

COMMISSION REGULATION (EEC) No 1411/81

of 25 May 1981

imposing a provisional anti-dumping duty on orthoxylene (o-Xylene) originating in Puerto Rico and the United States of America

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3017/79 of 20 December 1979 on protection against dumped or subsidized imports from countries not members of the European Economic Community⁽¹⁾, and in particular Article 11 thereof,

After consultations within the Advisory Committee set up under Regulation (EEC) No 3017/79,

Whereas in September 1980 the Commission received a complaint lodged by the European Council of Chemical Manufacturers' Federations (CEFIC) on behalf of manufacturers accounting for the major part of the Community production of orthoxylene;

Whereas, since the complaint provided sufficient evidence of dumping in respect of the like product originating in Puerto Rico and the United States of America and of material injury resulting therefrom, the Commission accordingly announced, by a notice published in the *Official Journal of the European Communities*⁽²⁾, the initiation of a proceeding concerning imports of orthoxylene originating in Puerto Rico and the United States of America and commenced an investigation of the matter at Community level;

Whereas the Commission officially so advised the exporters and importers known to be concerned, as well as the representatives of the exporting country and the complainants;

Whereas the Commission has given all parties directly concerned the opportunity to make known their views in writing and to be heard orally; whereas several of the importing and exporting parties known to be concerned have taken the opportunity to make known

their views in writing; whereas certain traders and exporters did not reply to the questionnaires addressed to them by the Commission;

Whereas, in order to arrive at a preliminary determination of dumping and injury, the Commission sought to obtain and verify all information which it deemed to be necessary and carried out inspections at the premises of the major producers, namely: Shell Chemical Company, Houston, Texas; Arco Chemical Company, Philadelphia, Pennsylvania; Sun Petroleum Products Company, Philadelphia, Pennsylvania and the Commonwealth Oil Refining Company Inc., San Antonio, Texas; whereas inspections were also carried out at the premises of Phillips Petroleum Chemicals NV/SA, Overijse, Belgium in connexion with sales made by two related exporters, International Petroleum Sales Inc., Panama and Phillips Paraxylene Inc., Puerto Rico;

Whereas the Commission also carried out inspections at the premises of all the complainant producers, viz, Deutsche Shell Chemie GmbH, Frankfurt; Veba Oel, Gelsenkirchen; Deutsche BP und California, Düsseldorf; BP California, London; Shell International Chemical Company Ltd, London; ANIC, Milan; Montedison, Milan and Total Chimie, Paris;

Whereas, for the preliminary examination of dumping, the Commission compared export prices to the Community with domestic prices on the US market;

Whereas, in the absence of separate external trade statistics for Puerto Rico and given that sales from this area were mostly handled by US mainland organizations, it was considered that prices charged on sales from this area to the United States should be taken as constituting normal value; whereas, in those cases where producers did not sell directly to the European Community, the export price was taken as that at which they sold to traders or dealers for onward export to the EEC; whereas, for these comparisons, weighted average fob prices were used for the last three quarters of 1980, account being taken, where appropriate, of differences affecting price-comparability such as differences in the level of trade;

(1) OJ No L 339, 31. 12. 1979, p. 1.

(2) OJ No C 286, 5. 11. 1980, p. 3.

Whereas, with respect to specific companies investigated, the preliminary results were as follows :

<i>Company</i>	<i>Weighted average dumping margin</i>
— Sun Petroleum	10.73 %
— Arco	4.96 %
— Shell	14.47 %
— Corco	4.43 %
— Phillips Petroleum : no dumping was found in respect of their exports of orthoxylene to the Community ;	

Whereas, with regard to the injury caused by the dumped imports to the Community industry, the evidence available to the Commission during the preliminary investigation showed that total imports of orthoxylene from the sources concerned into the Community increased from approximately 55 000 tonnes in 1978 to approximately 102 000 tonnes in 1980 ; whereas it was shown that approximately 80 % of these imports were made at dumped prices ;

Whereas the market share of these dumped imports in the Community was approximately 14 % in 1980 ;

Whereas, since most of the importers concerned were not willing to provide information to the Commission, the Commission was unable to verify the resale prices of orthoxylene imported at dumped prices ;

Whereas, however, the resale prices of the EEC industry had steadily fallen in 1980 and there was evidence that customers had cancelled their contracts with the Community industry to buy dumped material from the areas concerned, thus further depressing the EEC producers' prices ; whereas all the Community industry has suffered heavy losses in 1980 ;

Whereas production of orthoxylene in the Community fell from 560 000 tonnes in 1978 to 291 000 tonnes in 1980 and capacity utilization fell from 70.7 % in 1978 to 58.8 % in 1980 ;

Whereas the Commission has considered the injury caused by other factors which, individually or in combination, may also be affecting the Community industry ; whereas it was determined that the level of demand and consumption in the Community remained relatively stable ; whereas imports from countries other than those named in the complaint have been fairly constant at considerably lower volumes than those from Puerto Rico and the United States of America ;

Whereas, in view of the foregoing, the Commission has provisionally concluded that the dumped imports are causing material injury ;

Whereas, in these circumstances and in order to prevent further injury being caused during the proceeding, the interests of the Community call for immediate intervention consisting in the imposition of a provisional anti-dumping duty on imports of orthoxylene originating in Puerto Rico and the United States of America at a rate which, having regard to the extent of injury caused, should be equal to the dumping margin provisionally established ; whereas the Commission has also considered the effects which any protective measures would have on the downstream products for which orthoxylene is one of the raw materials ; whereas those effects, coupled with the level of the provisional duty, have not led to other conclusions ;

Whereas one of the parties concerned, Arco Chemical Company, has meanwhile voluntarily undertaken to increase its prices to levels which eliminate the dumping margins found ; whereas the Commission considers this undertaking to be acceptable ; whereas it is consequently appropriate to exclude the imports of the products manufactured and exported by this company from the application of the duty,

HAS ADOPTED THIS REGULATION :

Article 1

1. A provisional anti-dumping duty is hereby imposed on orthoxylene falling within Common Customs Tariff subheading 29.01 D I and corresponding to NIMEXE code 29.01-65 originating in Puerto Rico and the United States of America.

2. This duty shall not apply to orthoxylene exported by :

- Arco Chemical Company,
- Phillips Paraxylene Inc. and International Petroleum Sales Inc., Panama, members of the Phillips Petroleum Group.

3. The rate of the duty shall be 14.47 % on the basis of the customs value determined in accordance with Council Regulation (EEC) No 1224/80 of 28 May 1980 on the valuation of goods for customs purposes⁽¹⁾, except for exports made by the following companies for which the rate of duty shall be :

- Commonwealth Oil Refinery Co. Inc., San Antonio, Texas : 4.43 %,
- Sun Petroleum Chemicals Co., Philadelphia, Pennsylvania : 10.73 %.

4. The provisions in force concerning customs duties shall apply for the application of this duty.

⁽¹⁾ OJ No L 134, 31. 5. 1980, p. 1.

5. The release for free circulation in the Community of the products referred to in paragraph 1 shall be subject to the provision of a security equivalent to the amount of the provisional duty.

Article 2

Without prejudice to Article 7 (4) (b) and (c) of Regulation (EEC) No 3017/79, the parties concerned may make known their views and apply to be heard orally by the Commission within a month of the entry into force of this Regulation.

Subject to Articles 11, 12 and 14 of Regulation (EEC) No 3017/79, this Regulation shall be applicable for four months or until the adoption by the Council of definitive measures.

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, 25 May 1981.

For the Commission

Wilhelm HAFERKAMP

Vice-President
