

## COMMISSION RECOMMENDATION No 811/78/ECSC

of 21 April 1978

**imposing a definitive anti-dumping duty on certain sheets and plates, of iron or steel, originating in Bulgaria, the German Democratic Republic and Romania**

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 of 15 April 1977 on protection against dumping or the granting of bounties or subsidies by countries which are not members of the European Coal and Steel Community<sup>(1)</sup>, as amended by recommendation No 3004/77/ECSC<sup>(2)</sup>, and in particular Articles 17 and 19 thereof,

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

Whereas the Commission has received a complaint, submitted in the name of the relevant Community industry, setting out evidence as to the existence of dumping of certain sheets and plates, of iron or steel, originating in Bulgaria, the German Democratic Republic, Romania and certain other countries, and material injury resulting therefrom ;

Whereas, since the information received indicated that the complaint was admissible and that defensive measures might be necessary, the Commission officially informed the importers and exporters known to be concerned, published in the *Official Journal of the European Communities*, a notice of the initiation of an inquiry concerning the imports in question<sup>(3)</sup> and commenced an examination of the matter in cooperation with the Member States ;

Whereas, since preliminary examination 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 recommendations No 121/78/ECSC and No 160/78/ECSC<sup>(4)</sup>, imposed provisional anti-dumping duties on the imports in question ;

Whereas, in the course of the examination of the matter, completed after the imposition of the provi-

sional anti-dumping duties, the Commission gave interested parties the opportunity to make known their views in writing and gave to the parties directly concerned who so requested the opportunity orally to develop their views ;

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

Whereas when determining dumping on the above-mentioned imports, the Commission had to take account of the fact that trade is on a basis of near or total monopoly and that prices are fixed by the State and that, therefore, an exact comparison between the export price of the product to the Community and its domestic price is not appropriate ;

Whereas, for all these reasons, the Commission has decided to base its dumping calculations 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 materials (covering 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 the aforementioned calculation has confirmed the reasonableness of the basic prices as published by the Commission<sup>(5)</sup> ;

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 ;

<sup>(1)</sup> OJ No L 114, 5. 5. 1977, p. 6.

<sup>(2)</sup> OJ No L 352, 31. 12. 1977, p. 13.

<sup>(3)</sup> OJ No C 19, 24. 1. 1978, p. 7.

<sup>(4)</sup> OJ No L 19, 24. 1. 1978, p. 9 and OJ No L 23, 28. 1. 1978, p. 33.

<sup>(5)</sup> Communication from the Commission of 31 December 1977 concerning the basic prices of certain steel products (OJ No L 353, 31. 12. 1977, p. 1).

Whereas this price comparison was made on a free 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 injury to the industry concerned, the evidence available to the Commission shows that imports into the Community of the products increased globally from 1 155 000 tonnes in 1974 to 903 000 tonnes in the first six months of 1977, imports originating in Bulgaria, the German Democratic Republic and Romania having risen from 167 000 to 108 000 tonnes in the same period, and that, as a result, they have been able to acquire a Community market share of 19 % in total and 12 % for imports originating in Bulgaria, the German Democratic Republic and Romania together with those from Austria, Czechoslovakia, Finland, Japan, Poland, Spain and Sweden, which are also subject to defensive measures in the Community or to steel arrangements concluded with the ECSC ;

Whereas, on the other hand, the Community steel industry is in a crisis situation characterized by a reduction of about 40 % in the production of the products concerned between 1974 and 1977 in the Community and by a reduction in the number employed from 780 000 to 720 000 between 1974 and 1977 and by short-time working and that, as a result, the Community steel industry recorded a reduction in profits or the appearance of serious losses in most of the firms concerned ;

Whereas, in order to remedy this situation, the Commission has introduced a system of guidance prices<sup>(1)</sup> for sales within the Community of certain steel products produced by the European steel industry ;

Whereas the import prices into the Community of products originating in Bulgaria, the German Democratic Republic and Romania are considerably lower than these guidance prices and such undercutting prevents the European producers from achieving the guidance prices and jeopardizes the equilibrium of the entire pricing system and causes or threatens to cause material injury to the Community industry or to a major part of it ;

Whereas the import prices of deliveries originating in Bulgaria, the German Democratic Republic and Romania are considerably lower than the already low

prices of the Community producers and thus accentuate the depression of Community 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 imports originating in Bulgaria, the German Democratic Republic and Romania together with those from Austria, Czechoslovakia, Finland, Japan, Poland, Spain and Sweden, which are also subject to defensive measures or covered by steel arrangements concluded with the Community ;

Whereas, in 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 ;

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 its price on importation into the Community, due consideration being given to any diminution 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 Bulgaria, the German Democratic Republic and Romania :

- sheets and plates, of iron or steel, other than electrical, not further worked than hot-rolled, of a thickness of 2 mm or more,
- Common Customs Tariff subheading 73.13 B I a),
- NIMEXE code 73.13-17, 19, 21, 23 and 26.

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 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

<sup>(1)</sup> OJ No L 114, 5. 5. 1977, p. 1, OJ No C 174, 22. 7. 1977 and OJ No L 352, 31. 12. 1977, p. 17.

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 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 amounts secured by way of provisional duty under the provisions of recommendations No 121/78/ECSC and No 160/78/ECSC, in respect of products originating in Bulgaria, the German Democratic Republic and Romania, shall be definitively collected to the extent that they do not exceed the rate of duty fixed in this recommendation.

*Article 3*

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, 21 April 1978.

*For the Commission*

Antonio GIOLITTI

*Member of the Commission*