COUNCIL REGULATION (EEC) No 1570/81

of 11 June 1981

imposing a definitive anti-dumping duty on styrene monomer originating in the United States of America

THE COUNCIL 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 12 thereof,

Having regard to the proposal submitted by the Commission after consultation with the Advisory Committee set up under Article 6 of Regulation (EEC) No 3017/79,

Whereas the Commission, by Regulation (EEC) No 384/81 [2], imposed a provisional anti-dumping duty of 4 % on imports of styrene monomer originating in the United States of America, with the exception of styrene monomer exported by :

— Borg Warner Chemicals,

— Cosden Oil and Chemical Company,

— Cosden International Sales Company,

— Monsanto International Sales Company ;

Whereas, the Commission, by Regulation (EEC) No 1321/81 [3], subsequently increased the amount of the provisional anti-dumping duty to 14·8 %, this being equal to the weighted average dumping margin provisionally established for the third quarter of 1980 ;

Whereas the Commission has since the adoption of Regulation (EEC) No 384/81 requested and received recent information from the US firms whose exports were excluded from the application of the provisional duty ; whereas this shows that the situation of Borg Warner has not changed, and that exports to the Community made by Cosden and Monsanto have continued to be at prices not below normal value ;

Whereas the Commission has otherwise received no additional information in respect of dumping such as to lead it to revise the weighted average dumping margins it has established ; whereas these margins have therefore been considered as definitively established ;

Whereas, with regard to the injury caused by the dumped imports to the Community industry, the Commission has now attempted fully to update and revise all the relevant data for 1980 ;

Whereas imports of styrene monomer of US origin stood at 85 600 tonnes in 1979, 27 400 tonnes in the first quarter of 1980, 24 400 tonnes in the second quarter and 18 300 tonnes in the third quarter, namely, for the first nine months of 1980, an increase on an annual basis of 9·2 % as compared with 1979 ;

Whereas it is difficult to estimate with certainty the exact level of the share which these imports took of the non-captive Community market for styrene, since no official statistics exist regarding the size of the latter ; whereas, on the basis of the best estimate of the non-captive market by the European Council of Chemical Manufacturers' Federations (CEFIC), the share taken by US exports stood at 17 % in 1979, 17 % in the first quarter of 1980, 17 % in the second quarter and 19 % in the third quarter ; whereas, on the basis of the Commission's own estimates of apparent consumption, the share of US exports in the non-captive market may have even been as high as 23 % in the third quarter ; whereas it seems clear in any event that US exports have, for some time, held a substantial share of the non-captive Community market, and that this share increased in the third quarter of 1980 ;

Whereas the average cif value of imported US styrene was $ 853 per tonne in the first quarter of 1980, $ 849 per tonne in the second quarter, and $ 736 per tonne in the third quarter ; whereas this was approximately 10 % below the average unit sales revenue of the complainant Community producers in the first quarter ; whereas, thereafter, the Community producers progressively reduced their prices until, by the third quarter, these had fallen to approximately the same level as the average cif value of imported US styrene ;

Whereas the level of production of the complainant Community producers fell by 12 % between the first

(1) OJ No L 339, 31. 12. 1979, p. 1.
(2) OJ No L 42, 14. 2. 1981, p. 14.
(3) OJ No L 132, 19. 5. 1981, p. 17.

and second quarters of 1980, and by 24 % between the second and third quarters, bringing their average level of capacity utilization down from 80 % to 53 % ;

Whereas the average unit sales price of the complainant producers fell from $ 943 per tonne in the first quarter of 1980 to $ 875 per tonne in the second quarter and $ 725 per tonne in the third quarter, whereas this latter level was considerably below the level required to cover the costs of production, thereby leading to losses for the producers, which were in some cases substantial ;

Whereas, as regards the injury caused by other factors which, individually or in combination, are also affecting Community production, the Commission has received no information since the adoption of Regulation (EEC) No 384/81 which might lead it to revise the conclusions reached in the said Regulation in this respect ; whereas the Commission has therefore definitively concluded that the dumped imports have caused material injury to the Community industry concerned ;

Whereas, in these circumstances, protection of the Community's interests calls for the imposition of a definitive anti-dumping duty on styrene monomer originating in the United States of America which, having regard to the extent of the injury caused, should be equal to the weighted average dumping margin established for the third quarter of 1980, and for the definitive collection in their entirety of the amounts secured by way of provisional anti-dumping duty ;

Whereas, for the reasons indicated above, exports of styrene to the Comuunity by the following firms should be excluded from the application of this definitive anti-dumping duty :

— Borg Warner Chemicals,

— Cosden Oil and Chemical Company,

— Cosden International Sales Company,

— Monsanto International Sales Company ;

Whereas Gulf Oil Chemicals Company has requested that it too should be excluded from the application of any anti-dumping duty on the grounds that it was willing to cooperate fully with the Commission in its investigation, that it was not responsible for any of the dumped exports to the Community, and that Gulf's position as a major styrene producer in the Community with no captive consumption means that it cannot possibly have any interest in damaging the non-captive Community market by future exports of dumped styrene onto it ; whereas, since these arguments are sufficient grounds for exclusion, exports to the Community by Gulf Oil Chemicals Company should be excluded from the application of the definitive anti-dumping duty ;

Whereas, since Dow Chemical Company has lodged a request for exclusion on analogous grounds, its exports to the Community should likewise be excluded from the application of the definitive anti-dumping duty,

HAS ADOPTED THIS REGULATION :

Article 1

1. A definitive anti-dumping duty is hereby imposed on styrene monomer falling within Common Customs Tariff subheading 29.01 D II and corresponding to NIMEXE code 29.01-71 originating in the United States of America.

2. This duty shall not apply to styrene monomer exported by :

— Borg Warner Chemicals,

— Cosden Oil and Chemical Company,

— Cosden International Sales Company,

— Dow Chemical Company,

— Gulf Oil Chemicals Company,

— Monsanto International Sales Company.

3. This duty shall be equal to 14·8 % of the price free-at-Community frontier.

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

Article 2

The amounts secured by way of provisional anti-dumping duty pursuant to Regulation (EEC) No 384/81 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 Luxembourg, 11 June 1981

For the Council

The President

L. GINJAAR