽²⁾ OJ No L 167, 26. 6. 1987, p. 9.

⁽³⁾ OJ No L 219, 8. 8. 1987, p. 24.

F. Undertaking

- (8) The Brazilian industry's association, ABRAFA, offered an undertaking concerning exports of ferro-silicon by its members to the Community.

After consultations, this undertaking was not considered acceptable by the Commission. The association was informed of the reasons therefor.

G. Definitive collection of the amounts secured by way of provisional duty; imposition of a definitive duty

- (9) No arguments other than those dealt with in point 14 of Regulation (EEC) No 2409/87 were made. The conclusions drawn therein are endorsed. In view of this, a definitive anti-dumping duty should be imposed on imports of ferro-silicon originating in Brazil and the amount secured by way of the provisional anti-dumping duty imposed by Regulation (EEC) No 2409/87 should be collected,

HAS ADOPTED THIS REGULATION :

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of ferro-silicon falling within subheading

73.02 C of the Common Customs Tariff, corresponding to NIMEXE code 73.02-30, originating in Brazil.

2. The amount of the duty shall be 59 ECU per tonne, net.

3. The duty shall not apply to products manufactured and exported by Companhia Brasileira Carbureto de Calcio CBCC S.A., Italmagnesio S.A., and Electrometalur SA Indústria e Comércio.

4. The provisions in force concerning customs duties shall apply.

Article 2

The amounts secured by way of provisional anti-dumping duty under Regulation (EEC) No 2409/87 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, 3 December 1987.

For the Council

The President

C. CHRISTENSEN