PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON COMMERCIAL POLICY

COMMISSION

Notice of initiation of an anti-dumping proceeding concerning imports of stainless steel cold rolled flat products originating in the People’s Republic of China, the Republic of Korea and Taiwan

(2008/C 29/09)

The Commission has received a complaint pursuant to Article 5 of Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community (1) (‘the basic Regulation’), alleging that imports of stainless steel cold rolled flat products, originating in the People’s Republic of China, the Republic of Korea and Taiwan (‘the countries concerned’), are being dumped and are thereby causing material injury to the Community industry.

1. Complaint

The complaint was lodged on 21 December 2007 by EUROFER (‘the complainant’) on behalf of producers representing a major proportion, in this case more than 25 %, of the total Community production of stainless steel cold rolled flat products.

2. Product

The product allegedly being dumped is flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced), originating in the People’s Republic of China, the Republic of Korea and Taiwan (‘the product concerned’), normally declared within CN codes 7219 31 00, 7219 32 10, 7219 32 90, 7219 33 10, 7219 33 90, 7219 34 10, 7219 34 90, 7219 35 10, 7219 35 90, 7220 20 21, 7220 20 29, 7220 20 41, 7220 20 49, 7220 20 81 and 7220 20 89. These CN codes are only given for information.

3. Allegation of dumping

In view of the provisions of Article 2(7) of the basic Regulation, the complainant established normal value for the People’s Republic of China on the basis of the price in a market economy country, which is mentioned in point 5.1(d). The allegation of dumping is based on a comparison of normal value, thus calculated, with the export prices of the product concerned when sold for export to the Community.

The allegation of dumping in respect of the Republic of Korea is based on a comparison of normal value established on the basis of domestic prices, with the export prices of the product concerned when sold for export to the Community.

The allegation of dumping in respect of Taiwan is based on a comparison of a constructed normal value with the export prices of the product concerned when sold for export to the Community.

On this basis, the dumping margins calculated are significant for all exporting countries concerned.

4. Allegation of injury

The complainant has provided evidence that imports of the product concerned from the People’s Republic of China, the Republic of Korea and Taiwan have increased overall in absolute terms and in terms of market share.

It is alleged that the volumes and the prices of the imported product concerned have, among other consequences, had a negative impact on the market share held and the level of prices charged by the Community industry; resulting in substantial adverse effects on the overall performance, the profitability situation and the employment situation of the Community industry.

5. Procedure

Having determined, after consulting the Advisory Committee, that the complaint has been lodged by or on behalf of the Community industry and that there is sufficient evidence to justify the initiation of a proceeding, the Commission hereby initiates an investigation pursuant to Article 5 of the basic Regulation.

5.1. Procedure for the determination of dumping and injury

The investigation will determine whether the product concerned originating in the People’s Republic of China, the Republic of Korea and Taiwan is being dumped and whether this dumping has caused injury.

(a) Sampling

In view of the apparent large number of parties involved in this proceeding, the Commission may decide to apply sampling in accordance with Article 17 of the basic Regulation.

(i) Sampling for exporters/producers in the People’s Republic of China, the Republic of Korea and Taiwan

In order to enable the Commission to decide whether sampling is necessary and, if so, to select a sample, all exporters/producers, or representatives acting on their behalf, are hereby requested to make themselves known by contacting the Commission and providing the following information on their company or companies within the time limit set in point 6(b)(i) and in the format indicated in point 7:

— name, address, e-mail address, telephone and fax numbers and contact person,

— the turnover in local currency and the volume in tonnes of the product concerned manufactured by the company and sold for export to the Community during the period 1 January 2007 to 31 December 2007,

— the turnover in local currency and the volume in tonnes of the product concerned manufactured by the company and sold on the domestic market during the period 1 January 2007 to 31 December 2007,

— the precise activities of the company with regard to the production of the product concerned,

— the names and the precise activities of all related companies (1) involved in the production and/or selling (export and/or domestic) of the product concerned,

— any other relevant information that would assist the Commission in the selection of the sample.

By providing the above information, the company agrees to its possible inclusion in the sample. If the company is chosen to be part of the sample, this will imply replying to a questionnaire and accepting an on-the-spot investigation of its response. If the company indicates that it does not agree to its possible inclusion in the sample, it will be deemed to not have co-operated in the investigation. The consequences of non-cooperation are set out in point 8 below.

In order to obtain the information it deems necessary for the selection of the sample of exporters/producers, the Commission will, in addition, contact the authorities of the exporting countries, and any known associations of exporters/producers.

Since a company cannot be sure to be chosen for the sample, exporters/producers that wish to claim an individual margin (2) are advised to request a questionnaire within the deadline foreseen in point 6(a)(ii) of this notice, and file it within the deadline foreseen in point 6(a)(ii) first paragraph of this notice. However, attention is drawn to the last sentence of point 5.1(b) of this notice.

(ii) Sampling for importers

In order to enable the Commission to decide whether sampling is necessary and, if so, to select a sample, all importers, or representatives acting on their behalf, are hereby requested to make themselves known to the Commission and to provide the following information on their company or companies within the time limit set in point 6(b)(i) and in the formats indicated in point 7:

— name, address, e-mail address, telephone and fax numbers and contact person,

— the total turnover in euro of the company during the period 1 January 2007 to 31 December 2007,

— the total number of employees,

— the precise activities of the company with regard to the product concerned,

— the volume in tonnes and value in euro of imports into and resales made in the Community market during the period 1 January 2007 to 31 December 2007 of the imported product concerned originating in the People’s Republic of China, the Republic of Korea and Taiwan,


(2) Individual margins may be claimed pursuant to Article 17(1) of the basic Regulation for companies not included in the sample, Article 9(5) of the basic Regulation concerning individual treatment in cases involving non market economy countries/economies in transition, and Article 2(7)(b) of the basic Regulation for companies claiming market economy status. Note that claims for individual treatment necessitate an application pursuant to Article 9(5) of the basic Regulation and that claims regarding market economy status necessitate an application pursuant to Article 2(7)(b) of the basic Regulation.
the names and the precise activities of all related
companies(1) involved in the production and/or
selling of the product concerned,

— any other relevant information that would assist the
Commission in the selection of the sample.

By providing the above information, the company
agrees to its possible inclusion in the sample. If the
company is chosen to be part of the sample, this
will imply replying to a questionnaire and accepting
an on-the-spot investigation of its response. If the
company indicates that it does not agree to its possible
inclusion or inclusion in the sample, it will be deemed
to not have co-operated in the investigation. The conse-
quences of non-cooperation are set out in point 8
below.

In order to obtain the information it deems necessary
for the selection of the sample of importers, the
Commission will, in addition, contact any known asso-
ciations of importers.

(iii) Sampling for Community producers

In view of the large number of Community producers
supporting the complaint, the Commission intends to
investigate injury to the Community industry by
applying sampling.

In order to enable the Commission to decide whether
sampling is necessary and, if so, to select a sample, all
Community producers or representative acting on their
behalf are hereby requested to provide the following
information on their company or companies within the
time limit set in point 6(b)(i) and in the format indi-
cated in point 7:

— name, address, e-mail address, telephone and fax
numbers and contact person,

— the total turnover in euro of the company during
the period 1 January 2007 to 31 December 2007,

— the precise activities of the company with regard to
the product concerned,

— the value in euro of sales of the product concerned
made in the Community market during the period
1 January 2007 to 31 December 2007,

— the volume in tonnes of sales of the product
considered made in the Community market during
the period 1 January 2007 to 31 December 2007,

— the volume in tonnes of the production of the
product concerned during the period 1 January
2007 to 31 December 2007,

— the names and the precise activities of all related
companies(1) involved in the production and/or
selling of the product concerned,

— any other relevant information that would assist the
Commission in the selection of the sample.

By providing the above information, the company
agrees to its possible inclusion in the sample. If the
company is chosen to be part of the sample, this
will imply replying to a questionnaire and accepting
an on-the-spot investigation of its response. If the
company indicates that it does not agree to its possible
inclusion or inclusion in the sample, it will be deemed
to not have co-operated in the investigation. The conse-
quences of non-cooperation are set out in point 8
below.

(iv) Final selection of the samples

All interested parties wishing to submit any relevant
information regarding the selection of the sample must
do so within the time limit set in point 6(b)(ii).

The Commission intends to make the final selection of
the samples after having consulted the parties
concerned that have expressed their willingness to be
included in the sample.

Companies included in the samples must reply to a
questionnaire within the time limit set in point 6(b)(iii)
and must cooperate within the framework of the inves-
tigation.

If sufficient co-operation is not forthcoming, the
Commission may base its findings, in accordance with
Articles 17(4) and 18 of the basic Regulation, on the
facts available. A finding based on facts available may be
less advantageous to the party concerned, as explained in point 8.

(b) Questionnaires

In order to obtain the information it deems necessary for
its investigation, the Commission will send questionnaires to
the sampled Community industry and to any association of
producers in the Community, to the sampled exporters/producer-
s in the People's Republic of China, the Republic of
Korea and Taiwan to any association of exporters/producers,
to the sampled importers, to any association of importers
named in the complaint, to known users and to the authori-
ties of the exporting countries concerned.

Exporters/producers in the People's Republic of China, the
Republic of Korea and Taiwan claiming an individual
margin, with a view to the application of Articles 17(3)
and/or 9(6) of the basic Regulation, must submit a
completed questionnaire within the time limit set in
point 6(a)(ii) of this notice. They therefore have to request a
questionnaire within the time limit set in point 6(a)(ii). How-
ever, such parties should be aware that if sampling is
applied to exporters/producers, the Commission may none-
theless decide not to calculate an individual margin for
them, if the number of exporters/producers is so large that
individual examination would be unduly burdensome and
would prevent the timely completion of the investigation.

(1) For guidance on the meaning of related companies, please refer to
Article 143 of Regulation (EEC) No 2454/93.
(c) **Collection of information and holding of hearings**

All interested parties are hereby invited to make their views known, submit information other than questionnaire replies and to provide supporting evidence. This information and supporting evidence has to reach the Commission within the time limit set in point 6(a)(ii).

Furthermore, the Commission may hear interested parties, provided that they make a request showing that there are particular reasons why they should be heard. This request must be made within the time limit set in point 6(a)(iii).

(d) **Selection of the market economy country**

In accordance with Article 2(7)(a) of the basic Regulation, it is envisaged to choose Mexico as an appropriate market economy country for the purpose of establishing normal value in respect of the People's Republic of China. Interested parties are hereby invited to comment on the appropriateness of this choice within the specific time limit set in point 6(c).

(e) **Market economy treatment**

For those exporters/producers in the People's Republic of China who claim and provide sufficient evidence that they operate under market economy conditions, i.e. that they meet the criteria laid down in Article 2(7)(c) of the basic Regulation, normal value will be determined in accordance with Article 2(7)(b) of the basic Regulation. Exporters/producers intending to submit duly substantiated claims must do so within the specific time limit set in point 6(d). The Commission will send claim forms to all exporters/producers in the People's Republic of China who have either been included in the sample or named in the complaint and to any association of exporters/producers named in the complaint, as well as to the authorities of the People's Republic of China.

5.2. **Procedure for assessment of Community interest**

In accordance with Article 21 of the basic Regulation and in the event that the allegations of dumping and injury caused thereby are substantiated, a decision will be reached as to whether the adoption of anti-dumping measures would not be against the Community interest. For this reason the Community industry, importers, their representative associations, representative users and representative consumer organisations, provided that they prove that there is an objective link between their activity and the product concerned, may, within the general time limits set in point 6(a)(ii), make themselves known and provide the Commission with information. The parties which have acted in conformity with the precedent sentence may request a hearing setting the particular reasons why they should be heard within the time limit set in point 6(a)(iii). It should be noted that any information submitted pursuant to Article 21 will only be taken into account if supported by factual evidence at the time of submission.

6. **Time limits**

(a) **General time limits**

(i) **For parties to request a questionnaire or other claim forms**

All interested parties should request a questionnaire or other claim forms as soon as possible, but not later than 10 days after the publication of this notice in the *Official Journal of the European Union*.

(ii) **For parties to make themselves known, to submit questionnaire replies and any other information**

All interested parties, if their representations are to be taken into account during the investigation, must make themselves known by contacting the Commission, present their views and submit questionnaire replies or any other information within 40 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified. All exporters/producers concerned by this proceeding, who wish to apply for individual examination in accordance with Article 17(3) of the basic Regulation, must also submit a questionnaire reply within 40 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified. Attention is drawn to the fact that the exercise of most procedural rights set out in the basic Regulation depends on the party's making itself known within the aforementioned period.

Companies selected in a sample must submit questionnaire replies within the time limits specified in point 6(b)(iii).

(iii) **Hearings**

All interested parties may also apply to be heard by the Commission within the same 40-day time limit.

(b) **Specific time limit in respect of sampling**

(i) The information specified in points 5.1(a)(i), 5.1(a)(ii) and 5.1(a)(iii) should reach the Commission within 15 days of the date of publication of this notice in the *Official Journal of the European Union*, given that the Commission intends to consult parties concerned that have expressed their willingness to be included in the sample on its final selection within a period of 21 days of the publication of this notice in the *Official Journal of the European Union*.

(ii) All other information relevant for the selection of the sample as referred to in 5.1(a)(iv) must reach the Commission within a period of 21 days of the publication of this notice in the *Official Journal of the European Union*. 
(iii) The questionnaire replies from sampled parties must reach the Commission within 37 days from the date of the notification of their inclusion in the sample.

(c) Specific time limit for the selection of the market economy country

Parties to the investigation may wish to comment on the appropriateness of Mexico which, as mentioned in point 5.1(d), is envisaged as a market economy country for the purpose of establishing normal value in respect of the People’s Republic of China. These comments must reach the Commission within 10 days of the date of publication of this notice in the Official Journal of the European Union.

(d) Specific time limit for submission of claims for market economy status and/or for individual treatment

Duly substantiated claims for market economy status (as mentioned in point 5.1(e)) and/or for individual treatment pursuant to Article 9(5) of the basic Regulation, must reach the Commission within 15 days of the date of publication of this notice in the Official Journal of the European Union.

7. Written submissions, questionnaire replies and correspondence

All submissions and requests made by interested parties must be made in writing (not in electronic format, unless otherwise specified and must indicate the name, address, e-mail address, telephone and fax numbers of the interested party). All written submissions, including the information requested in this notice, questionnaire replies and correspondence provided by interested parties on a confidential basis shall be labelled as ‘Limited’ (1) and, in accordance with Article 19(2) of the basic Regulation, shall be accompanied by a non-confidential version, which will be labelled ‘For inspection by interested parties’.

Commission address for correspondence:
European Commission
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Directorate H
Office: J-79 4/23
B-1049 Brussels
Fax (32-2) 295 65 05.

8. Non-cooperation

In cases in which any interested party refuses access to or does not provide the necessary information within the time limits, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made in accordance with Article 18 of the basic Regulation, on the basis of the facts available.

Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of the facts available. If an interested party does not cooperate or cooperates only partially and findings are therefore based on facts available in accordance with Article 18 of the basic Regulation, the result may be less favorable to that party than if it had cooperated.

9. Schedule of the investigation

The investigation will be concluded, according to Article 6(9) of the basic Regulation within 15 months of the date of the publication of this notice in the Official Journal of the European Union. According to Article 7(1) of the basic Regulation, provisional measures may be imposed no later than 9 months from the publication of this notice in the Official Journal of the European Union.

10. Processing of personal data

It is noted that any personal data collected in this investigation will be treated in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (2).

11. Hearing Officer

It is also noted that if interested parties consider that they are encountering difficulties in the exercise of their rights of defence, they may request the intervention of the Hearing Officer of DG Trade. He acts as an interface between the interested parties and the Commission services, offering, where necessary, mediation on procedural matters affecting the protection of their interests in this proceeding, in particular, with regard to issues concerning access to the file, confidentiality, extension of time limits and the treatment of written and/or oral submission of views. For further information and contact details, interested parties may consult the Hearing Officer’s web pages on the website of DG Trade (http://ec.europa.eu/trade).

(1) This means that the document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of the basic Regulation and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-dumping Agreement).