COMMISSION REGULATION (EEC) No 384/81

of 13 February 1981

imposing a provisional anti-dumping duty on styrene monomer originating in 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 June 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 styrene monomer;

Whereas since the complaint provided sufficient evidence of dumping in respect of the like product originating in 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 styrene monomer originating in 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, 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 four major US producers and two traders, namely: Borg Warner Chemicals, Parkersburg, W. Virginia; Monsanto Chemical Intermediates Co., St Louis, Missouri; Gulf Oil Chemicals Company, Houston; Cosden Oil and Chemical Company, Dallas; Phillip Brothers, New York and Steuber Company Inc., New York and London; whereas detailed written information was received from Amoco Chemicals Corporation, Chicago and Sun Petroleum Products Company, Philadelphia; whereas, however, owing to the lateness of these submissions it has not been possible for the Commission at this stage to verify this information by inspections at the premises of the firms concerned; whereas consequently this information has only been taken into account to the extent to which it corresponds to verified information; 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 requested and received very detailed written submissions from all the complainant Community producers with respect to the question of injury and causation thereof; whereas the Commission also carried out inspections at the premises of four complainant producers, accounting for a substantial proportion of the total production of the complainants, *viz*: ATO Chimie, Paris; BASF AG, Ludwigshafen; Shell International Chemical Company Limited, London and BP Chemicals Limited, London;

Whereas account was also taken of information submitted by a Community consumer of styrene monomer and of the arguments advanced by him;

Whereas, for the preliminary examination of dumping, the Commission used as the normal value the domestic prices on the United States' market; whereas, for those exports to the Community for which the Commission was able to identify the producer, the latter's weighted average ex-factory price for sales to unrelated customers was taken; whereas in all other cases the Commission took the overall weighted average ex-factory price for sales to unrelated customers of the four US producers visited;

Whereas, as concerns the export price, the Commission used, in so far as the exporter could be identified, the price actually paid or payable for export to the Community; whereas, for the substantial volume of exports of styrene to the Community where the exporter could not be identified, the Commission determined the weighted average export price fob Gulf of Mexico, USA on the basis of the Community's

(1) OJ No L 339, 31. 12. 1979, p. 1.
(2) OJ No C 189, 26. 7. 1980, p. 2.

import statistics, after deduction of the quantities and values relating to identified exports, and of the Commission's best estimate of the difference between the price fob Gulf of Mexico, USA and the price cif Community port;

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

— Gulf has not exported any styrene to the Community since the first half of 1979,

— Borg Warner has only exported indirectly to the Community since the beginning of 1979, and only for its captive requirements; moreover, the contractual arrangements regulating these indirect exports appear to ensure either that the export price is not below normal value, or that in any event the prices and quantities involved do not cause any injury to the free market for styrene in the Community,

— the prices charged by Cosden and Monsanto for their sales to the Community since June 1979 have not been below normal value;

Whereas, for all other exports, the Commission's preliminary examination showed that the export price during the second quarter of 1980 was below normal value and that there was a weighted average dumping margin of 4 %;

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 US styrene monomer into the Community increased from 78 800 tonnes in 1978 to approximately 51 700 tonnes for the first six months of 1980, an increase of 31 % in the monthly average rate of imports;

Whereas the Commission has taken account of the fact that a large part of the styrene monomer production in the Community is consumed captively by the producers themselves; whereas the share of the free, i.e. non-captive, market held by imports increased from 17·2 % in 1979 to 23·6 % for the first six months of 1980;

Whereas, since none of the importers concerned was willing to provide information to the Commission, the Commission was unable to verify the resale prices of styrene of US origin imported at dumped prices; whereas, however, the average import price cif Community frontier of US styrene exported to the Community by firms other than those found not to be dumping has been substantially below the average selling price of styrene produced by Community manufacturers; whereas the weighted average margin of undercutting in the second quarter of 1980 was 14 %, compared with a weighted average level of price undercutting for all Community imports from the USA of 10 % in the first quarter of 1980; whereas the information available to the Commission indicates that a large part of this margin cannot be accounted for by importers' or traders' mark-ups;

Whereas, owing to the homogeneous nature of the product, the effect of this price undercutting has been to exercise a severe downward pressure on Community producers' resale prices; whereas these fell by up to 8·6 % in the second quarter of 1980, compared with the first quarter;

Whereas production in the Community is estimated to have been 14 % lower in the second quarter of 1980 than in the first, falling in June 1980 to a level 27 % below the monthly average for the first quarter and 21 % below the monthly average for 1979; whereas, however, the reduction in the level of Community producers' sales to the non-captive market, where the competition from imported styrene is felt, has in some cases been considerably greater;

Whereas the share of the non-captive Community market for styrene held by Community producers is estimated to have fallen by 7·7 % in the first half of 1980 as compared with 1979, leaving Community producers with an estimated 76·4 % of that market, the whole of the decrease having been lost to exports from the United States of America;

Whereas at present most complainant Community producers are forced to sell at prices which are not sufficient to recover costs and are unable to remedy this situation by means of using more product captively; whereas, as a result, they are incurring losses, some of which are extremely high;

Whereas the Commission has considered the injury caused by other factors which, individually or in combination, are also affecting the Community industry; whereas it has examined in particular the prices and level of non-dumped imports, and the level of consumption of styrene in the Community; whereas the average monthly level of exports to the Community by US exporters found not to be dumping was 6·1 % lower in the first half of 1980 than in 1979; whereas, moreover, the quantities involved only represent a small percentage of total Community imports of styrene; whereas virtually all other imports of styrene into the Community are of Canadian origin; whereas the level has fluctuated considerably from year to year, rising to 28 000 tonnes in the first half of 1980 compared with 34 500 tonnes in the whole of 1979; whereas, however, the Commission is satisfied that these imports are not having an impact on the free market in the Community; whereas consumption in the free market in the Community is expected to be lower in 1980 than in 1979, owing to destocking; whereas there was already evidence of this occurring in the second quarter of 1980; whereas, while this has clearly been a factor causing injury to Community producers, the Commission is convinced, on the basis of the evidence available, that the injury caused by the increased market share of dumped US styrene, and by the accompanying price undercutting, must nevertheless, taken in isolation, be considered as material;

Whereas in these circumstances and in order to prevent 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 styrene monomer originating in 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 in this context, the Commission has considered the effects which any protective measures would have on the downstream products for which styrene monomer is one of the base raw materials; whereas those effects, coupled with the level of the provisional duty, have not led to other conclusions;

Whereas, for the reasons indicated above, exports of styrene to the Community by the following firms should be excluded from the application of the above provisional duty:

— Borg Warner Chemicals,
— Cosden Oil and Chemical Company,
— Cosden International Sales Company,
— Monsanto International Sales Company.

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional 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,
— Monsanto International Sales Company.

3. This duty shall be equal to 4 % of the price free-at-Community frontier.

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, 13 February 1981.

For the Commission

Wilhelm HAFERKAMP

Member of the Commission