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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 2940/81

of 14 October 1981

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

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 Regulation (EEC) No 3017/79,

Whereas the Commission, by Regulation (EEC) No 1591/81 [2], imposed a provisional anti-dumping duty of 14·7 % on imports of *p*-xylene originating in Puerto Rico, the United States of America and the United States Virgin Islands, with the exception of *p*-xylene exported by :

— Amoco Chemicals Corporation, the Arco Chemical Company, Phillips Paraxylene Inc. and International Petroleum Sales Inc., Panama, members of the Phillips Petroleum Group, which voluntarily gave undertakings to increase their prices to levels which eliminated the dumping margins found,

— Shell Chemical Company for which the rate of duty was 2·37 %,

— Sun Petroleum Products Company for which the rate of duty was 6·14 % ;

Whereas, in the course of the subsequent examination of the matter, completed after the imposition of this provisional duty, the interested parties had the opportunity to make known their views in writing and to be heard by the Commission, to inspect non-confidential information relevant to the defence of their interests and to be informed of the essential facts and considerations on the basis of which it was intended to make a final determination ; whereas some of the exporters and importers concerned availed themselves of these possibilities by making known their views in writing and orally ; whereas the Phillips Petroleum Group, Arco Chemical Company, Shell Chemical Company, Sun Petroleum Products Company and Amoco Chemicals Corporation did not dispute the findings of the Commission ;

Whereas the Tenneco Oil Company, Houston, Texas, contacted the Commission to say that they had written in February 1981 in response to the notice announcing the opening of the anti-dumping proceeding on *p*-xylene and had offered full cooperation in the subsequent investigation ; whereas this letter failed to reach the Commission ; whereas Sunoco Overseas Inc. and Sun International Inc. also wrote to the Commission offering to cooperate in an examination of the facts concerning their exports ; whereas on-the-spot investigations at the premises of Tenneco Oil Company, Sunoco Overseas Inc. and Sun International Inc. showed that, in fact, there had been no direct exports of *p*-xylene by these companies in 1980 and that, consequently, it was not possible to determine on the basis of experience that they would not dump if they began exporting ; whereas, in these circumstances, Tenneco Oil Company, Sunoco Overseas Inc. and Sun International Inc. offered price undertakings which reflected the normal values established during the investigation period to allow them to be excluded from the duty ;

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 had provisionally 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 evidence available to the Commission showed that total imports of *p*-xylene from the sources concerned

[1] OJ No L 339, 31. 12. 1979, p. 1.
[2] OJ No L 158, 16. 6. 1981, p. 7.

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 *p*-xylene 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 *p*-xylene in the Community fell from 626 000 tonnes in 1978 to 423 000 tonnes in 1980 and capacity utilization fell from 54·4 % in 1978 to 36·7 % in 1980 ; whereas BP California, London, had been obliged to cease production of *p*-xylene 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 lodged by the European Council of Chemical Manufacturers' Federations (Cefic) have been fairly constant at considerably lower volumes than those from Puerto Rico, the United States of America and the United States Virgin Islands ; whereas the Commission has received no information since the adoption of Regulation (EEC) No 1591/81 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 *p*-xylene originating in Puerto Rico, the United States of America and the United States Virgin Islands, which, having regard to the extent of the injury caused, should be equal to the weighted average dumping margin established for the last three quarters of 1980, and for the definitive collection in their entirety of the amounts secured by way of provisional anti-dumping duty ;

Whereas the Teneco Oil Company, Sunoco Overseas Inc. and Sun International Inc. have voluntarily undertaken to respect the normal values established during the investigation ; whereas the Commission considers these undertakings to be acceptable ; whereas it is consequently appropriate to exclude the imports of the products exported by these companies from the application of the duty ;

Whereas, for the reasons indicated above, exports of *p*-xylene to the Community by the Phillips Petroleum Group, Arco Chemical Company and Amoco Chemicals Corporation should also be excluded from the application of this definitive anti-dumping duty,

HAS ADOPTED THIS REGULATION :

Article 1

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

2. This duty shall not apply to *p*-xylene exported by :

— Amoco Chemicals Corporation,
— Arco Chemical Company,
— Phillips Paraxylene Inc. and International Petroleum Sales Inc., Panama, members of the Phillips Petroleum Group,
— Tenneco Oil Company,
— Sunoco Overseas Inc. and Sun International Inc.

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 Products Co., Philadelphia, Pennsylvania : 6·14 %.

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 1591/81 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*.

[1] OJ No L 134, 31. 5. 1980, p. 1.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 14 October 1981.

For the Council

The President

P. WALKER