COMMISSION RECOMMENDATION No 376/83/ECSC

of 14 February 1983

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to Commission recommendation No 3018/79/ECSC of 21 December 1979 on protection against dumped or subsidized imports from countries not members of the European Coal and Steel Community [1], as last amended by recommendation No 3025/82/ECSC [2], and in particular Article 11 thereof,

After consultations within the Advisory Committee as provided for under the above recommendation,

Whereas in May 1982 the Commission received a complaint, lodged by the Walzstahl-Vereinigung, Düsseldorf, on behalf of almost all Community producers of sheets and plates, of iron or steel, not further worked than hot-rolled, of a thickness of 3 mm or more ;

Whereas, since the complaint provided sufficient evidence of dumping in respect of the like product originating in Brazil 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 certain sheets and plates, of iron or steel, originating in Brazil 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 the exporting and several of the importing parties known to be concerned have taken the opportunity to make known their views in writing ;

Whereas, in order to arrive at a preliminary assessment of dumping and of injury, the Commission sought to obtain and verify all information which it deemed to be necessary ; whereas the Commission carried out inspections at the premises of Stahlwerke Peine-Salzgitter AG, Salzgitter, Thyssen AG, Duisburg and Arbed Saarstahl GmbH, Völklingen ; whereas the Commission also carried out an on-the-spot investigation at the offices of Itoh O & Co. GmbH, Düsseldorf, the only importer who replied to the questionnaire, and at the offices of Thyssen Stahl Union, Düsseldorf ; whereas the Brazilian authorities objected to an on-the-spot verification at the offices of the Brazilian exporters concerned, Cosipa, São Paulo, CSN, Rio de Janeiro and Usiminas, Belo Horizonte ;

Whereas the Commission chose 1 August 1981 to 31 July 1982 as the reference period for the examination of dumping ;

Whereas, for its preliminary determination of dumping, the Commission compared, transaction by transaction, the Brazilian export prices with the normal values in respect of sales of prime-quality material during the investigation period ;

Whereas the Commission determined normal value for the products under investigation on the basis of the basic prices (basic + extra) published by it, applicable to imports of products of like quality and dimensions during the period covered by the investigation ;

Whereas export prices were established on the basis of the prices which were submitted in writing to the Commission by the Brazilian exporters paid or payable for the products sold for export to the Community ; whereas, for the purpose of the comparison with the normal value, these prices were adjusted to a cif Community-frontier level, duty-paid, using the information on ocean transport and insurance available to the Commission ;

Whereas this comparison showed weighted average dumping margins of 25,4 % for Cosipa and of 23,7 % for Usiminas ; whereas, while CSN has also exported like products to the Community, no information on quantities and prices was made available ; whereas it was appropriate to calculate one overall margin for all three exporting companies since they are all members of the government-owned Siderbras Group ; whereas this weighted average margin based on exports made by Cosipa and Usiminas was found to be 24,3 % which is equivalent to 72,20 ECU per tonne ;

Whereas, with regard to injury, the Commission has found that imports into the Community of the products under consideration originating in Brazil

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(1) OJ No L 339, 31. 12. 1979, p. 15.
(2) OJ No L 317, 13. 11. 1982, p. 17.
(3) OJ No C 197, 31. 7. 1982, p. 3.

increased from 18 074 tonnes in 1981 to 89 808 tonnes in the first seven months of 1982; whereas imports of these products into the Federal Republic of Germany showed a particularly steep incease, from 6 044 tonnes in 1980 to 14 744 tonnes in 1981 and to 81 094 tonnes in the period January to July 1982; whereas, since most of the imports from Brazil were offered for sale in the Federal Republic of Germany which accounts for a major proportion of the total Community production of the products concerned, the Commission concentrated its investigation on the impact of imports from Brazil on the market in that Member State; whereas, using the information available, it found that the market share held by these imports in Germany had increased from 0,3 % in 1980 to 0,7 % in 1981 and to 5,5 % in the period January to July 1982;

Whereas the prices of these imports were particularly low; whereas the Commission found that several importers had re-sold the imported goods within the Community at prices which were substantially below Community producers' list prices in force at the time of delivery and below a price level which would permit Community producers to cover their costs;

Whereas the Commission has also examined the impact of the imports from Brazil on the Community industry; whereas the information available to the Commission shows that the production of like products in the Federal Republic of Germany in the first seven months of 1982 was 4,2 % below the level of production in 1980 and as much as 7,4 % below 1981 production levels; whereas, in the first half of 1982, sales of like products by German producers in Germany were 5,2 % below 1980 and 12,9 % below 1981 levels while consumption in the first seven months of 1982 was more than 8 % higher than in 1981 and 1980; whereas, moreover, the monthly average of imports of like products from other Member States into Germany between January and July 1982 was 14 513 tonnes lower than in 1980 and 10 548 tonnes lower than in 1981;

Whereas the Commission also took into account the fact that the Community steel industry is in a state of crisis; whereas the overall steel output has been cut considerably and the numbers employed fell by 244 700 or 30,8 % between 1974 and 1981; whereas the situation of the Community producers continues to be one of extremely low capacity utilization levels and seriously reduced profits or of losses;

Whereas, in order to remedy this situation, the Community's steel policy seeks to ensure sufficient price levels for the products concerned sold in the Community through the use of internal and external measures; whereas the internal measures consist of production quotas for ECSC companies and the obligation to respect certain price levels; whereas, in order to keep imports within reasonable limits, the Community has concluded steel arrangements with a large number of supplying countries which involve quantitative limitations on exports to the Community and the observance of arrangement prices which are closely linked to the development of internal price levels in the Community;

Whereas production quotas for Community producers are adjusted periodically on the basis of a forecast of supply and demand for the products concerned, taking into account the development of imports from third countries including those whose exports are not covered by a bilateral arrangement with the Community; whereas any sharp increase in imports from these countries, such as Brazil, requires a downward adjustment of the quotas of Community producers and thereby increases their indirect costs and further reduces their margins;

Whereas imports of significant quantities of dumped products into the Community also put into question the objectives sought by the external measures adopted within the framework of the Community steel policy; whereas third countries which have concluded steel trade arrangements with the Community will only respect and renew these arrangements if they see a reasonable chance of selling the quantities provided for at the price levels agreed; whereas significant imports of dumped products from sources not covered by an arrangement jeopardize the equilibrium not only of the internal quantity and pricing system but also of the quantities and prices agreed with most of the supplying countries;

Whereas the Commission has considered whether injury has been caused by other factors which individually or in combination could adversely affect the Community industry, such as volume and prices of imports from other third countries; whereas, while the level of consumption in Germany increased by over 14 000 tonnes per month between 1981 and 1982, the volume of imports from other non-member countries into the Federal Republic of Germany increased at a much lower rate, from a monthly average of 44 654 tonnes in 1981 to an average of 53 495 tonnes in the first seven months of 1982; whereas from January to June 1982 approximately three-quarters of these imports originated in arrangement countries, whose exports have to respect strict minimum price levels; whereas the impact of the dumped imports from Brazil, which accounted for more than 62 % of imports from non-arrangement countries, has been isolated from these other factors;

Whereas, taking into account the already extremely difficult situation of the Community industry and the restructuring efforts being undertaken at present, the

Commission has reached the preliminary conclusion that the dumped imports originating in Brazil are causing or threatening to cause material injury to a Community industry ;

Whereas, in these circumstances and in order to prevent further 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 ; whereas, having regard to the extent of injury caused, the rate of this duty should be equal to the dumping margin preliminarily established, due consideration being given to any reduction in value claimed by the importers and established to the satisfaction of the competent national authorities ;

Whereas a time limit should be fixed within which the parties concerned may, following the imposition of the provisonal duty, make their views known and apply to be heard orally by the Commission,

MAKES THE FOLLOWING RECOMMENDATION :

Article 1

1. A provisional anti-dumping duty is hereby imposed on sheets and plates of iron or steel, not further worked than hot-rolled, of a thickness of 3 mm or more, falling within subheading 73.13 B I ex a) of the Common Customs Tariff and corresponding to NIMEXE codes 73.13-17, 19, 21 and 23, originating in Brazil.

2. The amount of the duty shall be 72,20 ECU per 1 000 kilograms net.

3. The duty shall, however, be reduced to the extent that the importer establishes, to the satisfaction of the competent national authorities, that the quality of these products is inferior to the lowest quality described in the last publication of basic prices by the Commission.

4. The provisions in force concerning customs duties shall apply for the application of the 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

1. Without prejudice to Article 7 (4) (b) and (c) of recommendation No 3018/79/ECSC, 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 recommendation.

2. Subject to Articles 11, 12 and 14 of recommendation No 3018/79/ECSC, this recommendation shall be applicable for a period of four months, unless the Commission adopts definitive measures before the expiry of that period.

Article 3

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

Done at Brussels, 14 February 1983.

For the Commission

Étienne DAVIGNON

Vice-President