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*(Acts whose publication is obligatory)***COUNCIL REGULATION (EEC) No 3642/92**

of 14 December 1992

imposing a definitive anti-dumping duty on imports of ferrosilicon originating in Poland and Egypt and authorizing the definitive collection of the provisional anti-dumping duty

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community⁽¹⁾, and in particular Article 12 thereof,

Having regard to the Commission proposal, submitted after consultation with the Advisory Committee as provided for in the above Regulation,

Whereas :

A. Provisional measures

- (1) By Regulation (EEC) No 1808/92⁽²⁾, the Commission imposed a provisional anti-dumping duty on imports of ferrosilicon originating in Poland and Egypt. The provisional anti-dumping duty was extended for a maximum of two months by Regulation (EEC) No 2778/92⁽³⁾.

B. Subsequent procedure

- (2) Following the imposition of the provisional anti-dumping duty, the Polish exporter concerned made its views on the conclusions of the investigation known in writing.
- (3) At its request, the exporter was informed of the principal facts and considerations on the basis of which the Commission proposed to recommend the imposition of a definitive duty and the definitive collection of amounts secured by way of the provisional duty. The Poles' written comments were

taken into account and the Commission's conclusions amended accordingly as appropriate.

C. Dumping

- (4) In Regulation (EEC) No 1808/92 the Commission calculated the dumping margin for each exporter as equal to the difference between the normal value and the price of exports to the Community, duly adjusted.
- (5) On the basis of the free-at-Community-frontier price, the average weighted margin for the exporters concerned was established as follows :
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|--|---------|
| — Poland's producers/exporters : | 43,9 %, |
| — the Egyptian producer/exporter Efaco,
Egyptian Ferroalloys Co : | 61,5 %. |
- (6) As no further information has been forthcoming since the imposition of the provisional duty, the conclusions of Regulation (EEC) No 1808/92 in respect of dumping are confirmed by the Council.

D. Injury

- (7) No further information concerning the injury established over the period of the investigation or regarding the causal link between injury and dumping has been submitted since the imposition of the provisional duty.

The conclusions of Regulation (EEC) No 1808/92 in respect of injury are therefore confirmed.

E. Community interest

- (8) No Community users of ferrosilicon imported from Poland or Egypt have made their views known within the period specified in Article 2 of Regulation (EEC) No 1808/92.
- (9) As regards the need to impose anti-dumping measures, a Polish exporter has highlighted the changes engendered by Poland's transition to a market economy. The exporter concerned stresses the general increase in Polish production costs

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 1.

⁽²⁾ OJ No L 183, 3. 7. 1992, p. 8.

⁽³⁾ OJ No L 281, 25. 9. 1992, p. 1.

entailed by these changes, and claims that this will cause the prices of Polish products sold on the Community market to rise, thus ceasing to cause injury to the Community industry.

The Commission observes that the Polish exporter provides no figures in support of these claims, nor does it supply any evidence that export prices have risen.

- (10) The undertaking accepted (see below) takes account of the production costs of a producer in a market economy country and of the situation of the Community industry. If the Polish producer's costs, and hence export prices rise, the undertaking places no further restraint on the Polish producer's exports, while at the same time protecting the Community industry from the injury caused by dumping.

Thus, the imposition of anti-dumping measures should not bar products originating in Poland from the Community market, where Community production is not sufficient to meet demand.

- (11) However, the Commission also had to take account of the worrying state of the Community industry, and of the likelihood of the situation worsening, which could lead to the disappearance of the sector altogether in the absence of appropriate measures.
- (12) The Commission notes that if any of the parties concerned supplies evidence of a change of circumstances with regard to the normal value, export prices or the injury, for example, the case may be re-examined, in accordance with Article 14 of Regulation (EEC) No 2423/88.
- (13) The Commission confirms its conclusions concerning Community interest as set down in recitals 31 to 34 of Regulation (EEC) No 1808/92. The Council confirms that it is in the Community interest to impose anti-dumping measures.

F. Undertakings

- (14) On being apprised of the principal conclusions of the preliminary investigation, an Egyptian producer proposed a price undertaking which the Commission accepted in its Decision 92/331/EEC⁽¹⁾.
- (15) In its Decision 92/572/EEC⁽²⁾, the Commission also accepts the undertaking proposed by the Polish producer Huta Laziska. The Advisory Committee has expressed no objection in this matter.

G. Definitive duty

- (16) The provisional anti-dumping duty imposed in Regulation (EEC) No 1808/92 (recital 36) was

calculated to remove the injury caused to the Community industry. The parties concerned made no representations to the Commission.

For this reason, and because it is possible that other Egyptian and Polish producers may export to the Community at dumping prices, the Commission's provisional conclusions are confirmed. Consequently, a definitive anti-dumping duty should be imposed on producers/exporters who have not given an undertaking, at the same rate as the provisional duty, namely 32 %.

H. Collection of provisional duty

- (17) By virtue of the extent of the dumping margins established and the seriousness of the injury caused to Community producers, it is also necessary to collect definitively and in their entirety 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 imports of ferrosilicon originating in Poland and Egypt containing 10 to 96 % silicon by weight and falling within CN codes 7202 21 10, 7202 21 90 and ex 7202 29 00 (taric code 7202 29 00*10).
2. The rate of the duty, expressed as a percentage of the net, free-at-Community-frontier price, before duty shall be 32 % for Poland and Egypt.
3. The duty shall not apply to products manufactured by :
 - the Egyptian company Efac, the Egyptian Ferroalloys Company, Cairo,
 - the Polish company Huta Laziska Ferroalloys Plant, Laziska-Gorne (additional Taric codes are given in the Annex).
4. The provisions in force concerning customs duties shall apply.

Article 2

The amounts secured by way of provisional anti-dumping duty imposed by Regulation (EEC) No 1808/92 shall be collected definitively and in their entirety.

Article 3

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

⁽¹⁾ OJ No L 183, 3. 7. 1992, p. 40.

⁽²⁾ See page 32 of this Official Journal.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 14 December 1992.

For the Council

The President

N. LAMONT

ANNEX

Origin	Additional codes	Companies/Rates
EGYPT	8685	Ferrosilicon produced for export to the Community by Efaco, the Egyptian Ferroalloys Company, Cairo : no anti-dumping duty
EGYPT	8686	Others : 32 %
POLAND	8688	Ferrosilicon produced for export to the Community by Huta Laziska Ferroalloys Plant, Laziska-Gorne : no anti-dumping duty
POLAND	8689	Others : 32 %