

UNITED STATES TARIFF COMMISSION
Washington, D. C.

(TEA-F-3)

TC Publication 134

August 21, 1964

TARIFF COMMISSION REPORTS TO THE PRESIDENT ON
PETITION FOR ADJUSTMENT ASSISTANCE BY
DANAHO REFINING CO.

To the President:

In accordance with section 301(f)(1) of the Trade Expansion Act of 1962 (76 Stat. 885), the U.S. Tariff Commission herein reports the result of its investigation No. TEA-F-3. This investigation was conducted under section 301(c)(1) of that act, in response to a petition from the Danaho Refining Co., Houston, Tex., for a determination of its eligibility to apply for adjustment assistance. The petitioner is a refiner of crude petroleum and natural gas condensate, producing from these raw materials such finished petroleum products as gasoline, jet fuel, diesel oil, and fuel oils. ^{1/} The investigation was instituted to determine whether, as a result in major part of concessions granted under trade agreements, crude petroleum, which is one of the raw materials used by this company, is being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to the petitioner.

The petition was filed with the Commission on June 24, 1964, and the Commission instituted the investigation on June 29, 1964. Public notice of the receipt of the petition and of the institution of the investigation was given by publication of the notice in the Federal

^{1/} As noted hereinafter, the Danaho refinery, which is located at Pettus, Tex., discontinued production in November 1963.

Register (29 F.R. 8449; July 3, 1964). Neither the petitioner nor any other party requested a public hearing, and none was held.

In this investigation the Commission obtained information from its files, from the Danaho Refining Co., from other Government agencies, through fieldwork by members of the Commission's staff, and by correspondence and interviews with other producers in the industry.

Finding of the Commission

On the basis of its investigation the Commission unanimously finds that crude petroleum is not, as a result in major part of concessions granted under trade agreements, being imported in such increased quantities as to cause, or threaten to cause, serious injury to the Danaho Refining Co.

Considerations in Support of the Foregoing Finding

Crude petroleum is a natural mineral oil consisting of various mixtures of hydrocarbons and associated impurities. The product is in demand only as a raw material for the production of a variety of refined petroleum products, among the most important of which are gasoline, residual and distillate fuel oil, kerosene, and lubricating oil.

The Danaho refinery, before discontinuing production in November 1963, was engaged principally in the production of motor (automotive) gasoline, aviation gasoline, military jet fuel, and diesel fuel. The petitioner contends that it was forced to discontinue production

chiefly because crude petroleum is being imported in such increased quantities as to depress market prices for finished petroleum products below levels at which it could operate profitably.

Under the Tariff Schedules of the United States, effective August 31, 1963, imports of crude petroleum are dutiable at the rate of 5-1/4 cents per barrel of 42 gallons if testing under 25 degrees A.P.I.--item 475.05, or at 10-1/2 cents per barrel if testing 25 degrees A.P.I. or more--item 475.10. These rates reflect concessions granted to Venezuela in a trade agreement that became effective on October 11, 1952.

Imports of crude petroleum were free of duty under paragraph 1733 of the Tariff Act of 1930, but became subject to an import tax of 21 cents per barrel under section 3422 of the Internal Revenue Code, effective June 21, 1932. 1/ This import tax was also applicable to imports of topped crude petroleum and fuel oils derived from petroleum. Pursuant to a trade agreement with Venezuela that became effective December 16, 1939, the import tax on crude petroleum, topped crude, and fuel oils was reduced to 10-1/2 cents per barrel for imports not in excess of 5 percent of the total quantity of crude petroleum processed in refineries in continental United States during the preceding calendar year; imports in excess of the tariff quota were subject to the statutory rate of 21 cents per barrel.

1/ This tax, when imposed under the Internal Revenue Code, was legally no different from an ordinary tariff duty imposed under the Tariff Act of 1930. When the revised Tariff Schedules of the United States were adopted, this tax, as modified by trade-agreement concessions, was converted to equivalent tariff duties.

Pursuant to a trade agreement with Mexico, effective January 30, 1943, the tariff quota was removed, and all imports of crude petroleum, topped crude, and fuel oils were made subject to the import tax of 10-1/2 cents per barrel. The trade agreement with Mexico was terminated at the close of December 31, 1950, at which time the tariff quota and tax provided for in the original Venezuelan trade agreement again became effective. On October 11, 1952, pursuant to a supplementary trade agreement with Venezuela, the import tax on crude petroleum, topped crude, and fuel oils testing under 25 degrees A.P.I. was reduced to 5-1/4 cents a barrel. Imports of crude oil, topped crude, and fuel oils testing 25 degrees A.P.I. or more remained taxable at the previous rate of 10-1/2 cents per barrel, but without any limitation on the quantity imported at that rate.

U.S. imports of crude petroleum since March 10, 1959, have been subject to certain import quotas that were proclaimed by the President pursuant to section 2(b) (the national security clause) of the Trade Agreements Extension Act of July 1, 1954, as amended. The import quotas imposed for national security purposes and designed and administered to achieve national security objectives, have not prevented total imports of crude petroleum from rising. Thus, the Commission has determined that crude petroleum is "being imported in increased quantities" within the meaning of section 301 of the Trade Expansion Act of 1962.

The increase in imports of crude petroleum is primarily due to: The wide price disparity between domestic and foreign crude petroleum (a disparity several times greater than the preconcession duty applicable to such imports); the rising demand for crude petroleum in the United States; and the progressive decline in the ad valorem equivalent of the specific tax rate since June 1932, when the import tax was first imposed.

The disparity between the average foreign value of crude petroleum and the average domestic price at the well varied between 73 cents and 77 cents per barrel during 1959-63. The annual U.S. consumption (apparent) rose without interruption in that period by about 9 percent.

From 1933 (the first full year in which the import tax was in effect) to 1963, the average annual foreign unit value of imported crude petroleum rose almost without interruption from 56 cents to \$2.25 per barrel. In the same period the average ad valorem equivalent of the specific rate applicable to imports declined from about 38 percent to about 4 percent (a weighted average). If the full preconcession rate had been in effect during the aforementioned period, the ad valorem equivalent would have declined from 38 percent in 1933 to about 9 percent in 1963. Thus, only a small part of the total decline in the aforementioned ad valorem equivalent can be attributed to the trade-agreement concessions.

The evidence indicates that the difficulties experienced by the petitioning firm are attributable to factors wholly or almost wholly unrelated to the trade-agreement concessions on crude petroleum.

Among the factors contributing to the problems of this concern was the development in the mid-1950's of a large natural gas field--the Burnell-North Pettus field--adjacent to the petitioner's refinery at Pettus, Tex., which enabled competitors of the Danaho Refining Co. to produce automotive gasoline at low cost and market it at prices at which the petitioner was unable to compete.

In a brief filed in the Court of Civil Appeals, Tenth Supreme Judicial District, Waco, Tex., the Danaho Refining Co., presenting an appeal from an adverse decision in an antitrust action filed before the 61st Judicial District Court, Hannes County, Tex., states:

(1) The decline in Danaho's gasoline sales after 1957 was caused primarily by the competition of material moving from the Burnell Plant

(2) The marketing practices of the operators of the Burnell facility since 1957 had the effect of depressing wholesale prices in the relevant marketing area from 3/4¢ to 1¢ per gallon

(3) The price cutting engaged in by the operators of the Burnell plant affected Danaho's ability to obtain charge stocks for its refining operation because, with reduced profits, Danaho did not have sufficient capital to purchase crude stocks

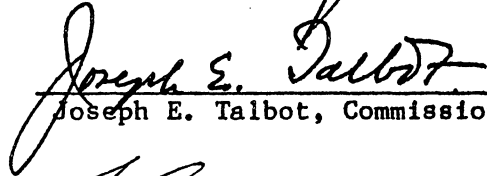
In addition to the development of the natural gas field discussed above, there were other factors--likewise unrelated to the trade-agreement concessions applicable to imports of crude petroleum--that led to the decision of the Danaho refinery to discontinue produc-

tion in 1963. Thus, even if the Commission had found that the increased imports of crude petroleum were attributable in major part to trade-agreement concessions, it could not have found that such increased imports contributed significantly, if at all, to the difficulties confronting the Danaho Refining Co.

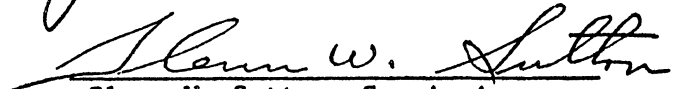
Respectfully submitted,



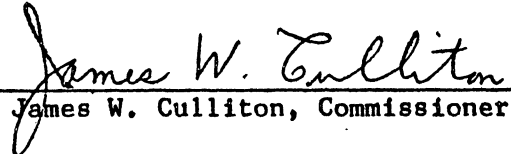
Ben Dorfman, Chairman



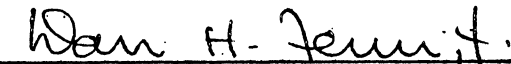
Joseph E. Talbot, Commissioner



Glenn W. Sutton, Commissioner



James W. Culliton, Commissioner



Dan H. Fenn, Jr., Commissioner

