

COMMISSION DECISION No 2872/82/ECSC

of 28 October 1982

on the restriction of exports of certain steel products to the United States of America

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular the first and second paragraphs of Article 95 thereof,

Whereas the Community has concluded an Arrangement⁽¹⁾ (hereinafter referred to as 'the Arrangement') with the United States of America under which, on the one hand, certain anti-dumping, countervailing duty and other procedures are to be terminated and, on the other, the amount of exports, to the United States, of certain steel products originating in the Community are to be limited to certain levels over an agreed period; whereas, moreover, it is necessary, pursuant to this Arrangement, to introduce in the Community measures to restrict the amount of these steel products exported to the United States;

Whereas this Decision does not affect the powers of the Member States in matters of commercial policy referred to in Article 71 of the Treaty;

Whereas, in accordance with the Arrangement, the export restrictions cover steel products originating in the Community; whereas the origin of these products is determined in accordance with applicable Community legislation, that is to say Council Regulation (EEC) No 802/68 of 27 June 1968 on the common definition of the concept of the origin of goods⁽²⁾, as last amended by Regulation (EEC) No 1318/71⁽³⁾;

Whereas, for practical and management reasons, the quantitative export limits agreed by the Community must be allocated among the Member States; whereas, in order to do so, an allocation method must be established; whereas, thereafter, the Member States must share out the amounts allocated to them among undertakings in accordance with objective criteria;

Whereas utilization of the Community limits, based on allocations among Member States made in this way, would seem to be in keeping with the Community nature of these limits, considering that in addition a Community reserve is to be established;

Whereas a Community reserve will allow certain effects of the allocation method to be corrected and ensure a maximum use of export possibilities;

Whereas the allocation among the Member States of the total export possibilities which the Arrangement affords should be based upon traditional trade patterns, having regard to the possible repercussions of American measures upon the import of steel products from the various Member States;

Whereas, as provided for in the Arrangement, measures must be taken to avoid abnormal concentrations at certain times in exports to the United States;

Whereas the Community steel policy aims, in particular, at allowing the Community steel industry to adapt to the conditions of international competition; whereas bearing in mind, on the one hand, the links between the industry's restructuring efforts and the needs to which the Arrangement responds, and, on the other, that the Arrangement is limited to products originating in the Community, it is necessary to provide that export licences issued to undertakings shall indicate the undertaking engaged in production of steel within the Community, and established in the issuing Member State that is holding the allocation against which the licence is issued;

Whereas, in order to take account of the interests of distributive undertakings, it must be possible for these licences to be transferred not only between steel undertakings but also by steel undertakings to distributive undertakings, in particular where the steel undertakings decide to sell their products to such distributive undertakings;

Whereas it appears necessary, and for the moment sufficient, that Member States ensure compliance with the different provisions of the regime laid down by applying the various penalties provided for in their laws;

Whereas, in order to facilitate the application of the envisaged provisions, it is appropriate to set up a

⁽¹⁾ See page 13 of this Official Journal.

⁽²⁾ OJ No L 148, 28. 6. 1968, p. 1.

⁽³⁾ OJ No L 139, 25. 6. 1971, p. 6.

procedure establishing close cooperation between Member States and the Commission in the framework of a Committee; whereas, to that end, it is necessary to establish an Arrangement Committee;

Having consulted the Consultative Committee and with the unanimous assent of the Council,

HAS ADOPTED THIS DECISION:

Article 1

1. Community export limits are hereby established for the period 1 November 1982 to 31 December 1983 (hereinafter referred to as 'the initial period') and for the years 1984 and 1985 for exports effected after 1 November 1982 from the Community to the United States of America (hereinafter referred to as 'the United States') of the steel products originating in the Community which are listed and described in Annex I.

For the purposes of this Decision, the United States shall comprise United States customs territory and United States foreign trade zones as described in Annex II.

2. The origin of the products covered by this Decision shall be determined in accordance with the rules in force in the Community.

Article 2

1. Community export limits per product category shall be calculated by the Commission for the initial period and for the years 1984 and 1985 by application to the United States apparent consumption within the meaning of Article 5 of the Arrangement of the following percentages:

| <i>Product category</i> | <i>Percentage</i> |
|-------------------------------|-------------------|
| 1. Hot-rolled sheet and strip | 6.81 % |
| 2. Cold-rolled sheet | 5.11 % |
| 3. Plate | 5.36 % |
| 4. Structural | 9.91 % |
| 5. Wire rod | 4.29 % |
| 6. Hot-rolled bars | 2.38 % |
| 7. Coated sheet | 3.27 % |
| 8. Tin plate | 2.20 % |
| 9. Rails | 8.90 % |
| 10. Sheet piling | 21.85 % |

2. The Community export limits calculated pursuant to paragraph 1 shall be adjusted by the Commission to take account of revisions of the said United States apparent consumption.

3. These limits may also be adjusted by the Commission, after consultation of the Arrangement Committee:

- for advance use or carry-over of licences,
- to enable transfers between product categories,
- for additional quotas in case of short-supply,
- to take account of possible aberrations, during August, September and October 1982, from seasonal trade patterns,

under the conditions provided for in the Arrangement.

Article 3

1. The Community quantitative export limits established and calculated pursuant to Article 2 shall be allocated for the initial period and for 1984 and for 1985 by the Commission in accordance with Annex III.

2. The Commission shall hold periodic consultations with the Arrangement Committee on the situation regarding licences issued and on the measures to be taken to ensure optimum use of the overall limit.

Article 4

Member States shall transfer to a Community reserve, within the first eight days of the third month of each quarter, the fraction of the allocation for which they did not issue licences. The Commission shall allot this Community reserve, after consultations of the Arrangement Committee, to one or more Member States to the extent that the optimum use of the quantitative export limits or possible administration problems for the system call for the allocation to be adjusted.

The Commission may establish the technical conditions upon which licences are to be issued by the Member States in respect of such additional allocation or allocations.

Article 5

1. The Community exports described in Article 1 shall, from 1 November 1982 to 31 December 1985, be subject to the production to the competent customs office in the Community of an export licence to be issued by the relevant authorities of each Member State

within the limits of the amounts allocated to it pursuant to Article 3 and, where relevant, Article 4, and of an export certificate.

Member States shall fix the tonnage for which they anticipate that licence will be issued in each quarter for each product category; they shall inform the Commission thereof in the first 15 days of the relevant quarter. In doing so, they shall make sure that the export licence issues for each quarter ensure an adequate spread of exports over the whole year, taking into account the seasonal variations in trade of the product category in question. However, Member States shall not, without the prior authorization of the Commission, issue in any two consecutive quarters licences for amounts which exceed 55 % of their allocation in the initial period or 65 % of their allocation in 1984 and 1985.

Member States may, subject to the second subparagraph hereof, issue further licences in the initial period, 1984 and 1985 respectively, in respect of the unutilized part of licences issued which have been returned to their competent authorities in the initial period, in 1984 or in 1985.

2. Licences shall be issued according to the following criteria:

- compliance with the rules prescribed by this Decision, in particular those concerning the quota allocated by the Commission pursuant to Article 3,
- compliance with the traditional export patterns of undertakings during the period 1977 to 1981, taking account of the reduction principles established by this Decision,
- compliance with the rates of exports to the United States as traditionally spread out over the year,
- optimum use and administration of the export possibilities afforded by this Decision,
- compliance with the possibilities afforded by Article 4 of this Decision,
- optimum use being made of any new possibilities provided for, where appropriate, by this Decision.

Each licence shall indicate the undertaking engaged in production of steel within the Community and established in the issuing Member State that is holding the allocation against which the licence is issued.

3. Transfers of export licences between steel undertakings or by steel undertakings to distributive undertakings may take place provided they concern the

same product category and after prior notification to the authorities of the Member State in which the undertaking transferring the licence is established. Such transfer may take place between undertakings established in different Member States.

4. Licences issued in one Member State of the Community shall be valid throughout the Community.

5. Member States shall ensure that appropriate sanctions are applied in respect of all exports effected without production of the licence required hereunder and in respect of any other breaches of the provisions relating to such licences. Member States shall keep the Commission informed of all breaches of such measures, and of all sanctions imposed in respect thereof, at intervals to be specified by the Commission.

6. The Commission may lay down detailed rules for the implementation of paragraphs 1 to 4 of this Article and specify the information to be provided to the Commission concerning the licences and exports.

Article 6

1. Member States shall charge the amounts set out on the licences issued by them against their respective allocations made pursuant to Article 3 and, where relevant, Article 4, including all licences subsequently transferred to an undertaking of another Member State.

2. Member States shall keep records of the exports of the products covered by this Decision. The products shall be deemed to be so exported, as at the date of acceptance, by the customs authorities of the Member State of export, of the export declaration or of the document provided for in Article 18 of Council Directive 81/177/EEC of 24 February 1981 on the harmonization of procedures for the export of Community goods ⁽¹⁾.

3. The extent to which a Member State has used up its allocation shall be determined on the basis of licences issued in accordance with Article 5.

Article 7

1. Temporary exports to the United States of products which are to be re-exported from the United States in the same form or without having been subject to substantial transformation shall be charged against the allocation on the Member State whose authorities issued the licence. Upon production to the authorities of such Member State of proof of such re-exportation from

⁽¹⁾ OJ No L 83, 30. 3. 1981, p. 40.

the United States, the allocation of that Member State for the period when such proof is presented shall be increased by the same amount.

2. The Commission may lay down detailed rules for the implementation of this Article.

Article 8

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

It shall apply from 1 November 1982.

This Decision shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28 October 1982.

For the Commission
Wilhelm HAFERKAMP
Vice-President

ANNEX I

List of products

| Description | NIMEXE code | TSUSA number |
|---|-------------|--------------------------|
| Hot-rolled carbon steel sheet and strip | 73.08-03 | 607.66-10 |
| | 73.08-05 | 607.67-00 |
| | 73.08-07 | 607.83-42 |
| | 73.08-21 | 608.19-20 |
| | 73.08-25 | 608.21-20 |
| | 73.08-29 | 608.23-20 |
| | 73.08-41 | |
| | 73.08-45 | |
| | 73.08-49 | |
| | 73.12-19 | |
| | 73.13-21 | |
| | 73.13-23 | |
| | 73.13-26 | |
| | 73.13-32 | |
| | 73.13-34 | |
| | 73.13-36 | |
| | 73.62-10 | |
| 73.64-20 | | |
| 73.65-23 | | |
| 73.65-25 | | |
| Hot-rolled alloy steel sheet and strip | 73.72-19 | 607.81-00 |
| | 73.74-29 | 608.38-20 ⁽¹⁾ |
| | 73.75-34 | 608.55-20 ⁽¹⁾ |
| | 73.75-39 | 608.67-20 ⁽¹⁾ |
| | 73.75-44 | |
| | 73.75-49 | |
| Cold-rolled alloy steel sheet | 73.13-43 | 607.83-20 |
| | 73.13-45 | 607.83-44 |
| | 73.13-47 | |
| | 73.13-49 | |
| | 73.13-50 | |
| 73.65-55 | | |
| Cold-rolled alloy steel sheet | 73.75-64 | 607.93-20 |
| | 73.75-69 | |
| Carbon steel plate | 73.09-00 | 607.66-15 ⁽²⁾ |
| | 73.13-17 | 607.94-00 |
| | 73.13-19 | 608.07-10 |
| | 73.13-78 | 608.11-00 |
| | 73.13-79 | |
| | 73.62-30 | |
| | 73.64-72 | |
| 73.65-21 | | |
| Alloy steel plate | 73.72-39 | 607.78-00 ⁽²⁾ |
| | 73.75-24 | 607.91-00 |
| | 73.75-29 | 608.14-20 |

⁽¹⁾ Covered if hot-rolled.⁽²⁾ Excluding semi-finished products, of a thickness of more than six inches, obtained by slabbing.

| Description | NIMEXE code | TSUSA number |
|---|--|------------------------|
| Coated sheet (galvanized and other) of carbon steel | 73.12-71 ⁽¹⁾ | 608.07-30 |
| | 73.13-67 | 608.13-00 |
| | 73.13-68 | |
| | 73.13-72 | |
| | 73.13-88 | |
| | 73.65-70 | |
| Alloy steel coated sheet, and terne plate | 73.13-74 | 608.01-00 |
| | 73.74-72 ⁽¹⁾ | 608.14-40 |
| | 73.75-79 | |
| Tin plate (not including blackplate) | 73.12-51 ⁽¹⁾ | 607.96-00 |
| | 73.13-64 | 607.97-00 |
| | 73.13-65 | 607.99-00 |
| Carbon steel structural shapes | 73.11-12 | 609.80-05 |
| | 73.11-14 | 609.80-15 |
| | 73.11-16 | 609.80-35 |
| | 73.11-19 | 609.80-41 |
| | 73.63-29 ⁽²⁾ | 609.80-45 |
| Alloy steel structural shapes | 73.73-34 ⁽²⁾ | 609.82-00 |
| | 73.73-35 ⁽²⁾ | |
| | 73.73-36 ⁽²⁾ | |
| | 73.73-39 ⁽²⁾ | |
| Wire rod | 73.10-11 | 607.14-00 |
| | 73.10-16 ⁽³⁾ | 607.17-00 |
| | 73.63-21 | 607.22-00 |
| | 73.63-29 ⁽³⁾ | 607.23-00 |
| | 73.73-25 ⁽⁴⁾ | |
| | 73.73-35 ⁽³⁾ ⁽⁴⁾ | |
| Hot-rolled carbon steel bars | 73.10-16 ⁽⁵⁾ | 606.83-10 |
| | 73.10-42 ⁽⁶⁾ | 606.83-30 |
| | 73.63-29 ⁽⁷⁾ | 606.83-50 |
| | 73.63-72 ⁽⁶⁾ | |
| | 73.73-35 ⁽⁴⁾ ⁽⁸⁾ | |
| Hot-rolled alloy steel bars | 73.73-34 ⁽⁸⁾ | 606.97-00 |
| | 73.73-35 ⁽⁹⁾ | |
| | 73.73-36 ⁽⁸⁾ | |
| | 73.73-39 ⁽⁸⁾ | |
| | 73.73-72 ⁽⁶⁾ | |
| Carbon steel and alloy steel | 73.16-14 | 610.20-10 |
| | 73.16-16 | 610.20-20 |
| | 73.16-17 | 610.21-00 |
| | 73.16-20 | |
| Carbon steel and alloy steel sheet piling | 73.11-50 | 609.96-00 609.98-00 |

⁽¹⁾ Covered if width greater than 12 inches.

⁽²⁾ Covered if structural shapes.

⁽³⁾ Covered only if coiled bar of a diameter of 13 to 18.8 mm.

⁽⁴⁾ Covered only if containing 0.35 % or less of lead or sulphur.

⁽⁵⁾ Excluding coiled bars of a diameter of 13 to 18.8 mm.

⁽⁶⁾ Not covered if coated, plated or clad.

⁽⁷⁾ Covered if hot-rolled, excluding coiled bars of a diameter of 13 to 18.8 mm.

⁽⁸⁾ Covered if hot-rolled bar.

⁽⁹⁾ Covered if hot-rolled bar and 0.35 % or more of lead or sulphur.

*ANNEX II***United States customs territory and United States foreign trade zones**

The United States customs territory shall comprise the States, the district of Columbia, and Puerto Rico.

A US foreign trade zone shall be defined as follows:

It is an isolated, enclosed and policed area, operated as a public utility, in or adjacent to a port of entry, furnished with facilities for loading, unloading, handling, storing, manipulating, manufacturing and exhibiting goods and for reshipping them by land, water or air. Any foreign and domestic merchandise, except such as is prohibited by law or such as the Board may order to be excluded as detrimental to the public interest, health or safety, may be brought into a zone without being subject to the customs laws of the United States governing the entry of goods or the payment of duty thereon; and such merchandise permitted in a zone may be stored, exhibited, manufactured, mixed or manipulated in any manner, except as provided in the act and other applicable laws or regulations. The merchandise may be exported, destroyed or sent into customs territory from the zone, in the original package or otherwise. It is subject to customs duties if sent into customs territory, but not if reshipped to foreign points.

ANNEX III

Allocation among Member States

| Description | Member State | Percentage |
|----------------------------|----------------|------------|
| Hot-rolled sheet and strip | Germany | 33.06 |
| | France | 32.98 |
| | Italy | 8.81 |
| | Netherlands | 19.96 |
| | Belgium | 3.75 |
| | Luxembourg | 0.56 |
| | United Kingdom | 0.88 |
| | Greece | — |
| | Denmark | — |
| | Ireland | — |
| Cold-rolled sheet | Germany | 43.29 |
| | France | 15.98 |
| | Italy | 9.60 |
| | Netherlands | 16.21 |
| | Belgium | 8.99 |
| | Luxembourg | 0.27 |
| | United Kingdom | 2.37 |
| | Greece | 3.29 |
| | Denmark | — |
| | Ireland | — |
| Plate | Germany | 22.45 |
| | France | 3.68 |
| | Italy | 10.39 |
| | Netherlands | 0.92 |
| | Belgium | 46.87 |
| | Luxembourg | — |
| | United Kingdom | 13.93 |
| | Greece | — |
| | Denmark | 1.77 |
| | Ireland | — |
| Structurals | Germany | 22.19 |
| | France | 11.09 |
| | Italy | 0.64 |
| | Netherlands | — |
| | Belgium | 24.78 |
| | Luxembourg | 17.79 |
| | United Kingdom | 23.51 |
| | Greece | — |
| | Denmark | — |
| | Ireland | — |
| Wire rod | Germany | 15.63 |
| | France | 47.85 |
| | Italy | 0.01 |
| | Netherlands | 1.29 |
| | Belgium | 8.44 |
| | Luxembourg | 0.03 |
| | United Kingdom | 26.75 |
| | Greece | — |
| | Denmark | — |
| | Ireland | — |

| Description | Member State | Percentage |
|-----------------|----------------|------------|
| Hot-rolled bars | Germany | 8.65 |
| | France | 13.88 |
| | Italy | 3.43 |
| | Netherlands | 0.30 |
| | Belgium | 24.91 |
| | Luxembourg | |
| | United Kingdom | 48.83 |
| | Greece | — |
| | Denmark | — |
| Ireland | — | |
| Coated sheet | Germany | 56.89 |
| | France | 23.38 |
| | Italy | 8.71 |
| | Netherlands | 4.16 |
| | Belgium | 3.89 |
| | Luxembourg | 0.43 |
| | United Kingdom | 2.54 |
| | Greece | — |
| | Denmark | — |
| Ireland | — | |
| Tin plate | Germany | 54.28 |
| | France | 27.91 |
| | Italy | — |
| | Netherlands | 12.94 |
| | Belgium | 4.03 |
| | Luxembourg | — |
| | United Kingdom | 0.84 |
| | Greece | — |
| | Denmark | — |
| Ireland | — | |
| Rails | Germany | 58.54 |
| | France | 14.36 |
| | Italy | — |
| | Netherlands | — |
| | Belgium | — |
| | Luxembourg | 20.77 |
| | United Kingdom | 6.33 |
| | Greece | — |
| | Denmark | — |
| Ireland | — | |
| Sheet piling | Germany | 27.6 |
| | France | 25.1 |
| | Italy | — |
| | Netherlands | — |
| | Belgium | — |
| | Luxembourg | 30.7 |
| | United Kingdom | 16.6 |
| | Greece | — |
| | Denmark | — |
| Ireland | — | |