COMMISSION DECISION No 2158/88/ECSC

of 20 July 1988

imposing a provisonal anti-dumping duty on imports of certain iron or steel sections originating in Yugoslavia or Turkey

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 11 thereof,

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

Whereas :

A. PROCEDURE

(1) In February 1987 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 U or I sections of a height of 80 mm or more and blanks therefor containing by weight less than 0,6 % of carbon falling within CN codes ex 7207 19 31, ex 7207 20 71, ex 7216 31 00 and ex 7216 32 00, originating in Yugoslavia or Turkey and commenced an investigation.

(2) The Commission officially so advised the exporters and importers known to be concerned, the representatives of the exporting country and the complainants and gave the parties directly concerned the opportunity to make known their views in writing and to request a hearing.

(3) All of the producers/exporters and some importers known to the Commission made their views known in writing. The Yugoslav producer/exporter requested a hearing which was granted.

(4) No submissions were made by or on behalf of Community purchasers or processors of the iron or steel sections concerned.

(5) The Commission sought and verified all information it deemed to be necessary for the purposes of a preliminary determination and carried out investigations at the premises of the following companies :

EEC producers :

— Thyssen Stahl AG, Duisburg, Germany,
— Peine-Salzgitter AG, Salzgitter, Germany,
— Sacilor Unimétal, Metz, France,
— Cockerill Sambre SA, Seraing, Belgium,
— Trade Arbed, Luxembourg,

Non-EEC producers/exporters :

— İzmir Demir Çelik Sanayi, AŞ, İzmir Turkey (producer),
— İZDAŞ Dişticaret AŞ, Istanbul, Turkey (exporter),
— ÇEMTAŞ Çelik Makina Sanayi ve Ticaret AŞ, Bursa, Turkey (producer/exporter),

EEC importers :

— Interprogress GmbH, Frankfurt, Germany,
— Salis, SpA, Sassari, Italy.

(6) The Commission requested and received detailed written submissions from complainant Community producers and some importers and verified the information therein to the extent considered necessary.

(7) The Commission also sent questionnaires to the Yugoslav producer known to be concerned in order to obtain the necessary information and granted ample extension of the time period laid down for the reply. However, information submitted by the Yugoslav producer was incomplete and he refused in particular to disclose details of quantities and prices with regard to his domestic market and certain export transactions. Under these circumstances the Commission concluded that on-spot verification was not warranted and decided to base its preliminary determinations on the available evidence.

(8) The investigation of dumping covered the period from 1 July 1986 to 30 June 1987.

[1] OJ No L 201, 30. 7. 1984, p. 17.
[2] OJ No C 216, 14. 8. 1987, p. 2.

B. DUMPING

I. Yugoslavia

(a) *Normal value*

(9) As the Yugoslav producer refused to submit information with regard to sales of iron or steel sections on the domestic market the Commission provisionally established normal values on the basis of the published basic prices [1] as they applied during the investigation period, referred to in the Exchange of Letters (see Final Act of the Agreement between the Member States of the European Coal and Steel Community and the European Coal and Steel Community, of the one part, and the Socialist Federal Republic of Yugoslavia, of the other part, 83/42/ECSC [2]).

(b) *Export prices*

(10) As the Yugoslav producer failed to submit detailed information on its export transactions permitting determination of the export prices to the Community for the products in question, the Commission based its preliminary determination on the available evidence.

For this purpose the Commission used information from import licence applications transmitted to the Commission by the competent national authorities, in particular the purchase prices declared by applicant importers. As far as possible the Commission verified this information at the premises of those importers which were ready to cooperate.

(c) *Comparison*

(11) In comparing normal value, i.e. basic prices less customs duty, with export prices, the Commission took account, where appropriate and to the extent of the evidence available, of differences in conditions and terms of sale such as transport, insurance, forwarding and handling costs.

(12) Since the basic prices are calculated cif Community frontier, all comparisons were made at the level cif Community frontier, duty unpaid.

(d) *Dumping margins*

(13) Export prices as established using the method described in recital 10 were compared with the corresponding normal value derived from the published basic prices, transaction by transaction, the margins of dumping being equal to the amount by which the normal value as established exceeds the prices for export to the Community.

(14) The above preliminary examination of the facts shows the existence of dumping, the weighted average margin being 38,2 %.

II. Turkey

(a) *Normal value*

(15) The Commission established provisionally normal values on the basis of the domestic prices of the producers exporting to the Community who provided sufficient evidence and whose prices were considered to be representative of the Turkish domestic market.

(b) *Export prices*

(16) Export prices were determined on the basis of the prices actually paid or payable for the product sold for export to the Community.

(c) *Comparison*

(17) In comparing normal value with export prices, the Commission took account, where appropriate and to the extent of the evidence available, of differences in conditions and terms of sale such as transport, insurance, forwarding, handling costs and payment terms. All comparisons were made at the ex-works level.

(d) *Dumping margins*

(18) The above preliminary determination of the facts shows the existence of dumping, the margins of dumping being equal to the amount by which the normal values as established exceed the prices for export to the Community. The weighted average margin for each of the exporters being:

— İDÇ/İZDAŞ	36,5 %,
— ÇEMTAŞ	15,5 %.

C. INJURY

(19) With regard to injury caused by the dumped imports the evidence available to the Commission shows that imports into the Community from Yugoslavia increased from 7 213 tonnes in 1983 to 65 973 tonnes in 1986 and reached 33 027 tonnes in the first half of 1987. Their corresponding market share rose from 0,5 % in 1983 to 3,6 % in 1986 and 3,7 % in the first half of 1987.

(20) Imports originating in Turkey went up from practically zero in 1985 to 48 437 tonnes in 1986. However, in the first half of 1987, imports from Turkey, which still stood at 29 224 tonnes in the second half of 1986, fell back to only 1 483 tonnes. In terms of market share, imports from Turkey had reached 3,5 % in only one year, starting from zero and then declined again to 0,2 % in the second half of the investigation period.

[1] OJ No L 321, 17. 11. 1982, p. 8, and OJ No C 119, 5. 5. 1987, p. 3.
[2] OJ No L 41, 14. 2. 1983, p. 113.

(21) The combined market share of imports of U and I sections fom Yugoslavia and Turkey increased from 0,5 % in 1983 to 6,2 % in 1986 and dropped to 3,9 % in the first half of 1987 for the reasons indicated above.

In the most affected Member States the market share of the dumped imports peaked during the investigation period at 12,2 % in the Federal Republic of Germany, 13,8 % in Belgium and at 9,8 % in Italy.

(22) The evidence available to the Commission also indicates that the prices of these products undercut the prices of Community producers during the investigation period to a varying degree. On average, measured against Community producers' price lists and the maximum rebates available during the investigation period the price undercutting is provisonally established at 16 % for products exported from Yugoslavia, 11,8 % for products exported by İDÇ/İZDAŞ, Turkey and 5 % for products exported by ÇEMTAŞ Turkey.

(23) After a slight recovery in 1985, Community production of U and I sections continued to decline in 1986 and during the first half of 1987. In 1986, when dumped imports from Yugoslavia and Turkey started to increase substantially, Community production of U and I sections decreased by 7,9 % and by another 6 % in the first half of 1987 as compared with the first half of 1986.

(24) Between 1984 and the investigation period, Community producers reduced their production capacity by about 1,5 million tonnes representing a decline of 35 %. Only these drastic restructuring efforts permitted an improvement of the average rate of capacity utilization from 53 % to 69 %. On the basis of the disposable capacity in 1984, the average utilization rate would have declined to less than 45 %. It is clear that under these circumstances the surge of low-priced imports hampers the restructuring efforts of Community producers and prevents the necessary market equilibrium between supply and demand being reached and increases the cost and the social difficulties of achieving this goal.

(25) The profitability situation of Community producers, which had improved in 1985 slumped again during the investigation period, 1986/87, due to the sharp deterioration of prices in the Community which largely outweighed the cost savings on energy and raw materials due to the decline in the exchange rate of the US dollar against Community currencies.

(26) The Commission has considered whether injury has been caused by other factors such as imports of U and I sections from other third countries. These imports decreased by 8,8 % from 1985 to 1986 and had fallen by 21 % in the first half of 1987 compared with the first half of 1986. Their market share was reduced from 29,2 % in 1985 to 21,4 % in the investigation period.

(27) The substantial increase in dumped imports and the prices at which they are offered for sale in the Community led the Commission to determine that, provisionally, the effect of the dumped imports of iron or steel sections originating in Yugoslavia and Turkey taken in isolation have to be considered as constituting material injury to the Community industry concerned.

D. COMMUNITY INTEREST

(28) The Commission had to take into account that the Community steel industry is faced with the need to continue its restructuring efforts and that the return to normal market conditions by gradually lifting the crisis regime introduced by the Commission can only be achieved if fair trading conditions are established in the market.

In this context 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; 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.

(29) In view of the particularly serious difficulties facing the Community industry, and in the light of the factors referred to above the Commission has come to the conclusion that it is in the Community's interest that action be taken. However, the Commission has considered whether action should be taken also against imports of iron and steel sections originating in Turkey, taking into account that in the second half of the investigation period these imports had fallen back to a level that would not be injurious to the Community industry. However, the rapid increase of imports from Turkey from zero to about 50 000 tonnes within a relatively short period, causing material injury to the Community industry, marks that dumped imports from Turkey could resume and reach again rapidly an injurious level if the proceeding were to be terminated without protective measures.

Under these circumstances, the Commission has come to the conclusion that notwithstanding the decline of imports from Turkey in the second half of the investigation period, action is also to be taken against these imports.

In order to prevent further injury being caused during the remainder of the proceeding, this action should take the form of provisional anti-dumping duties.

E. RATE OF DUTY

(30) As it is necessary for the Community industry to achieve their published list prices in order to generate a sufficient flow of earnings and to keep the impact of restructuring within acceptable limits, the duty should be less than the dumping margin but sufficient to eliminate the price undercutting found and be expressed as an amount in ECU to be paid on each tonne imported into the Community. This form of duty seems more appropriate in the light of the specific circumstances of the market for the relevant products in order to ensure the effectiveness of the measure.

On this basis, the Commission services calculated the amounts of the provisional duties as follows :

— Yugoslavia : 39,0 ECU,
— Turkey :
— İDÇ : 30,0 ECU,
— ÇEMTAŞ : 14,0 ECU,

to be paid on each tonne imported into the Community.

(31) A period should be fixed within which the parties concerned may make their views known and request a hearing,

HAS ADOPTED THIS DECISION :

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of U or I sections of a height of 80 mm or more and blanks therefor containing by weight less than 0,6 % of carbon, corresponding to CN codes ex 7207 19 31, ex 7207 20 71, ex 7216 31 00 and ex 7216 32 00 originating in Yugoslavia or Turkey.

2. The amount of the duty shall be for iron and steel sections originating in :

— Yugoslavia : 39 ECU per 1 000 kilograms,
— Turkey : 30 ECU per 1 000 kilograms.

3. Notwithstanding paragraph 2, the rate of the provisional anti-dumping duty shall be 14 ECU per 1 000 for products manufactured by ÇEMTAŞ Celik Makina Sanayi ve Ticaret AŞ, Bursa, Turkey.

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

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

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 entry into force of this Decision.

Article 3

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, 20 July 1988.

For the Commission
Willy DE CLERCQ
Member of the Commission