

## COMMISSION RECOMMENDATION No 2242/82/ECSC

of 10 August 1982

**imposing a provisional anti-dumping duty on broad-flanged beams originating in Spain**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Commission recommendation No 3018/79/ECSC of 21 December 1979 on protection against dumped or subsidized imports from countries not members of the European Coal and Steel Community<sup>(1)</sup>, as amended by recommendation No 1995/82/ECSC<sup>(2)</sup>, and in particular Article 11 thereof,

After consultations within the Advisory Committee provided for by Article 6 of recommendation No 3018/79/ECSC,

Whereas in July 1982 the Commission received a complaint, lodged by the European Confederation of Iron and Steel Industries (EUROFER) on behalf of almost all Community producers of broad-flanged beams;

Whereas, since the complaint provided sufficient evidence of dumping in respect of the like product originating in Spain and of material injury resulting therefrom, the Commission accordingly announced, by a notice published in the *Official Journal of the European Communities*<sup>(3)</sup>, the initiation of a proceeding concerning imports of broad-flanged beams originating in Spain and commenced an investigation of the matter at Community level;

Whereas the Commission has published basic prices<sup>(4)</sup> based on the lowest normal prices or costs of production in the supplying countries where normal conditions of competition prevail, including the costs of transport, insurance and customs duties; whereas for its preliminary determination of dumping the Commission compared for the first half of 1982 the prices of imports into the Community of the products under consideration with the basic prices;

Whereas this comparison shows that between January and June 1982 considerable quantities of broad-flanged beams originating in Spain have been offered for importation 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 the margin has varied, reaching more than 20 % in some instances;

Whereas, with regard to injury to the Community industry concerned, the evidence available to the Commission shows that imports of the products concerned originating in Spain into the Federal Republic of Germany, which traditionally accounted for the vast majority of Community imports of these products, have increased very significantly over the last few years; whereas the level of these imports into the Federal Republic of Germany was 85 824 tonnes in 1977 and increased to 112 100 tonnes in 1980, 130 414 tonnes in 1981 and 90 715 tonnes in the six month period running from October 1981 to March 1982; whereas during the six month period ending in May 1982 import licence applications for 125 574 tonnes were lodged with the German authorities;

Whereas in 1980 imports into the Federal Republic of Germany of the product concerned originating in Spain represented 16 % of German and 7 % of Community consumption; whereas the average monthly quantity for which import licences were issued between December 1981 and May 1982 by the German authorities corresponds to 37 % of average monthly consumption in the Federal Republic of Germany and to approximately 17 % of average monthly consumption in the Community in 1981;

Whereas in respect of prices the information available to the Commission shows that the price at which the product concerned, originating in Spain, was sold to Community customers substantially undercut the list prices of the Community producers; whereas in some instances this undercutting was more than 20 %; whereas these prices are forcing the Community industry either to lose sales or to align its prices downwards and to sell the like products at price levels insufficient to cover its costs;

Whereas the Community steel industry is in a crisis situation characterized by a fall in production, very low capacity utilization and reduced profits or increased losses; whereas the numbers employed fell by 244 780 or 30.8 % between 1974 and 1981; whereas in respect of broad-flanged beams in particular the quantity of new orders obtained by German producers in the first quarter of 1982 was 30 % less than orders in the fourth quarter of 1981 and 48 % less than orders obtained in the first quarter of 1981; whereas this significant fall coincides with a sharp increase in the

(<sup>1</sup>) OJ No L 339, 31. 12. 1979, p. 15.

(<sup>2</sup>) OJ No L 215, 23. 7. 1982, p. 28.

(<sup>3</sup>) OJ No C 207, 10. 8. 1982, p. 4.

(<sup>4</sup>) OJ No L 372, 29. 12. 1981, p. 1.

number of import licences issued for the products concerned originating in Spain; whereas the importation of the quantities licensed and their resale at low prices seriously jeopardizes the attempt being made at present by Community authorities and producers to reduce output and increase prices to profitable levels;

Whereas the Commission has also considered the injury caused by other factors which, individually or in combination, are also affecting the Community industry; whereas it has found in this context, using the information available, that between 1978 and 1980 the level of consumption had declined by approximately 10%; whereas, since 1978, the volume of imports from other sources into the Federal Republic of Germany has remained relatively stable at a low level and in 1981 did not exceed one quarter of the deliveries of the like products originating in Spain; whereas the influence of the dumped imports has been isolated from the other factors adversely affecting the industry, taking into consideration in particular the sharp increase of Spanish imports since the third quarter of 1981; whereas having regard to the restructuring efforts being undertaken at present by the Community steel industry the Commission has reached the preliminary conclusion that the dumped imports are causing or threatening to cause material injury to the Community industry;

Whereas a Bilateral Arrangement between the Community and Spain concerning Spanish exports of certain iron and steel products to the Community was concluded in 1978 and extended until 31 December 1982; whereas the Commission is of the opinion that the normal functioning of this Arrangement is no longer assured due to persistent and unjustified under-quotation of Arrangement prices for broad-flanged beams by imports of these products originating in Spain; whereas, after consultations with the Spanish authorities, the Commission has, therefore, as of 1 July 1982, suspended the application of the price rules fixed in the Arrangement for broad-flanged beams;

Whereas, in addition, imports into the Community of broad-flanged beams originating in Spain have exceeded by more than 50% the quantities provided for in the Arrangement;

Whereas, in these circumstances and in order to prevent further injury being caused during the proceeding, the interests of the Community call for immediate intervention consisting in the imposition of a provisional anti-dumping duty; whereas having regard to the extent of injury caused the rate of this duty should be equal to:

- the difference between the basic prices published by the Commission for these products and their price on importation into the Community, or
- the weighted average amount by which imports into the Federal Republic of Germany between 1 January and 11 June 1982, the latest period for

which information is available to the Commission, undercut these basic prices,

whichever amount is the higher;

Whereas, in order to prevent possible evasion of anti-dumping duty, it is necessary to establish another basis for calculating such duty where the products in question are not put into free circulation by the first purchaser in the Community; whereas the method used should take account of a reasonable margin between import prices and resale prices charged by Community importers for these products originating in Spain; whereas the Commission considers a margin of 15% to be appropriate;

Whereas a period should be fixed within which the parties concerned may, following the imposition of the provisional duty, make their views known and apply to be heard orally by the Commission;

Whereas it is appropriate to repeal the definitive anti-dumping duty on broad-flanged beams originating in Spain but imported from some other non-member country, which was imposed by Commission recommendation No 935/79/ECSC<sup>(1)</sup>,

MAKES THE FOLLOWING RECOMMENDATION:

#### *Article 1*

1. A provisional anti-dumping duty is hereby imposed on broad-flanged beams falling within Common Customs Tariff subheading 73.11 A ex I and corresponding to NIMEXE code 73.11-12, originating in Spain.

2. (a) The amount of the 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 most recent effective price (basic price plus extras) published by the Commission for these products, or

— 8.63 ECU per 1 000 kg net,

whichever amount is higher.

(b) Where the products defined in paragraph 1 are not put into free circulation on the basis of the price to the first purchaser in the Community, the amount of 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 most recent effective price (basic price plus extras), published by the Commission for these products and increased by 15%, or

— 8.63 ECU per 1 000 kg net,

whichever amount is higher.

<sup>(1)</sup> OJ No L 117, 12. 5. 1979, p. 16.

(c) However, where the declarant is able to give proof to the satisfaction of the customs authorities of the price paid by the first purchaser, subparagraph (a) shall apply.

3. The provisions in force concerning customs duties shall apply for the application of this duty.

4. The release for free circulation in the Community of the products referred to in paragraph 1 shall be subject to the provision of a security equivalent to the amount of the provisional duty.

#### *Article 2*

1. Without prejudice to Article 7 (4) (b) and (c) of recommendation No 3018/79/ECSC, the parties concerned may make known their views and apply to be heard orally by the Commission within one month of the entry into force of this recommendation.

2. Subject to Articles 11, 12 and 14 of recommendation No 3018/79/ECSC, this recommendation shall be

applicable for four months or until the adoption by the Commission of definitive measures.

#### *Article 3*

The definitive anti-dumping duty established by recommendation No 935/79/ECSC in relation to imports of broad-flanged beams falling within Common Customs Tariff subheading 73.11 A ex I and corresponding to NIMEXE code 73.11-12, originating in Spain but imported from some other non-member country, is hereby repealed.

#### *Article 4*

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

Done at Brussels, 10 August 1982.

*For the Commission*

Étienne DAVIGNON

*Vice-President*

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