

COMMISSION OF THE EUROPEAN COMMUNITIES

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Brussels, 21 April 1981

Proposal for a
COUNCIL REGULATION (EEC)
imposing a definitive anti-dumping duty on vinyl acetate monomer origi-
nating in the United States of America

(submitted to the Council by the Commission)



Com. Del.

EXPLANATORY MEMORANDUM

On 20 November 1980, by Regulation 2999/80(1), the Commission imposed a provisional anti-dumping duty, later extended by Council Regulation 683/81(2), on exports of vinyl acetate monomer originating in the United States of America. This duty was based on the findings made at US Industrial Chemicals Co which was at the time the only US producer found to be dumping and which co-operated with the Commission's investigation.

This company offered an undertaking which was accepted by the Commission. Two other companies (Celanese Chemical Company, Inc. and International Petroleum Sales Co, Inc.) which were found not to be dumping were excluded from the application of this duty.

Subsequent to the imposition of the provisional duty, one of the US exporters (Gantrade Corporation) declared having an interest in the proceeding. The Community producers claimed that even greater price depression occurred in the second half of 1980, that their market shares decreased even further and that account should be taken of the differences in quantities sold both on the US and on the EEC market.

The facts as finally established for the final investigation period (the second half of 1980) show that the exports made by Union Carbide Corporation, Celanese Chemical Company Inc., Gantrade Corporation and Phillips Petroleum Company were sold at dumped prices at margins _____ of 14,02%, 12,92%, 2,63% and 14,27% respectively. For other exporters, either unknown or uncooperative it was not possible to establish that the dumping margin was less than 14,27%. With respect to the injury caused to the EEC industry, it was found that imports increased by approximately 101% when comparing 1980 with 1979, that there was an increase in the market share of dumped imports from the US from 0% in 1979 to 22,7% _____ for the whole of 1980 and that this increase in imports was accompanied by a simultaneous sharp decrease in the already depressed vinyl acetate monomer prices in the EEC, especially during the second half of 1980.

can not be _____ excluded that other US exporters will come forward to offer price undertakings prior to adoption of the Regulation by the Council. On the basis of these facts, the Commission therefore submits to the Council its proposal for a Council regulation, imposing a definitive anti-dumping duty of 14,27% on vinyl acetate monomer originating in the United States of America,

(1) OJ n° L 311, 21.11.1980, p.3

(2) OJ n° L 73, 19.3.1981, p.3

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except for Celanese Chemical Company, Gantrade Corporation and Union Carbide Corporation, for which the rates shall be 12,92%, 2,63 % and 14,02 % respectively, and excluding US Industrial Chemical Co. from the application of the duty. It is further proposed that the amounts secured way of provisional duty should be collected definitively.

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COUNCIL REGULATION (EEC)

imposing a definitive anti-dumping duty on vinyl acetate 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,

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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 all of the Community production of vinyl acetate monomer; whereas the complaint contained evidence of the existence of dumping in respect of the like product originating in the United States of America, and of material injury resulting therefrom;

Whereas the said information provided sufficient evidence to justify initiating a proceeding; whereas 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 vinyl acetate monomer originating in the United States of America, and commenced an investigation of the matter at Community level;

Whereas, for the preliminary investigation, the Commission compared export prices to the Community with domestic prices on the US market; whereas, for these comparisons representative or weighted average ex-factory prices were used for 1979 and the first six months of 1980, and account was taken, where appropriate, of differences affecting price comparability, such as differences in quantities, differences in conditions and terms of sale and differences in the level of trade; whereas the Commission:

(1) OJ No L 339, 31.12.1979, p. 1

(2) OJ No C 169, 9.7.1980, p. 2

established on this basis that virtually no dumping occurred in 1979 but that for the first six months of 1980 exports of the product in question were dumped at a weighted average margin of 10,6%; whereas there was sufficient evidence of injury resulting from their entry for consumption into the Community and since the interests of the Community / called for immediate intervention in order to prevent further injury being caused during the proceeding, the Commission, by Regulation (EEC) No 2999/80(3), imposed a provisional antidumping duty on vinyl acetate monomer originating in the United States of America; whereas exports by three companies were excluded from the application of this duty because no dumping was found with respect to two of them and because an acceptable undertaking to increase export prices was offered by the third company;

Whereas the period of validity of this provisional duty was extended for a period not exceeding two months by Council Regulation (EEC) No 683/81 (4);

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Whereas, in the course of the subsequent examination of the matter, completed after the imposition of the provisional anti-dumping duty, the interested parties had the opportunity to make known their views in writing, to be heard by the Commission and to develop their views orally, 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 the complainants and most of the exporters and importers concerned availed themselves of these possibilities by making known their views in writing and orally;

Whereas one further exporter, Gantrade Corporation (New Jersey), came forward and offered to provide information on normal value and export prices; whereas the Commission, after a careful analysis of the information available decided to carry out inspections at the premises of Union Carbide Corporation (Connecticut), Celanese Chemical Company, Inc. (Texas) and Gantrade Corporation (New Jersey); Whereas Phillips Petroleum Company (Oklahoma) did not consider an on-spot investigation to be necessary because it did not wish to claim any allowance with respect to its normal value;

(3) OJ No L 311, 21.11.80, p. 13

(4) OJ No L 73, 19.3.1981, p. 3

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Whereas, in seeking to determine the existence of dumping the Commission compared the export prices to the Community with the normal value;

Whereas, since all companies concerned sold vinyl acetate monomer on the US domestic market, normal value was established on the basis of their respective prices on the American market during the last six months of 1980, the most recent period for which full information could be verified and which seemed to be representative given the worsening of the situation during the second half of 1980; whereas for those companies which negotiate prices on a quarterly basis certain months were selected, verified and agreed with the companies concerned to be representative for this six months period;

whereas, after discussion and in agreement with the companies concerned, sales to a certain number of customers were considered to be representative for the purpose of calculating the normal value;

however
Whereas certain sales were excluded from this calculation as they were not considered to have been made in the ordinary course of trade or did not permit a proper comparison, either because they involved special processing arrangements or because the volumes involved were not on a comparable basis;

Whereas export prices were determined for the same period on the basis of prices actually paid or payable for the product concerned sold for export to the Community;

Whereas the comparisons were made on a month by month, transaction by transaction, ex-factory or, where applicable, FOB basis for all of the companies visited;

Whereas the Commission also took account of bona fide differences affecting price comparability with respect to variable distribution and selling costs and of payment conditions, where appropriate and where claims in these areas could be satisfactorily demonstrated;

whereas subsequent to oral representations certain companies submitted detailed information with respect to a few minor cost items which was said to differ only marginally from information previously submitted by them; whereas this

information has not been taken into consideration because the Commission's services were no longer in a position to verify it;

of dumping

Whereas the examination showed that exports made during the investigation period were dumped; whereas the ^{weighted average} dumping margins found were 14.02 % for Union Carbide Corporation, 12.92% for Celanese Chemical Company, Inc., 2.63 % for Gantrade Corporation, and 14.27 % for Phillips Petroleum Company;

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Whereas for brokers and exporters either unknown to the Commission or who decided not to cooperate it was not possible to establish that the dumping margin was less than 14,27 %;

Whereas, as regards the injury caused by the dumped imports to the Community, the considerations which led to the imposition of the provisional duty remain valid;

Whereas further information received by the Commission after the imposition of the provisional duty showed that imports into the EEC of the product in question originating in the United States of America increased from 33,894 tonnes in the whole of 1979 to 40665 tonnes in the first half of 1980 and to 55,415 tonnes in the first three quarters of 1980, estimated to be an increase of approximately 101 % on an annual basis;

Whereas the share of the free, i.e. non-captive, vinyl acetate market held by US imports amounted to 9.8 % in 1977, to 16% in 1979 and increased to approximately 32.3% in 1980; whereas the total market share of dumped imports increased from ^{0% in 1979 to} 21.6 % in the first six months of 1980, to 23.9 % for the second half of 1980 or 22.7 % for the whole year;

Whereas this increase in dumped imports was accompanied by a simultaneous sharp decrease in the already depressed vinyl acetate monomer prices in the EEC, especially during the second half of 1980;

.../...

Whereas the consequent impact of the increased imports and lower prices accentuated the price depression and led to further reduction of market shares held by the EEC producers from 89.5% in 1977 to 83.1% in 1979, to approximately 65.8% in 1980; whereas some Community producers have sharply reduced their production levels as a result; whereas others have tried to maintain remaining market shares by selling at ever lower prices;

11 Whereas all Community producers are still forced to sell at prices which are not sufficient to recover the increased costs and are unable to remedy this situation by means of using more product captively; whereas as a result, all producers 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 determined in this context that the level of demand and consumption in the Community is still relatively stable in spite of certain market fluctuations; whereas, moreover, the volume of non-dumped imports was relatively small compared to total imports, and represented less than 13.1% thereof in the last half of 1980 or 29.6% for the whole year; whereas the influence of these non-dumped imports on the vinyl acetate monomer market has been isolated from the dumped imports; whereas the substantial and sudden increase of imports of dumped vinyl acetate monomer since 1977 and the prices at which they were offered for sale in the Community led the Commission to determine that the US exports of dumped vinyl acetate monomer considered in isolation have caused material injury to the Community industry concerned;

39 Whereas, in these circumstances, protection of the Community's interests calls for the imposition of a definitive anti-dumping duty on vinyl acetate monomer originating in the United States of America which, having regard to the extent of injury caused, should be equal to the dumping margins found, and for the definitive collection of the amounts secured by way of provisional duty in respect of the product concerned at the rate of the provisional duty;

regl.
cf 2999

Whereas prior to imposition of the provisional duty the Commission accepted the undertaking offered by US Industrial Chemicals Co.; whereas it is consequently appropriate to continue 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 definitive anti-dumping duty is hereby imposed on vinyl acetate monomer falling within Common Customs Tariff subheading ex 29.14 A II c) 1 and corresponding to NIMEXE code 29.14-32, originating in the United States of America.

2. The rate of the duty shall be 14,27% 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)

3. Notwithstanding paragraph 2 above,
for Celanese Chemical Company the rate shall be 12,92%
for Gantrade Corporation the rate shall be 2.63%; and for
Union Carbide Corporation the rate shall be 14,02 %.

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

Article 2

The definitive anti-dumping duty imposed by Article 1 shall not apply to vinyl acetate monomer exported by US Industrial Chemical Co.

(1) OJ no L 134, 31.5.1980, p. 1

Article 3

The amounts secured by way of provisional duty pursuant to Regulation (EEC) No 2999/80 shall be definitively collected.

Article 4

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,

1981

For the Council
The President

