COMMISSION RECOMMENDATION No 267/79/ECSC

of 9 February 1979

imposing a provisional anti-dumping duty on certain angles, shapes and U, I or H sections of iron or steel, not further worked than hot-rolled for extruded, originating in Spain

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Articles 74 and 86 thereof,

Having regard to Commission recommendation 77/329/ECSC on protection against dumping or the granting of bounties or subsidies by countries which are not members of the European Coal and Steel Community (1), as amended by recommendations No 3004/77/ECSC (2) and No 158/79/ECSC (3), and in particular Articles 15 and 19 thereof,

Having regard to the opinions expressed within the Advisory Committee provided for by recommendation 77/329/ECSC,

Whereas the Community has published basic prices (4) established on the basis of the lowest normal prices or normal costs of production in the supplying country or countries where normal conditions of competition prevail and including the costs of transport, insurance and customs duties;

Whereas, the Community having ascertained that there was undercutting of these basic prices on the part of Spanish, South African, Japanese, Hungarian and Czechoslovakian exporters of the products mentioned in Article 1 of this recommendation from which material injury has resulted, has by means of recommendation No 1758/78/ECSC (5), as amended by recommendation No 3140/78/ECSC (6), imposed a definitive anti-dumping duty on the products in question;

Whereas certain arrangements with respect to trade in steel products were concluded in 1978 between the Community and the most important supplying countries, including Spain, a solution which the Commission considers satisfactory;

Whereas, in this situation, the Commission has suspended the definitive anti-dumping duty by means of recommendation No 1758/78/ECSC (7);

Whereas these arrangements expired on 31 December 1978 and are on the point of being renewed with most of the supplying countries, with the exception of Spain;

Whereas the Commission has ascertained that the prices of imports into the Community of the products in question originating in Spain are again below the basic prices published by the Commission for these same products; whereas it thus appears from a preliminary examination that dumping exists;

Whereas, with regard to the injury to the industry concerned, the evidence submitted to the Commission shows that, on the one hand, the imports into the Community of the products in question have increased overall from 347 000 tonnes in 1974 to 517 000 tonnes in 1977, while the imports originating in Spain have risen from approximately 32 000 tonnes to 259 000 tonnes during the same period; whereas overall imports into the Community have thus achieved a market share of 10·3 % and the imports originating from Spain a market share of 5·1 %; whereas in 1978 the evolution of imports was influenced by anti-dumping measures and the conclusion of arrangements with respect to trade in steel products between the Community and most of the supplying countries; whereas, however, Spain has been able to keep an important share of the market, 3·8 % in the first half of 1978, which, after the expiration of the abovementioned arrangement, threatens to increase again in 1979; that on the other hand the Community steel industry is in a state of crisis characterized by a reduction in the region of 15 % in deliveries in the Community of the products concerned between 1974 and 1978 and by the number of employees affected by redundancies and short-time working in the firms concerned which has gone from 780 000 to 675 000 between 1974 and 1978, and finally that the steel industry showed reduced profits or serious losses in most of the firms concerned;

Whereas the prices of imports into the Community of products which originate in Spain are considerably lower than the prices for sales within the Community

(1) OJ No L 114, 5. 5. 1977, p. 6.
(2) OJ No L 352, 31. 12. 1977, p. 13.
(3) OJ No L 21, 30. 1. 1979, p. 14.
(4) See Commission publication of 31 December 1977 concerning the basic price of certain steel products (OJ No L 353, 31. 12. 1977, p. 1), modified by publications of 1 April 1978 (OJ No L 87, p. 4), 13 May 1978 (OJ No L 126, p. 6) and 5 July 1978 (OJ No L 183, p. 3) and of 30 December 1978 (OJ No L 372, p. 2).
(5) OJ No L 203, 27. 7. 1978, p. 28.
(6) OJ No L 372, 30. 12. 1978, p. 1.
(7) OJ No L 203, 27. 7. 1978, p. 28.

of these steel products made by the European industry; that this undercutting prevents the European producers from obtaining the guidance price and jeopardizes the equilibrium of the whole price system, both in so far as it concerns the European producers and the producers in those other supplying countries which have renewed the arrangements with respect to trade in steel products; that consequently these imports are causing or threaten to cause a new material injury to the Community industry or to a major part thereof;

Whereas immediate action has been requested by a Member State;

Whereas, in the serious conditions being experienced by the Community iron and steel industry, the interests of the Community require immediate action;

Whereas it is for the Commission, without prejudice to the results of the investigation opened in accordance with Article 11 of recommendation 77/329/ECSC, to decide promptly to apply provisional measures consisting of the imposition of a provisional anti-dumping duty imports of the products concerned originating in Spain, the rate of which corresponds to the difference between the basic price published by the Commission for these products and their import price into the Community,

HAS ADOPTED THIS RECOMMENDATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on the following products originating in Spain:

— certain angles, shapes and U, I or H sections of iron or steel, not further worked than hot-rolled or extruded,

— Common Customs Tariff heading No ex 73.11 A I,

— NIMEXE code 73.11-11, 12, 14 and 16.

2. The amount of this duty shall be the amount by which the effective price (basic price plus extras) established by contract, free-at-frontier, duty-paid, is lower than the effective price (basic price plus extras) for these products most recently published by the Commission at the time of its entry for consumption within the Community.

3. The amount of this duty shall, however, be reduced to the extent that the importer establishes to the satisfaction of the competent national authorities that the price differential referred to in paragraph 2 above is due to a diminution in value resulting from the fact that the quality of these products is inferior to the lowest quality described in the last publication of basic prices by the Commission.

4. This duty shall be collected on the same basis as customs duties.

Article 2

The entry of the products described in Article 1 for consumption within the Community shall be conditional upon the deposit of a security for the amount of the provisional duty.

Article 3

This recommendation is addressed to the Member States.

It will come into effect in each Member State from the date of its publication in the *Official Journal of the European Communities.*

Done at Brussels, 9 February 1979.

For the Commission

Wilhelm HAFERKAMP

Vice-President