COMMISSION DECISION No 229/88/ECSC

imposing a provisional anti-dumping duty on imports of certain sheets and plates, of iron or steel, originating in Yugoslavia

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Commission Decision No 2177/84/ECSC of 27 July 1984 on protection against dumped or subsidized imports from countries not members of the European Coal and Steel Community [1], and in particular Article 10 (6) thereof,

After consultations within the Advisory Committee as provided for by the above Decision,

Whereas :

A. Procedure

(1) In October 1985 the Commission received a complaint lodged by the European Confederation of Iron and Steel Industries (Eurofer) on behalf of producers whose collective output constitutes the majority of Community production of the product in question. The complaint contained evidence of dumping and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding. The Commission accordingly announced, by a notice published in the *Official Journal of the European Communities* [2], the initiation of an anti-dumping proceeding concerning imports into the Community of certain sheets and plates of iron or steel falling within Common Customs Tariff subheading 73.13 B I ex a), corresponding to NIMEXE codes 73.13-17, -19, -21 and -23, and to combined nomenclature subheadings :

7208 32 10, 30, 51, 59, 91, 99 ; 7208 33 10, 91, 99 ; 7208 34 10, 90 ; 7208 42 10, 30, 51, 59, 91, 99 ; 7208 43 10, 91, 99 ; 7208 44 10, 90 ; 7211 12 10 ; 7211 19 10 ; 7211 22 10 ; 7211 29 10,

originating in Yugoslavia, and commenced an investigation.

(2) Commission Decision No 2767/86/ECSC [3] established the existence of dumping injury, the weighted average dumping margins provisionally established for each of the exporters being as follows :

— Rudnici i Zelezarna, Skopje : 38 %
— Metalurski Kombinat, Smederevo : 33 %
— Zelezarna, Jesenice : 29 %

On the basis of the facts available to the Commission at the time of the investigation, it was furthermore established that an anti-dumping duty of 68 ECU per 1 000 kilograms would be required to eliminate the injury sustained by the Community industry and caused by the dumped imports. The Commission subsequently imposed, by Decision No 2767/86/ECSC, a provisional anti-dumping duty on imports of certain sheets and plates, of iron or steel, originating in Yugoslavia.

(3) The Yugoslav exporters, having been informed that the main findings of the preliminary investigation would be confirmed by the final determination, offered undertakings concerning their exports of plates and sheets, of iron and steel, to the Community.

(4) Pursuant to these undertakings the Yugoslav exporters undertook to follow a pricing and marketing policy for sheets and plates, of iron or steel, which would not be disruptive to the sheets and plates market and the traditional trading pattern in the Community, and to reduce these exports to a level at which there would be no further injury to the Community industry.

(5) After consultation of the Advisory Committee, the undertaking was considered appropriate to eliminate the injury caused by the dumped imports from Yugoslavia. The Commission therefore, by Decision 86/639/ECSC [4], accepted the undertaking offered by the Yugoslav exporters concerned and terminated the investigation.

B. Breach of undertaking

(6) In June 1987 the Commission received complaints from the Community industry and the Italian Government that Yugoslav imports of plates and sheets, of iron or steel, were again entering the Italian market at prices and in quantities disruptive of the sheets and plates market in Italy and of the traditional trading pattern in the Community and that these exports were thus again causing material injury to the Community industry. The complaints

[1] OJ No L 201, 30. 7. 1984, p. 17.
[2] OJ No C 38, 19. 2. 1986, p. 3.
[3] OJ No L 254, 6. 9. 1986, p. 18.
[4] OJ No L 371, 31. 12. 1986, p. 84.

being supported by statistical evidence on quantities and prices, the Commission advised the Yugoslav exporters to respect the terms of the undertaking and requested them to cease concentrating their exports on the Italian market. Although the Commission had received satisfactory commitments from the Yugoslav exporters to adhere to the terms of the undertaking and therefore did not take immediate action, exports to the Italian market were continued, exceeding the traditional trade pattern by more than 100 % in September 1987. Furthermore, the Yugoslav exporters failed to submit to the Commission on a regular basis detailed reports on their deliveries to the Community as set out in the undertaking. The Commission therefore has reason to believe that the undertakings have been violated and gave the Yugoslav exporters an opportunity to comment on these facts.

C. Re-opening

(7) In such circumstances, the Commission considers that further investigation is warranted and has therefore re-opened the investigation.

D. Necessity of measures

(8) On the basis of the evidence available, and consideration being given to the comments made by the Yugoslav exporters, the Commission considers that it is in the Community's interest to repeal the acceptance of the undertakings given by the Yugoslav exporters and to impose forthwith a provisional anti-dumping duty on imports of certain sheets and plates, of iron or steel, originating in Yugoslavia.

E. Rate of duty

(9) In accordance with Article 10 (6) of Decision No 2177/84/ECSC the rate of duty must be that based on the facts established before the acceptance of the undertaking. Since the facts did not change between the entry into force of Decision No 2767/86/ECSC and the acceptance of the undertaking on 23 December 1986, the rate of duty is 68 ECU per 1 000 kg in accordance with this Decision.

Reference is made to Decision No 2177/84/ECSC and Decision 86/639/ECSC.

HAS ADOPTED THIS DECISION :

Article 1

Decision 86/639/ECSC is hereby repealed.

Article 2

1. A provisional anti-dumping duty is hereby imposed on imports of certain sheets and plates of iron or non-alloy steel, not further worked than hot-rolled, a thickness of 3 millimetres or more, falling under Common Customs Tariff subheading 73.13 B I ex a), corresponding to NIMEXE codes 73.13-17, -19, -21 and -23, and to combined nomenclature subheadings :

7208 32 10, 30, 51, 59, 91, 99 ; 7208 33 10, 91, 99 ; 7208 34 10, 90 ; 7208 42 10, 30, 51, 59, 91, 99 ; 7208 43 10, 91, 99 ; 7208 44 10, 90 ; 7211 12 10 ; 7211 19 10 ; 7211 22 10 ; 7211 29 10,

originating in Yugoslavia.

2. The amount of the duty shall be 68 ECU per 1 000 kilograms.

3. The provisions in force concerning customs duties shall apply.

4. 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 3

Without prejudice to Article 7 (4) (b) and (c) of Decision No 2177/84/ECSC, the parties concerned may make known their views in writing and apply to be heard by the Commission within one month of the date of entry into force of this Decision.

Article 4

This Decision shall enter into force on the day following its publication in the *Official Journal of the European Communities.*

Subject to Articles 11, 12 and 14 of Decision No 2177/84/ECSC, it shall apply for a period of four months, unless the Commission adopts definitive measures before the expiry of that period.

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

Done at Brussels, 25 January 1988.

For the Commission
Willy DE CLERCQ
Member of the Commission