COMMISSION RECOMMENDATION No 935/79/ECSC

of 8 May 1979

imposing a definitive anti-dumping duty on certain angles, shapes and U, I or H sections of iron or steel, not further worked than hot-rolled or extruded, originating in Spain but imported from some other non-member country

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 17 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, 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 had resulted, imposed, by recommendation No 1785/78/ECSC (5), as amended by recommendation No 3140/78/ECSC (6), a definitive anti-dumping duty on the products in question ;

Whereas certain arrangements with respect to trade in steel products were made in 1978 between the Community and the largest supplying countries, including Spain, which were considered satisfactory by the Commission ;

Whereas in these circumstances by means of recommendation No 1758/78/ECSC the Commission suspended the definitive anti-dumping duty ;

Whereas, these arrangements having expired on 31 December 1978 and having not been renewed with Spain even though most of the other supplying countries did renew them, the Commission re-examined the facts (7) ;

Whereas, since preliminary examinations of the matter showed that there was dumping and sufficient evidence of injury and the interests of the Community called for immediate intervention, the Commission, by recommendation No 267/79/ECSC (8), imposed a provisional anti-dumping duty on the imports in question ;

Whereas, in the course of the examination of the matter, completed after the imposition of the provisional anti-dumping duties, the Commission gave interested parties the opportunity to make known their views in writing and gave the parties directly concerned who so requested the opportunity to express their views orally ;

Whereas, however, in so far as interested parties did not avail themselves of the opportunity to make known their views or present their arguments on the essential points of the enquiry, the Commission had to base its findings on the facts available ;

Whereas, in this situation, the Commission founded its dumping calculations upon basic prices calculated on the cost of production in a country considered to be one of the most efficient producers of the product in question, as established by means of the latest publicly available data ;

Whereas such cost of production has been calculated taking into consideration *inter alia* the following elements : raw material (including iron ore, sinter, pellets, scrap, ferro alloys and other iron-bearing materials and fluxes), energy costs (coke, fuel oil, electricity), labour costs including social costs, other operating costs (including maintenance costs and transport costs) and capital costs, to which was added a reasonable amount for administration, selling and any other costs and for profits ;

Whereas, moreover, those Spanish domestic prices which are available to the Commission confirm the reasonableness of these basic prices ;

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(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 the Commission communication of 31 December 1977 (OJ No L 353, 31. 12. 1977, p. 1), as amended by the communications of 1. 4. 1978 (OJ No L 87, 1. 4. 1978, p. 4), 13. 5. 1978 (OJ No L 126, 13. 5. 1978, p. 6), 5. 7. 1978 (OJ No L 183, 5. 7. 1978, p. 3) and 30. 12. 1978 (OJ No L 372, 30. 12. 1978, 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 C 78, 24. 3. 1979, p. 2.
(8) OJ No L 37, 13. 2. 1979, p. 21.

Whereas the prices of imports into the Community of the products which are the subject of the complaint have been compared with these basic prices;

Whereas this price comparison was made on a freee Community frontier duty-paid basis;

Whereas this examination of the matter has shown that the products in question were offered for import within the Community at prices lower than the basic prices and that dumping has taken place, the margin of which is constituted by this undercutting;

Whereas, with regard to the injury to the industry concerned, the evidence submitted to the Commission shows that, on the one hand, 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 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 imports originating in 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 retain an important share of the market, namely 3·8 % in the first half of 1978; whereas on the other hand the Community steel industry is in a state of crisis, evidenced by a reduction of some 15 % in deliveries in the Community of the products concerned between 1974 and 1978, by redundancies and short-time working among the workforce in the firms concerned, which fell from 780 000 to 675 000 between 1974 and 1978, and by reduced profits or serious losses on the part of most of those firms;

Whereas the prices of imports into the Community of products originating in Spain have been considerably lower than the prices for sales within the Community of the equivalent products from the European industry; whereas this undercutting has prevented the European producers from obtaining the guidance prices;

Whereas, therefore, the facts as finally established show that material injury has been caused to the Community industry — or that such injury would have been caused if provisional action had not been taken — by reason of imports originating in Spain, together with those originating in Czechoslovakia, Hungary, Japan and South Africa, which have concluded arrangements in the steel sector with the Community;

Whereas, in the meantime, certain arrangements with regard to the direct importation of steel products have been concluded between the Community and Spain;

Whereas these arrangements, which were considered satisfactory by the Community, made it possible to terminate, by recommendation No 787/79/ECSC, the provisional anti-dumping duty on direct imports [1];

Whereas, hovewever, the arrangement concluded with Spain contained no provision for regulating indirect imports, which, as shown by the experience of 1978, especially in the case of Spain, threaten to upset the balance of the whole price system, both as regards European producers and producers in those other supplying countries which have renewed the arrangements with respect to trade in steel products;

Whereas, given the serious conditions being experienced by the Community steel industry, the interests of the Community require the imposition of a definitive anti-dumping duty and the definitive collection of the amount secured by way of provisional duty with regard to indirect imports;

Whereas the amount of such definitive duty should correspond to the difference between the basic price published by the Commission for the products in question and their price on importation into the Community, due consideration being given to any reduction in value claimed by the importers and established to the satisfaction of the competent national authorities,

HAS ADOPTED THIS RECOMMENDATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on the following products originating in Spain and imported from some other non-member country:

CCT heading No	Description
73.11 A I (NIMEXE codes 73.11-11, 12, 14, 16)	Certain angles, shapes and U, I or H sections of iron or steel, not further worked than hot-rolled or extruded

[1] OJ No L 99, 21. 4. 1979, p. 31.

2. The amount of this duty shall be equal to 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) last published by the Commission for this product at the time of its entry for Community consumption.

3. The amount of the 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 quality of the goods being inferior to the lowest quality specified in the most recent publication of basic prices by the Commission.

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

Article 2

The amounts secured by way of provisional duty under the provisions of recommendation No 267/79/ECSC in respect of products originating in Spain but coming from another third country shall be definitively collected to the extent that they do not exceed the rate of duty fixed in this recommendation.

Article 3

Notwithstanding Articles 1 and 2, the definitive anti-dumping duties shall not be collected and the amounts secured by way of provisional duty shall not be definitively collected but shall be refunded, upon the request of the importer concerned, as regards deliveries intended for shipbuilding yards within the Community.

Article 4

This recommendation shall be notified to the Member States.

It shall enter into force for each Member State on the date of its publication in the *Official Journal of the European Communities.*

Done at Brussels, 8 May 1979.

For the Commission

Étienne DAVIGNON

Member of the Commission