

COMMISSION DECISION

of 11 June 2009

terminating the anti-subsidy proceeding concerning imports of sodium metal originating in the United States of America

(2009/452/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidized imports from countries not members of the European Community⁽¹⁾ ('the basic Regulation'), and in particular Article 14 thereof,

After consulting the Advisory Committee,

Whereas:

1. PROCEDURE

1.1. Initiation

- (1) On 23 July 2008 the Commission initiated, by a notice published in the *Official Journal of the European Union*⁽²⁾ ('notice of initiation'), an anti-subsidy proceeding concerning imports into the Community of sodium, in bulk, originating in the United States of America ('USA'), normally declared within CN code ex 2805 11 00 ('the product concerned').
- (2) The proceeding was initiated following a complaint lodged on 10 June 2008 by the sole Community producer Métaux Spéciaux (MSSA SAS) ('the complainant').
- (3) On 23 July 2008 the Commission initiated an anti-dumping investigation concerning imports of the same product originating in the USA⁽³⁾. This investigation has been terminated by means of Commission Decision 2009/453/EC⁽⁴⁾.

1.2. Parties concerned and verification visits

- (4) Prior to the initiation of the proceeding and in accordance with Article 10(9) of Regulation (EC) No 2026/97, the Commission notified the representatives of the USA that it had received a properly documented complaint alleging that subsidised imports of sodium, in bulk, originating in the USA were causing material injury to the Community industry. The representatives of the USA were invited for consultations with the aim of clarifying the situation as regards the contents of the complaint and arriving at a mutually agreed solution.

The representatives of the USA accepted the offer of consultations and consultations were subsequently held on 11 July 2008. During the consultations, no mutually agreed solution could be arrived at. However, due note was taken of comments made by the representatives of the USA in regard to the allegations contained in the complaint, concerning the countervailability of the alleged subsidy.

- (5) The Commission officially advised the complainant, the sole known exporter/producer in the USA, the importers and users known to be concerned, and the representatives of the USA of the initiation of the proceeding. The interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.
- (6) The Commission sent questionnaires to all parties known to be concerned and received replies from the representatives of the USA, from the sole exporting producer in the USA ('the cooperating exporting producer'), from the complainant and three Community users.
- (7) The Commission sought and verified all information it deemed necessary for the determination of subsidisation, resulting injury and Community interest.
- (8) Verification visits were carried out at the premises of the following representative of the USA:
 - New York Power Authority (NYPA), White Plains, New York.
- (9) Verification visits were also carried out at the premises of the following companies:
 - Community producer:
 - Métaux Spéciaux (MSSA SAS), Saint-Marcel, France.
 - Exporting producer in the USA:
 - DuPont Reactive Metals (DuPont), Niagara Falls, New York, and E.I. DuPont De Nemours and Company, Wilmington, Delaware.

Community users:

- Rohm and Haas Europe SARL, Morges, Switzerland,
- Evonik Degussa GmbH, Frankfurt, Germany.

⁽¹⁾ OJ L 288, 21.10.1997, p. 1.

⁽²⁾ OJ C 186, 23.7.2008, p. 35.

⁽³⁾ OJ C 186, 23.7.2008, p. 32.

⁽⁴⁾ See page 76 of this Official Journal.

1.3. Investigation period and period considered

- (10) The investigation of subsidisation and injury covered the period from 1 July 2007 to 30 June 2008 ('investigation period' or 'IP'). The examination of the trends relevant for the assessment of injury covered the period from 1 January 2005 to the end of the investigation period ('period considered').

2. WITHDRAWAL OF THE COMPLAINT AND TERMINATION OF THE PROCEEDING

- (11) By a letter dated 1 April 2009 addressed to the Commission, the complainant formally withdrew its complaint. According to the complainant this withdrawal was prompted by changed circumstances.
- (12) In accordance with Article 14(1) of the basic Regulation, the proceeding may be terminated where the complaint is withdrawn unless such termination would not be in the Community interest.
- (13) The Commission considered that the present proceeding should be terminated since the investigation had not brought to light any consideration showing that such termination would not be in the Community interest. Interested parties were informed accordingly and were

given the opportunity to comment. However, no comments were received indicating that such termination would not be in the Community interest.

- (14) The Commission therefore concludes that the anti-subsidy proceeding concerning imports into the Community of sodium, in bulk, originating in the USA should be terminated without the imposition of counter-vailing measures,

HAS DECIDED AS FOLLOWS:

Sole Article

The anti-subsidy proceeding concerning imports of sodium, in bulk, falling within CN code ex 2805 11 00, originating in the United States of America, is hereby terminated.

Done at Brussels, 11 June 2009.

For the Commission
Catherine ASHTON
Member of the Commission