# COMMISSION RECOMMENDATION No 259/83/ECSC

## of 27 January 1983

## imposing a definitive anti-dumping duty on broad-flanged beams originating in Spain

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 12 thereof,

After consultations within the Advisory Committee provided for by the said recommendation,

Whereas in July 1982 the Commission received a complaint, lodged by the Walzstahl-Vereinigung, Düsseldorf, on behalf of almost all Community producers of broad-flanged beams ;

Whereas, since the complaint provided sufficient evidence of dumping in respect of the like product originating in Spain 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 broad-flanged beams originating in Spain and commenced an investigation of the matter at Community level ;

Whereas, for its preliminary determination of dumping, the Commission compared the prices of imports into the Community of broad-flanged beams originating in Spain with the basic prices published for these products by the Commission ; whereas, in addition, on the basis of the evidence available to it at that time the Commission reached the conclusion that these dumped imports were causing or threatening to cause injury to a Community industry ; whereas the Commission, therefore, by recommendation No 2242/82/ECSC [4], imposed a provisional anti-dumping duty on imports of broad-flanged beams originating in Spain ;

Whereas this duty was equal to the amount by which the prices of imports of the products concerned were lower than the basic prices published by the Commission but not less than the difference which had been established between these basic prices and the prices shown in the applications for licences to import the products concerned into the Federal Republic of Germany during the first six months of 1982 ; whereas, subsequently, the Commission found that in the period January to July 1982 the difference between the actual prices of these imports, cif German border, duty paid, was significantly greater than the minimum amount of the provisional duty in force ; whereas the Commission, therefore, by recommendation No 3024/82/ECSC [5], amended this provisional duty by introducing a specific duty which reflected the actual difference ; whereas, at the same time, it extended the duration of the provisional duty for a period not exceeding two months ;

Whereas, in the course of the subsequent examination, the Commission requested from Community producers, exporters, importers and agents known to be concerned all the information it deemed necessary in order to arrive at a final determination of the dumping margin and injury ; whereas the Commission carried out inspections at the premises of the two Spanish exporters concerned, namely Empresa Nacional Siderurgica SA (Ensidesa) and José Maria Aristrain Madrid SA, Madrid ; whereas the Commission also carried out on-the-spot investigations at the premises of the following Community producers : Thyssen AG, Duisburg ; Stahlwerke Peine-Salzgitter AG, Salzgitter ; Arbed Saarstahl GmbH, Völklingen ; and at the offices of Thyssen Stahl Union, Düsseldorf as well as of the following importers : Carl Spaeter GmbH and Klöckner & Co., Duisburg ; and Aristrain Internationale Handelsgesellschaft mbH, Frankfurt ;

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

Whereas, in order to determine definitively the existence of dumping, the Commission compared the Spanish export prices with the normal values for sales made during the investigation period ;

Whereas, with regard to Ensidesa and Aristrain, normal values were determined on the basis of the prices paid or payable for like products on the domestic market during the investigation period, adjusted to the ex-factory level, taking into account the

---

[1] OJ No L 339, 31. 12. 1979, p. 15.
[2] OJ No L 317, 13. 11. 1982, p. 17.
[3] OJ No C 207, 10. 8. 1982, p. 4.
[4] OJ No L 238, 13. 8. 1982, p. 32.
[5] OJ No L 317, 13. 11. 1982, p. 16.

fact that in some instances transportation costs on the domestic market incurred by the companies were higher than the corresponding amount billed to the customer where such difference was demonstrated to the satisfaction of the Commission ; whereas, for the purpose of establishing normal value, the Commission also took into account quantity discounts periodically granted to certain customers where the companies supplied sufficient evidence in this respect ;

Whereas normal values were established separately for each type of broad-flanged beams, taking into account the exact dimensions which were exported ;

Whereas export prices were determined on the basis of the prices paid or payable for the products under consideration sold for export to the Community during the investigation period, adjusted to the ex-factory level, taking account, where applicable, of internal and ocean transport costs, insurance and port charges ; whereas the Commission, on the basis of the evidence available also took into consideration annual discounts granted by one of the exporting companies to one Community importer ;

Whereas, since Aristrain has been selling all its exports of the products under consideration to its wholly owned subsidiary in Frankfurt, Germany, its export prices were constructed on the basis of the price at which the imported products were first resold to independent buyers, appropriate allowance having been made for all costs incurred between importation and resale, including transport costs within the Community, insurance, handling and ancillary costs, customs duties and a reasonable margin for overheads and profit ; whereas due allowance was also made for differences in the level of trade ;

Whereas both exporting companies received a tax rebate on exportation of the products concerned ; whereas the Commission sought to establish, therefore, the amount of prior stage cumulative indirect taxes levied on goods that are physically incorporated in the exported products, as well as in the like products, when destined for consumption on the domestic market ; whereas neither the Spanish Government nor the exporting companies submitted evidence substantiating the amount of such taxes as requested by the Commission ; whereas the Commission, therefore, increased the export price by an amount which it calculated on the basis of the facts available to it ;

Whereas the comparison between export prices and normal values showed weighted average dumping margins of 9·40 %, equivalent to 29·77 ECU per tonne for Aristrain, and of 10·26 %, equivalent to 30·33 ECU per tonne for Ensidesa ;

Whereas the exporters claimed that, in view of a devaluation of the Spanish currency, after the end of the investigation period the Commission should revise its dumping findings ; whereas the Commission considered it inappropriate to take this devaluation into consideration since the exporters did not demonstrate that this devaluation reduced or eliminated the dumping margin ;

Whereas, with regard to injury, the evidence available to the Commission shows that the imports into the Community of the products concerned originating in Spain have increased from 129 099 tonnes in 1980 to 134 969 tonnes in 1981 and to 83 484 tonnes in the first six months of 1982 ; whereas, with regard to the German market, which traditionally has absorbed the vast majority of Spanish broad-flanged beams, the imports from Spain have increased from a monthly average of 9 342 tonnes in 1980 to an average of 15 304 tonnes in the second half of 1981 and an average of 13 184 tonnes during the first six months of 1982 ; whereas, during the period January to June 1982, imports of the product under consideration from Spain were 105 % higher than during the same period of the previous year ;

Whereas the share of the Community market held by these Spanish exports fell slightly from 7·4 to 6·8 % between 1980 and 1981 but increased dramatically to 18·7 % in the period January to June 1982 ; whereas the corresponding market share in the Federal Republic of Germany were 16·3 % in 1980, 18·9 % in 1981 and 29·4 % in the first half of 1982 ;

Whereas broad-flanged beams are generally sold to traders who stock and resell them within the Community ; whereas the same group of traders who purchase these Spanish exports also buy like products from Community producers ; whereas the prices at which broad-flanged beams originating in Spain were sold to these traders were, in most cases, significantly lower than the Community producers' list prices valid at the time of delivery of these imports ;

Whereas the Commission has also examined the impact of the imports from Spain on the Community industry ; whereas the Commission found that the monthly average of the production of like products in the Federal Republic of Germany fell by 28 % between 1981 and the first nine months of 1982 and that Community producers have incurred a substantial cut in their sales ; whereas an examination of the development of sales on the German market shows that between 1980 and the second quarter of 1982 sales of German producers fell by 64·3 % from an average of 30 203 tonnes per month to 13 192 tonnes per month ; whereas, during the same period, sales of

other ECSC producers in Germany fell by 40·1 % from an average of 25 509 tonnes per month to 15 272 tonnes per month ; whereas the market share held by German manufacturers of broad-flanged beams on their home market fell from 52·7 % in 1980 to 46 % in 1981 and to 37·6 % in the first half of 1982, while the market share held by other ECSC producers fell from 30·7 % in 1981 to 27·7 % in the first six months of 1982 ;

Whereas the Commission also took into account the fact that the Community steel industry is in a state of crisis ; whereas, between 1974 and 1980, production of the products concerned fell by more than 13 %, while the number 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 production quotas for ECSC companies and the obligation to respect certain price levels ; whereas these production quotas 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 ; whereas any sharp increase of imports from third countries requires a downward adjustment of the quotas of Community producers and thereby increases their indirect costs and further reduces their margins ;

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 other imports or reduction in demand ; whereas, while the level of consumption on the German market remained stable in 1980 and 1981, it declined by 21 % or by 12 626 tonnes per month in the first six months of 1982 ; whereas, while imports from third countries other than Spain increased by 16·7 % from 26 077 tonnes in 1980 and to 30 433 tonnes in 1981, they fell again slightly by 6 % to 14 285 tonnes in the first six months of 1982 ; whereas the impact of the dumped imports from Spain, which in 1981 represented over 81 % and during the first six months of 1982 almost 85 % of all imports from third countries into the Federal Republic of Germany, has been isolated from these other factors ;

Whereas the facts as finally established show that, taking into account the already extremely difficult situation of the Community industry and the restructuring efforts being undertaken at present, material injury has been caused by dumped imports from Spain and that further injury would have been caused if provisional action had not been taken ;

Whereas, in the serious conditions experienced by the Community steel industry, the interests of the Community call for the imposition of a definitive anti-dumping duty and the definitive collection of the amounts secured by way of provisional duty ; whereas, having regard to the extent of the injury caused, it is appropriate that the amount of the definitive duty should be equal to the dumping margins found, due consideration being given to reductions in value claimed by the importers and established to the satisfaction of the competent national authorities,

MAKES THE FOLLOWING RECOMMENDATION :

*Article 1*

1. A definitive anti-dumping duty is hereby imposed on broad-flanged beams falling within subheading 73.11 A ex I of the Common Customs Tariff (NIMEXE code 73.11-12) and originating in Spain.

2. The amount of the duty shall be equal to 29·77 ECU per 1 000 kilograms net for broad-flanged beams manufactured and exported by José Maria Aristrain SA or José Maria Aristrain — Madrid SA and 30·33 ECU per 1 000 kilograms net for broad-flanged beams manufactured and exported by Empresa Nacional Siderurgica SA (Ensidesa).

3. The duty shall, however, be reduced by up to 10 % where the importer establishes to the satisfaction of the competent national authorities that the products imported are sub-standard or seconds.

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

*Article 2*

The amounts secured by way of provisional anti-dumping duty pursuant to recommendation No 2242/82/ECSC, as amended by recommendation No 3024/82/ECSC, shall be definitively collected in so far as they do not exceed the amount of the definitive duty imposed by Article 1.

*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, 27 January 1983.

*For the Commission*

Wilhelm HAFERKAMP

*Vice-President*