

COMMISSION RECOMMENDATION No 2975/82/ECSC

of 8 November 1982

imposing a definitive anti-dumping duty on certain sheets and plates, of iron or steel, originating in Brazil

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⁽¹⁾, as amended by recommendation No 1995/82/ECSC⁽²⁾, and in particular Article 12 thereof,

After consultations within the Advisory Committee set up by the said recommendation,

Whereas in March 1982 the Commission received a complaint, lodged by the Walzstuhl-Vereinigung, Düsseldorf, on behalf of almost all Community producers of sheets and plates, of iron or steel, hot-rolled or cold-rolled, of a thickness of less than 3 mm; whereas the complaint contained evidence of dumping in respect of like products originating in Brazil, and of material injury resulting therefrom, particularly in the Federal Republic of Germany;

Whereas the information supplied provided sufficient evidence to justify initiating a proceeding; whereas the Commission accordingly announced, by a notice published in the *Official Journal of the European Communities*⁽³⁾, the initiation of a proceeding concerning imports of certain sheets and plates, of iron or steel, originating in Brazil, and commenced an investigation of the matter at Community level;

Whereas, for its preliminary determination of dumping, the Commission compared the prices of imports into the Community of cold-rolled coils and sheets originating in Brazil with the basic prices published for these products by the Commission; whereas, in addition, on the basis of the evidence made available to it during this preliminary investigation the Commission reached the conclusion that these dumped imports were causing or threatening to cause injury to a Community industry; whereas the Commission, therefore, by recommendation No 1104/82/ECSC⁽⁴⁾, imposed a provisional anti-dumping duty on imports of sheets and plates, of iron or steel, not further worked than cold-rolled, of a thickness of less than 3 mm, originating in Brazil;

Whereas this duty was equal to the amount by which the prices on import of the products concerned were lower than the basic prices published by the Commis-

sion; whereas, subsequently, the Commission found that while all the products concerned originating in Brazil were shipped directly to the Community a significant proportion of them was sold to the Community via trading companies, situated in non-member countries, related to the Community importers concerned; whereas, in order to avoid evasion of the provisional measures in force, the Commission considered it appropriate to supplement the variable duty by a specific duty and amended the abovementioned recommendation by recommendation No 2086/82/ECSC⁽⁵⁾; whereas at the same time it extended the duration of the provisional duty for a period not exceeding two months;

Whereas, in the course of the subsequent examination, the Commission requested from Community producers, exporters, importers and agents known to be concerned all the information it deemed necessary in order to arrive at a final determination of the dumping margin and injury; whereas the Commission carried out inspections at the premises of all three Brazilian exporters: Cosipa, São Paulo, CSN, Rio de Janeiro and Usiminas, Belo Horizonte; whereas the Commission also carried out on-the-spot investigations at the offices of Thyssen AG, Duisburg, Estel Hüttenwerke Dortmund AG, Dortmund and Krupp Stahl AG, Bochum, as well as at the premises of the following importers: Thyssen Stahl Union, Düsseldorf, SEM GmbH & Co. KG, Hamburg, Coutinho, Caro & Co. KG aA, Düsseldorf and Steelpartners GmbH & Co. KG, Düsseldorf;

Whereas the Commission selected 1 June 1981 to 31 May 1982 as the investigation period for the examination of dumping;

Whereas, in order to determine definitively the existence of dumping, the Commission compared the Brazilian export prices with the normal values for sales of prime-quality material during the investigation period;

Whereas, in respect of cold-rolled coils and sheets, for which the Commission has published basic prices, 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, the Commission determined normal value on the basis of the lowest such effective price (basic + extra) applicable to imports of products of like quality in the first five months of 1982;

⁽¹⁾ OJ No L 339, 31. 12. 1979, p. 15.

⁽²⁾ OJ No L 215, 23. 7. 1982, p. 28.

⁽³⁾ OJ No C 70, 19. 3. 1982, p. 3.

⁽⁴⁾ OJ No L 128, 11. 5. 1982, p. 9.

⁽⁵⁾ OJ No L 221, 30. 7. 1982, p. 17.

Whereas export prices were based on the prices paid or payable for products sold for export to the Community during the investigation period, adjusted to the cif-Community-frontier level, duty paid, taking into account the drawback of import charges on coal imported by CSN ;

Whereas this comparison showed weighted average dumping margins of 22.41 % for Cosipa, 32.43 % for CSN and 27.37 % for Usiminas ; whereas it was appropriate to calculate one overall margin for all three exporting companies since they are all members of the Government-owned Siderbras group ; whereas this weighted average margin based on exports made by the three companies concerned was found to be 26.3 % and equivalent to 82.77 ECU per tonne ;

Whereas, in respect of hot-rolled sheets corresponding to DIN 17100, for which no basic prices are published, the Commission established normal value on the basis of domestic selling prices in Brazil ; whereas, in order to verify the appropriateness of the published basic prices in the case of imports of cold-rolled coils and sheets from Brazil, the Commission also established normal values on the basis of domestic prices with regard to these products ; whereas the domestic selling prices were based on quarterly lists of ex-factory prices which are identical for all three exporting companies, taking account, where applicable, of extras for quality and dimensions, special surface and tolerance requirements, sheared edges and off-standard dimensions in case of lots of less than 200 tonnes ; whereas for the purpose of fair comparison between normal values and export prices the Commission adjusted normal values of all three exporting companies for the cost of finance for 60 days credit to their domestic customers, using the discount rate of the Banco do Brasil and for 0.75 % PIS tax included in the domestic price ; whereas the Commission also made an adjustment, where appropriate, for quantity discounts given on the home market and variable distribution costs where claims in this area could be satisfactorily demonstrated ; whereas claims for an additional adjustment for domestic selling expenses up to the amount of commissions paid on export sale were rejected, since no distinction could be made between selling expenses directly related to the home market sales and general overheads ;

Whereas export prices were based on the prices paid or payable for products sold for export to the Community during the investigation period ; whereas the Commission, when establishing the ex-factory export prices, made adjustments, where appropriate, for internal and ocean transport costs, handling and port charges, commissions paid to agents, packaging costs, costs for credit granted to the overseas customer and 0.75 % PIS tax included in the invoiced price ; whereas, in addition, the Commission took into account the drawback of import charges on coal imported by CSN ;

Whereas export prices and normal values were compared on a transaction by transaction basis at the ex-factory level, taking into account the exact dimen-

sions and quality of the products exported and using the average exchange rate for the month when the export shipment was made ;

Whereas, in respect of hot-rolled sheets corresponding to SAE 1008, for which no basic prices are published either, the normal value was established on the basis of constructed value since the cost information supplied by the exporting company concerned showed that production costs were above domestic list prices for this product ; whereas constructed value was calculated by taking the company's cost for materials and manufacture, an appropriate proportion of the overheads shown in the company's accounts and adding a 5 % profit margin which was considered reasonable and was not disputed by the company ; whereas for the purpose of a fair comparison with the export price this constructed value was adjusted for 60 days credit costs incurred on the domestic market ; whereas, since information on production costs was made available only for October and November 1981, the Commission could not accept the argument that prices did permit recovery of all costs within a reasonable period of time in the normal course of trade ;

Whereas the weighted average margins thus established in respect of cold-rolled coils and sheets are 42.65 % for Cosipa, 36.73 % for CSN and 38.86 % for Usiminas, the overall margin being 40 % ; whereas, since the comparison of export prices with domestic selling prices showed margins which are higher than the dumping margin obtained when the normal value is determined on the basis of the published basic prices, the Commission concluded that in the present case the use of these basic prices as provided for by Article 2 (6) (b) of recommendation No 3018/79/ECSC is appropriate ;

Whereas in respect of hot-rolled sheets, which during the period of investigation were exported only by Cosipa, weighted average dumping margin is 64.8 % ;

Whereas, with regard to injury caused to the Community industry, the Commission distinguished between cold-rolled coils and sheets and hot-rolled sheets ;

Whereas, in respect of cold-rolled coils and sheets, the Commission found that the imports originating in Brazil increased dramatically from 1 813 tonnes in 1981 to 100 748 tonnes in the first five months of 1982, 70 700 tonnes of which were shipped to the Federal Republic of Germany ; whereas these imports were not sold to the car industry ; whereas the Commission had to take into consideration that the supply of the car industry is ensured by long-term contracts between Community manufacturers and the car industry which take account of the special requirements of this sector and which are, therefore, subject to developments different from those of the general market for cold-rolled coils and sheets ; whereas, since most of the imports from Brazil were offered for sale on the general market of the Federal Republic of Germany, which accounts for a major proportion of the total Community production of the products under consideration, the Commission concentrated its

investigation on the impact of imports from Brazil on the general market in this Member State; whereas, using the information available, it found that during the first five months of 1982 the share of these imports on the general market in Germany had risen from 0 to 8 %;

Whereas the prices of these imports were very low; whereas the Commission found that a number of importers sold these imports within the Community at prices significantly below Community producers' list prices in force at the time of delivery;

Whereas the Commission has also examined the impact of the imports from Brazil on the Community industry; whereas the Commission found that this impact took the form of a serious loss of sales; whereas the information verified by the Commission shows that during the first quarter of 1982 the average quantity of monthly sales made by German producers on the general market in Germany was 19 % lower than the comparable quantity sold during the first quarter of 1981; whereas sales in April 1982 were 44 % below the monthly average of the second quarter of 1981; whereas, in addition, the monthly average of imports of cold-rolled sheets and coils from other Member States into Germany in 1981 was more than 17 000 tonnes higher than in the first five months of 1982;

Whereas the Commission also took into account the fact that the Community steel industry is in a state of crisis; whereas between 1974 and 1980 production of the products concerned fell by more than 21 %, while the numbers employed fell by 244 700 or 30.8 % between 1974 and 1981; whereas the situation of the Community producers continues to be one of extremely low capacity utilization levels and seriously reduced profits or of losses;

Whereas, in order to remedy this situation, the Community's steel policy seeks to ensure sufficient price levels for the products concerned sold in the Community through the use of internal and external measures; whereas the internal measures consist of production quotas for ECSC companies and the obligation to respect certain price levels; whereas, in order to keep imports within reasonable limits, the Community has concluded steel arrangements with a large number of supplying countries which involve quantitative limitations on exports to the Community and the observance of arrangement prices which are closely linked to the development of internal price levels in the Community;

Whereas production quotas for Community producers are adjusted periodically on the basis of a forecast of supply and demand for the products concerned, taking into account the development of imports from third countries including those whose exports are not covered by a bilateral arrangement with the Community; whereas any sharp increase of imports from these countries, such as Brazil, requires a downward adjust-

ment of the quotas of Community producers and thereby increases their indirect costs and further reduces their margins;

Whereas imports of significant quantities of dumped products into the Community also puts into question the objectives sought by the external measures adopted within the framework of the Community steel policy; whereas third countries which have concluded steel trade arrangements with the Community will only respect and renew these arrangements if they see a reasonable chance of selling the quantities provided for at the price levels agreed; whereas significant imports of dumped products from sources not covered by an arrangement jeopardize the equilibrium not only of the internal quantity and pricing system but also of the quantities and prices agreed with most of the supplying countries;

Whereas the Commission has considered whether injury has been caused by other factors which individually or in combination could adversely affect the Community industry, such as volume and prices of other imports or reduction in demand; whereas, while in fact the level of consumption in the Community has declined, the volume of imports from other sources has fallen at a much greater rate, from 1 440 000 tonnes in 1977 to 740 204 tonnes in 1981; whereas during the same period the volume of these imports into the Federal Republic of Germany has fallen from 660 000 tonnes to 281 751 tonnes and has remained relatively stable between 1981 and the first five months of 1982; whereas from January to May 1982 almost all of these imports originated in arrangement countries, whose exports have to respect strict minimum price levels; whereas the impact of the dumped imports from Brazil, which accounted for over 85 % of imports from non-arrangement countries, has been isolated from other factors;

Whereas the facts as finally established show that, taking into account the already extremely difficult situation of the Community industry and the restructuring efforts being undertaken at present, material injury has been caused by dumped imports from Brazil and that further injury would have been caused if provisional action had not been taken;

Whereas in the serious conditions experienced by the Community steel industry the interests of the Community call for the imposition of a definitive anti-dumping duty and the definitive collection of the amount secured by way of provisional duty; whereas the Commission has also explored the possibility of a constructive remedy as stipulated by Article 13 of the Anti-Dumping Code; whereas it has, however, concluded, after hearing the opinions of Member States, that it would be inappropriate at this time to seek such a solution of the issue given that these exports were made at price levels below the published basic prices which the Brazilian Government had undertaken to observe; whereas, having regard to the extent of the injury caused, it is appropriate that the amount of the definitive duty should be equal to the

weighted average dumping margin of 82.77 ECU per tonne;

Whereas, with regard to hot-rolled sheets of a thickness of less than 3 mm, the Commission found that during the investigation period Brazilian exports were 4 572 tonnes; whereas, in addition, the Commission received insufficient information from the Community industry to evaluate the impact of these exports; whereas in view of the small quantities exported the Commission has concluded that it is not necessary at this time to take protective measures in respect of imports of hot-rolled sheets,

MAKES THE FOLLOWING RECOMMENDATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on sheets and plates, of iron or steel, not further worked than cold-rolled, of a thickness of less than 3 mm, falling within subheadings 73.13 B II b) and c) of the Common Customs Tariff and corresponding to NIMEXE codes 73.13-43, 45, 47 and 49, originating in Brazil.

2. The amount of the duty shall be 82.77 ECU per 1 000 kilograms net.

3. This duty shall, however, be reduced to the extent that the importer establishes to the satisfaction of the competent national authorities that the quality of these products is inferior to the lowest quality

described in the last publication of basic prices by the Commission.

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

Article 2

The amounts secured by way of provisional anti-dumping duty pursuant to recommendation No 1104/82/ECSC, as amended by recommendation No 2086/82/ECSC, shall be definitively collected to the extent that they did not exceed of 82.77 ECU per 1 000 kilograms net.

Article 3

The anti-dumping proceeding concerning sheets and plates, of iron or steel, not further worked than hot-rolled, of a thickness of less than 3 mm, is hereby terminated.

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, 8 November 1982.

For the Commission

Étienne DAVIGNON

Vice-President