

UNITED STATES TARIFF COMMISSION

January 26, 1961

AA 1921--157

NEPHELINE SYENITE FROM CANADA

Determination of No Injury or Likelihood Thereof

Introduction

On October 26, 1960 the United States Tariff Commission was advised by the Acting Secretary of the Treasury that nepheline syenite from Canada is being, or is likely to be, sold in the United States at less than fair value as that term is used in the Antidumping Act, 1921, as amended. In accordance with the requirements of section 201(a) of the Antidumping Act, as amended (19 U.S.C. 160(a)), the Tariff Commission instituted an investigation to determine whether an industry in the United States is being, or is likely to be, injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation was published in the Federal Register of November 3, 1960 (25 F.R. 10584). No public hearing in connection with the investigation was ordered by the Commission, but interested parties were referred to section 208.4 of the Commission's Rules of Practice and Procedure (19 CFR 208.4) which provides that interested parties may, within 15 days after the date of publication of the Commission's notice of investigation in the Federal Register, request that a public hearing be held, stating reasons for the request. Interested parties were granted the opportunity to submit written statements pertinent to the subject matter of the investigation.

No request for a hearing was made by any interested party, but written statements were received from the attorneys for the Canadian exporters and three domestic feldspar producers. These statements were given due consideration by the Commission, together with all other information available to the Commission on this subject, in arriving at a determination in this case.

Nepheline syenite is not produced in the United States, but it competes in certain regions with domestically produced feldspar, principally in the manufacture of glass. Three domestic feldspar producers allege that they have been injured by imports of nepheline syenite from Canada which were sold at less than fair value.

#### Determination

On the basis of the investigation, the Commission has unanimously determined (Commissioners Schreiber and Sutton not participating because of absence) that an industry in the United States is not being, and is not likely to be, injured, or prevented from being established, by reason of the importation of nepheline syenite from Canada sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

#### Statement of Reasons

The Acting Secretary of the Treasury determined that the proper fair value comparison was between the purchase price and the home market value. The margin of difference found to exist between these values resulted for all practical purposes from two aspects of the pricing

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policies of the Canadian exporters, namely, a policy to disregard the rate of exchange between the U.S. and Canadian dollar, and a policy to absorb part of the freight charges.

The practice of quoting the price of nepheline syenite in Canadian dollars to purchasers in Canada and the same number of U.S. dollars to purchasers in the United States, was an historic pricing policy of the two Canadian exporters. This pricing policy was established when the two currencies were virtually at par and continued during a period of some 13 years when the U.S. dollar was at a substantial premium. When the value of the Canadian dollar became higher than the value of the U.S. dollar, the sale price of nepheline syenite for export to the United States in U.S. dollars became lower than its home market price in Canada when expressed in U.S. dollars. However, as soon as the two companies were apprised of the significance of the practice under the Antidumping Act, they immediately proceeded to change that policy and to take cognizance of the prevailing exchange rates. These changes were made by one company on November 12, 1959, and by the other on November 16, 1959. Since those dates there have been no sales to U.S. purchasers at less than fair value attributable to differentials in the currency exchange rates.

The freight absorption aspect of this case emerged when domestic feldspar producers gained a more favorable competitive position as a result of certain freight reductions that were made applicable to their product in the United States. Following these changes in freight rates, the Canadian exporters began, in January 1959, to absorb a sufficient part of the freight charges to equal the most recent freight advantages

obtained by the domestic feldspar producers. The freight absorptions caused the price of some nepheline syenite to U.S. importers to be lower than its price to purchasers in Canada for home consumption. The evidence shows that the exporters were endeavoring to retain, rather than to expand, their market in the United States; that they in fact did not take a single customer away from the feldspar industry by reason of this practice; and that the domestic feldspar industry was able to expand during the period when part of the freight charges were absorbed.

The freight absorption practice was discontinued by both exporters in March 1960, several months before customs officials had actual knowledge of it. Moreover, one exporter adjusted its home market price in such a fashion in November 1959 that no actual sales at less than fair value resulted from freight absorption after November 1959.

The Canadian exporters demonstrated full cooperation with U.S. customs officials in seeking a way to remove any basis for a charge of "dumping." To accomplish this they reduced their home market price to the extent necessary to obviate any need for absorption of freight charges and now sell to all purchasers, including those in Canada, at prices in terms of U.S. dollars.

The evidence does not show that the domestic feldspar industry has suffered injury attributable to the past pricing policies of the Canadian exporters. The new pricing policies adopted by the Canadian exporters obviate the need for any absorption of freight charges; due regard is now given by the exporters to the prevailing rates of exchange; and the former pricing policies that resulted in the sales at

less than fair value were without predatory purpose and have been abandoned. Accordingly, the resumption of the former pricing policies is not likely and, therefore, a domestic industry is not likely to be injured by reason of the importation from Canada of nepheline syenite that is sold below its fair value.

This determination and statement of reasons are published pursuant to section 201(c) of the Antidumping Act, 1921, as amended.

By the Commission:

DENN N. BENT  
Secretary