

COMMISSION

COMMISSION DECISION

of 16 April 2009

terminating the 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

(2009/327/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to 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), and in particular Article 9 thereof,

After consulting the Advisory Committee,

Whereas:

1. PROCEDURE

1.1. Initiation of the proceeding

(1) On 1 February 2008, pursuant to Article 5 of the basic Regulation, the Commission announced by a notice (notice of initiation) published in the *Official Journal of the European Union*⁽²⁾, the initiation of an anti-dumping proceeding with regard to imports into the Community of stainless steel cold rolled flat products (SSCR), originating in the People's Republic of China (PRC), the Republic of Korea, and Taiwan (the countries concerned).

(2) The proceeding was initiated following a complaint 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 SSCR. The complaint contained *prima facie* evidence of dumping of SSCR originating in the countries concerned and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

1.2. Parties concerned and verification visits

(3) The Commission officially advised the complainant, all the Community producers, importer/traders and users known to be concerned and their associations, as well as the exporting producers and the authorities of the countries concerned of the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation. All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

(4) In order to allow exporting producers in the PRC to submit a claim for market economy treatment (MET) or individual treatment (IT), if they so wished, the Commission sent claim forms to the exporting producers known to be concerned as well as to the authorities of the PRC. Four groups of companies in the PRC claimed MET pursuant to Article 2(7)(b) of the basic Regulation or IT, should the investigation establish that they did not meet the conditions for MET.

(5) In view of the apparent large number of exporting producers in the PRC, the Republic of Korea, and Taiwan, of importers in the Community, and of Community producers, sampling for those parties was envisaged in the notice of initiation in accordance with Article 17 of the basic Regulation.

(6) However, for the PRC and the Republic of Korea, given that the investigation of all the cooperating companies or company groups was considered feasible within the deadlines and not unduly burdensome, it was subsequently decided that sampling would not be necessary. For Taiwan, out of the 10 companies or company groups (one group consisted of two companies) which had replied to the sampling questions, a sample of four companies or company groups was selected. However,

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ C 29, 1.2.2008, p. 13.

one of them subsequently withdrew its cooperation; therefore the final sample consists of three companies or company groups. Finally, one non-sampled Taiwanese company requested individual examination pursuant to Article 17(3) of the basic Regulation. However, since it did not submit sufficient information, it was considered as non-cooperating.

(7) As concerns the importers of SSCR, the Commission requested all known importers to provide information concerning imports and sales of the product concerned. A large number of importers offered to cooperate. The five major importers in terms of volume of imports were selected for the sample. These importers represent around 16 % of total Community imports from the countries concerned. In accordance with Article 17(2) of the basic Regulation, the parties concerned were consulted and raised no objection. However, three of the selected importers eventually did not submit a questionnaire reply and decided not to cooperate further with the investigation. The two remaining importers represented 2 to 4 % of the total Community imports from the countries concerned during the investigation period. As inclusion of some of the other importers which had offered cooperation would only slightly affect the representativity of the sample, it was decided not to replace the three sampled importers which ceased their cooperation with the investigation.

(8) With regard to the Community producers, in accordance with Article 17 of the basic Regulation, a sample was selected based on the largest representative volume of production and EC sales of SSCR in the Community, which could reasonably be investigated within the time available. On the basis of the information received from the producers in the Community, the Commission selected four companies (two groups of related companies) having the largest volume of production and sales in the Community. In terms of Community production, the sampled companies represented 62 % of the estimated total production of SSCR in the Community and 99 % of the sales volume in the Community of the producers that offered cooperation. In accordance with Article 17(2) of the basic Regulation, the parties concerned were consulted and raised no objection. In addition, the remaining Community producers were requested to provide certain general data for the injury analysis.

(9) The Commission sent questionnaires to the sampled exporting producers, Community producers and importers, and to all known users and user associations. Full questionnaire replies were received from four Community producers, 25 companies belonging to four company groups in the PRC, eight companies belonging to three company groups in the Republic of Korea, three sampled exporting producers in Taiwan, one company in Taiwan requesting individual examination, two importers and five users in the Community. In addition six remaining Community producers provided the requested general data.

(10) The Commission sought and verified all the information it deemed necessary for the purpose of examining the MET/IT claims in the case of the PRC, and for a determination of dumping, resulting injury and Community interest for the countries concerned. Verification visits were carried out at the premises of the following companies:

(a) Community producers

- ArcelorMittal, Genk, Belgium,
- ArcelorMittal, Paris, France,
- ThyssenKrupp Nirosta, Krefeld, Germany,
- ThyssenKrupp Terni, Terni, Italy;

(b) Exporting producers in Taiwan

- Chia Far Industrial Factory Co., Ltd, Taipei,
- Jie Jin Material Science Technology Co. Ltd., Yung Kang City,
- Yeun Chyang Industrial Co., Ltd, Shijou Shiang, Chang-Hwa,
- YUSCO Group (Yieh United Steel Corporation and related companies), Kaohsiung;

(c) Exporting producers in the Republic of Korea

- Daiyang Metal Co., Ltd; Seoul,
- The group of BNG Steel Co., Ltd and Hyundai Steel Company; Changwon and Seoul,
- The group of POSCO and Daimyung TMS CO., Ltd; Seoul;

(d) Exporting producers in the PRC

- Lianzhong Stainless Steel Corp. (LISCO), Guangzhou,
- Ningbo Qiyi Precision Metals Co., Ltd; Ningbo,
- POSCO China Group, (group of eight companies); Zhangjiagang, Qingdao and Hong Kong SAR,
- STSS Group (Shanxi Taigang Stainless Steel Co., Ltd and 14 related companies); Taiyuan, Tianjin, Wuxi, Foshan, Hong Kong SAR and Willich, Germany;

(e) Unrelated importers in the Community

- Minmetals Germany GmbH, Düsseldorf, Germany,
- Nord Est Metalli Srl, San Vito al Tagliamento, Italy;

(f) Users in the Community

- BSH Bosch Siemens Hausgeräte GmbH, München, Germany,
- Eberspächer GmbH & Co. KG, Neunkirchen, Germany,
- Lowara Srl, Montecchio Maggiore, Italy.

(11) In light of the need to establish a normal value for the exporting producers in the PRC to which MET might not be granted, a verification in the provisionally selected analogue country, the USA, took place at the premises of the following producers:

- AK Steel; West Chester, OH, Coshocton, OH and Butler, PA,
- Theis Precision Metal; Bristol, CT.

1.3. Investigation period

(12) The investigation of dumping and injury covered the period from 1 January 2007 to 31 December 2007 (the investigation period or IP). The examination of trends relevant for the assessment of injury covered the period from 1 January 2004 to the end of the investigation period (period considered).

1.4. Product concerned

(13) 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.

(14) SSCR is used in a wide range of consumer industries and final applications. Examples of these are:

- car manufacturing: exhaust systems, decoration, safety and structural components,
- equipment for the chemicals, petrochemicals, paper-making, food processing and pharmaceuticals industries,
- domestic appliances, kitchen utensils, tableware and cutlery,
- manufacture of medical equipment,
- public lighting and street furniture equipment,
- manufacture of tubes for fluids transport, decoration, structural applications, heat exchangers,
- shipbuilding,
- desalination plants,
- manufacture of railway trucks and carriages, road tankers, refrigerated containers,
- decoration and structural applications in building industry.

1.5. Interim report and subsequent procedure

(15) On 4 November 2008 the Commission disclosed to interested parties an Interim Report setting out its provisional findings with respect to this proceeding, i.e. the fact that the investigation established provisionally the existence of dumping but it did not conclude on the existence of a material link between dumped imports and any injury suffered by the Community industry and underlined the need to investigate further the situation as well as the aspect of possible threat of injury. On the basis of the provisional findings it was considered appropriate not to impose any provisional measures but to continue the investigation. All parties were given an opportunity to submit relevant evidence and comments on the provisional findings. The parties which so requested were also granted the opportunity to be heard. The Commission continued to seek and verify all information it deemed necessary for its final findings.

2. WITHDRAWAL OF THE COMPLAINT AND TERMINATION OF THE PROCEEDING

- (16) By a letter dated 4 March 2009 addressed to the Commission, the complainant formally withdrew its complaint. According to the complainant, this withdrawal was prompted by the fact that the current market situation for the Community industry differs significantly from the market situation in which the complaint was filed, given that the real and apparent demand has recently collapsed in the EU and this has also led to a decline in imports. In view of these market turbulences, the complainant does not want to pursue its current case which was based on an analysis of historic data that no longer fully reflect the current market conditions. According to the complainant, it is preferable to respond in these circumstances to any unfair injurious trade practices by way of a new case – in case a future situation would warrant such action – which could fully address the totality of the issues.
- (17) The complainant also argued that should the import volumes surge again, these imports could in the prevailing circumstances cast the viability of the Community industry into doubt.
- (18) It should be noted that the current situation with respect to the product concerned both in the EU and in the countries concerned is characterised by an unprecedented change of the fundamental economic parameters. While in these circumstances it is difficult to make reasoned assumptions as to the development of the market in the short to medium-term, it would also seem that the economic situation is volatile and that the appearance of injurious dumping could not be excluded. Given that at least during part of the investigation period a considerable surge of subject imports in a relative short period of time was found and given the price undercutting established, it is deemed appropriate to monitor imports into the EU of the product concerned. The information obtained in the framework of such monitoring would enable the Commission to react quickly, if necessary. For instance, it could be used for the purposes of the initiation of a new proceeding provided that the conditions as set out in Article 5 of the basic Regulation are met, i.e. if there is sufficient *prima facie* evidence of injurious dumping.
- (19) The Commission also notes that, should there be a new proceeding concerning this product and the circumstances warrant, an expeditious investigation may be appropriate. The basic Regulation in Article 7(1) indeed caters for such a possibility as it allows a rather fast imposition of provisional measures after initiation.
- (20) The monitoring period should apply for up to 24 months from the publication of the termination of the present proceeding.
- (21) In accordance with Article 9(1) of the basic Regulation, the proceeding may be terminated where the complaint is withdrawn unless such termination would not be in the Community interest.
- (22) The Commission considered that the present proceeding should be terminated since the investigation had not brought to light any consideration showing that such termination would not be in the Community interest. Interested parties were informed accordingly and were given the opportunity to comment. However, no comments which could alter this decision were received.
- (23) The Commission therefore concludes that the anti-dumping proceeding concerning imports into the Community of stainless steel cold-rolled flat products originating in the People's Republic of China, the Republic of Korea and Taiwan should be terminated without the imposition of anti-dumping measures,

HAS DECIDED AS FOLLOWS:

Article 1

The anti-dumping proceeding concerning imports of 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, 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 is hereby terminated.

Article 2

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

Done at Brussels, 16 April 2009.

For the Commission
Catherine ASHTON
Member of the Commission