COMMISSION REGULATION (EEC) No 1591/81

of 10 June 1981

imposing a provisional anti-dumping duty on paraxylene (*p*-xylene) originating in Puerto Rico, the United States of America and the US Virgin Islands

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 paraxylene;

Whereas since the complaint provided sufficient evidence of dumping in respect of the like product originating in Puerto Rico, the United States of America and the US Virgin Islands 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 paraxylene originating in Puerto Rico, the United States of America and the US Virgin Islands, 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 and, in particular, there was no response from those traders and exporters dealing with the US Virgin Islands except for one company which had, however, ceased trading with the Community;

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 US producers namely: Amoco Chemicals Corporation, Chicago, Illinois; Shell Chemical Company, Houston, Texas; Arco Chemical Company, Philadelphia, Pennsylvania; Sun Petroleum Products Company, Philadelphia, Pennsylvania; whereas inspections were also carried out at the premises of Phillips Petroleum Chemicals NV/SA, Overijse, Belgium in connection with sales made by two related exporters, International Petroleum Sales Inc, Panama and Phillips Paraxylene Inc, Puerto Rico; whereas all the other firms named in the complaint either did not reply to the Commission's request for information or stated that they were not exporters to the Community of the product in question, or that they did not consider themselves an interested party;

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; ICI Ltd, Wilton; 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, except for Amoco Chemical Corporation which did not have sales of the like product in the ordinary course of trade on the domestic market and whose exports were made to an associated company in the EEC — in this case the average US domestic price of the other manufacturers was used in comparison with an export price constructed on the basis of the price at which the imported product was first resold to an independent buyer; whereas in those cases where producers did not sell directly to the European Community the export price was taken as that at

[1] OJ No L 339, 31. 12. 1979, p. 1.
[2] OJ No C 286, 5. 11. 1980, p. 2.

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, with account being taken, where appropriate, of differences affecting price comparability such as differences in the level of trade;

Whereas given the particular situation of Puerto Rico including the minimal size of its internal market and the fact that most sales from this area were handled by US mainland organizations and were made to the United States, the normal value was established on the basis of prices charged on sales from Puerto Rico to the USA; whereas for the US Virgin Islands the only information available to the Commission was from a single exporter who had ceased trading with the Community and it was, therefore, considered appropriate that the preliminary findings for the US Virgin Islands should be based on the information obtained during the investigation in the USA;

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

Company	*Weighted average dumping margin*
— Shell	2·37 %
— Arco	14·70 %
— Sun Petroleum	6·14 %
— Phillips Petroleum	7·6 %

— Amoco: The vast majority of Amoco's exports were for the captive requirements of their plant at Geel, Belgium. The constructed export price based on the price at which the imported product was first sold to an independent buyer showed that Amoco had been dumping on the free market at a weighted average margin of 3·6 %;

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 paraxylene from the sources concerned into the Community increased from approximately 129 000 tonnes in 1978 to approximately 157 000 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 16 % 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 paraxylene 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 paraxylene in the Community has fallen from 626 000 tonnes in 1978 to 423 000 tonnes in 1980 and capacity utilization from 54·4 % in 1978 to 36·7 % in 1980; whereas BP California, London, had been obliged to cease production of paraxylene at its plant in Scotland;

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 and at considerably lower volumes than those from Puerto Rico, the United States of America and the US Virgin Islands;

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 paraxylene originating in Puerto Rico, the United States of America and the US Virgin Islands, 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 paraxylene is one of the raw materials; whereas those effects, coupled with the level of the provisional duty, have not led to other conclusions;

Whereas three of the parties concerned, Amoco Chemicals Corporation, Arco Chemical Company and Phillips Petroleum Chemicals have meanwhile voluntarily undertaken to increase their prices to levels which eliminate the dumping margins found; whereas the Commission considers these undertakings to be acceptable; whereas it is consequently appropriate to exclude the imports of the products manufactured and exported by these companies from the application of the duty,

HAS ADOPTED THIS REGULATION :

Article 1

1. A provisional anti-dumping duty is hereby imposed on paraxylene falling within Common Customs Tariff subheading 29.01 D I and corresponding to NIMEXE code 29.01-67 originating in Puerto Rico, the United States of America and the US Virgin Islands.

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

— Amoco Chemicals Corporation,

— 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 14·7 % 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 :

— Shell Chemical Company, Houston, Texas : 2·37 %

— Sun Petroleum Chemicals Co., Philadelphia, Pennsylvania : 6·14 %

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

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, 10 June 1981.

For the Commission

Étienne DAVIGNON

Vice-President

(1) OJ No L 134, 31. 5. 1980, p. 1.