

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 18 October 1982

accepting an undertaking in connection with the anti-dumping proceeding concerning imports of thiophen originating in the United States of America and terminating that proceeding

(82/710/EEC)

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⁾, as amended by Regulation (EEC) No 1580/82⁽²⁾, and in particular Article 10 thereof,

After consultations within the Advisory Committee set up under Article 6 of that Regulation,

Whereas the Commission received a complaint lodged by the European Council of Chemical Manufacturers Federations (CEFIC) on behalf of all of the Community's producers of thiophen; whereas, since the complaint contained sufficient 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, the Commission accordingly announced, by a notice published in the *Official Journal of the European Communities*⁽³⁾, the initiation of a proceeding concerning imports of

thiophen originating in the United States of America and commenced an investigation of the matter at Community level;

Whereas the Commission officially so advised the firms known to be concerned and the representatives of the United States of America;

Whereas the Commission gave the parties directly concerned the opportunity to make known their views in writing and to be heard orally; whereas the parties concerned have taken this opportunity;

Whereas in order to arrive at an assessment of the dumping margin and injury, the Commission sought and verified all information it deemed to be necessary and carried out inspections at the premises of the sole producer and exporter in the United States, Pennwalt Corporation, Philadelphia, Pennsylvania; whereas the Commission also carried out an inspection at the premises of the Community manufacturer concerned, Croda Synthetic Chemicals Ltd, Oldbury, Warley, United Kingdom;

Whereas the Commission selected as the investigation period 1 January to 31 December 1981;

Whereas, for the purpose of assessing dumping, the Commission based its preliminary determination of the normal value on the prices ex works charged by the sole American producer on the domestic market during the investigation period;

⁽¹⁾ OJ No L 339, 31. 12. 1979, p. 1.

⁽²⁾ OJ No L 178, 22. 6. 1982, p. 9.

⁽³⁾ OJ No C 122, 13. 5. 1982, p. 5.

Whereas, for the export sales, the export prices were constructed on the basis of the prices at which the imported products were first resold to an independent buyer in the Community during the investigation period, since the exporter and the importer were associated ;

Whereas, in determining the constructed export price, allowance was made for all costs incurred between importation and resale, including duties and taxes, and for a reasonable profit margin ; the Commission also took account, where appropriate, of the differences affecting price comparability with respect to transport cost and payment conditions ;

Whereas a comparison between the normal value and the constructed export price showed that the dumping margin fluctuated greatly, the weighted average margin being 83 % in 1981 ;

Whereas with regard to injury caused to the Community industry the Commission has received confidential information from the firms involved, who are the only two suppliers on the Community market, which, if published, even in a summarized form, would be likely to have a significantly adverse effect upon these firms ;

Whereas the examination of this information by the Commission showed that imports into the Community of thiophen from the United States of America were mainly sold on the French market where the American producer had established a leading market position ;

Whereas imports of thiophen have fluctuated sharply from year to year as a result of fluctuation in the demand for this product ;

Whereas the share of the market held by US thiophen increased substantially between 1978 and 1980 ; whereas the Community producer regained its market share in 1981 after aligning its prices on those of the dumped imports ;

Whereas the prices at which the dumped imports were sold and offered for sale during 1979 to 1981 exercised a depressive effect on the prices of the Community producer and as a result had very negative effect on its profitability ;

Whereas the Commission has considered whether injury has been caused by other factors such as fluctua-

tions of demand and overcapacity in the Community industry ;

Whereas, although these factors have had an impact on the Community producer, this situation has been severely worsened by the pressure of imports from the United States of America and the depressed prices at which they were offered for sale in the Community ;

Whereas the Commission has consequently determined that the dumped imports of thiophen originating in the United States of America, taken in isolation, have caused material injury to the Community industry concerned ;

Whereas Pennwalt Corporation prior to the investigation has reviewed and adjusted its prices to take more promptly into account currency fluctuations between the US dollar and Community currencies and in addition, after being informed of the main findings of the investigation, offered an undertaking ; whereas the Commission, taking into account the fact that there were no imports in 1982 to date, considers that this undertaking would prevent the recurrence of injury and finds the undertaking acceptable ;

Whereas the Advisory Committee set up under Article 6 of Council Regulation (EEC) No 3017/79 has raised no objections,

HAS DECIDED AS FOLLOWS :

Article 1

The Commission hereby accepts the undertaking offered by Pennwalt Corporation in connection with the anti-dumping proceeding concerning imports of thiophen originating in the United States of America.

Article 2

The anti-dumping proceeding concerning imports of thiophen originating in the United States of America is hereby terminated.

Done at Brussels, 18 October 1982.

For the Commission

Wilhelm HAFERKAMP

Vice-President
