COMMISSION DECISION

of 11 November 1985

terminating the anti-dumping proceeding concerning imports of wire rod originating in Brazil, Portugal, Trinidad and Tobago and Venezuela

(85/501/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to Commission Decision No 2177/84/ECSC of 27 July 1984 on protection against dumped or subsidized imports from countries not members of the European Coal and Steel Community [1], and in particular Article 9 thereof,

After consultations within the Advisory Committee as provided for by the above Decision,

Whereas :

A. Procedure

(1) In May 1984 the Commission received a complaint lodged by the European Confederation of Iron and Steel Industries (Eurofer) on behalf of producers representing the majority of the Community production of wire rod. The complaint contained evidence of dumping and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding. The Commission accordingly announced, by a notice published in the *Official Journal of the European Communities* [2], the initiation of an anti-dumping proceeding concerning imports into the Community of wire rod falling within Common Customs Tariff subheading 73.10 A I, corresponding to NIMEXE code 73.10-11, originating in Brazil, Portugal, Trinidad and Tobago and Venezuela.

(2) The Commission officially so advised the exporters and importers known to be concerned, the representatives of the exporting countries and the complainants and gave the parties directly concerned the opportunity to make known their views in writing and to request a hearing.

(3) The Community producers who cooperated with the Commission represented only approximately 35 % of the Community production of wire rod.

(4) The companies in Brazil, Portugal, Trinidad and Tobago and Venezuela having exported the product concerned to the Community during the period under investigation made their views known in writing. None of them requested a hearing. Some importers also made written submissions.

(5) The Commission sought and verified all information it deemed to be necessary and carried out investigations at the premises of the following :

(a) *Community producers :*

— Arbed Saarstahl GmbH, Völklingen (Federal Republic of Germany),

— Neue Hamburger Stahlwerke, Hamburg (Federal Republic of Germany),

— Thyssen AG, Duisburg (Federal Republic of Germany),

— Arbed, Luxembourg,

(b) *Producers/exporters :*

Brazil :

— Companhia Siderúrgica Belgo-Mineira (Belo Horizonte), related to the Arbed group,

— Companhia Siderúrgica da Guanabara — Cosigua (Rio de Janeiro), part of the Brazilian Gerdau group,

Portugal :

Siderúrgica Nacional EP (Lisboa),

Trinidad and Tobago :

Iron and Steel Company of Trinidad and Tobago Ltd (ISCOTT) (Port of Spain),

Venezuela :

CVG Siderúrgica del Orinoco CA (SIDOR) (Caracas).

(6) The investigation of dumping and price undercutting covered the period 1 January 1984 to 31 January 1985.

B. The product

(7) The type of wire rod concerned in this proceeding is generally known as the B-10 quality used by producers of welded wire mesh for construction purposes. The products originating in the exporting countries with regard to which this proceeding was initiated are of the same type and comparable to the type manufactured by the complainants.

[1] OJ No L 201, 30. 7. 1984, p. 17.
[2] OJ No C 48, 20. 2. 1985, p. 2.

C. Dumping

(a) *Brazil*

Normal value

(8) Normal value was provisionally determined on the basis of the net ex-works domestic prices of those producers who exported to the Community and who provided sufficient evidence concerning the prices actually paid in the ordinary course of trade for the like product intended for consumption in Brazil. Account was taken, where appropriate, of transport costs within the country and payment terms.

Export price

(9) The export prices were determined on the basis of the net ex-works prices actually paid for the products sold for export to the Community. Account was taken, where appropriate, of ocean freight, transport within the country, port charges, a tax incentive for exports and commissions.

Comparison and dumping margin

(10) For both Brazilian producers/exporters, Cosigua and Belgo-Mineira, a comparison between the weighted average normal value and the export price of the comparable grade at a net ex-works level (only one export transaction was made by each company during the period under investigation) revealed no dumping margin.

(b) *Portugal*

(11) The Portuguese producer/exporter argued that no dumping could have taken place because Article 20 (1) of the Agreement between the ECSC and the Portuguese Republic dated 22 July 1972 extends the application of Article 60 of the ECSC Treaty to a number of products, including wire rod, originating in Portugal. However, the Commission considers that this argument should be rejected because the application of rules such as those provided for in Article 60 of the ECSC Treaty does not necessarily prevent dumping from occurring and the Agreement between the ECSC and the Portuguese Republic provides explicitly for rules applicable when dumping situations arise.

(12) Furthermore, this company argued that Article 20 (2) of the said Agreement authorized the alignment of its export prices to the Community on the prices charged by Community producers.

Pursuant to Article 20 of the Agreement between the ECSC and the Portuguese Republic, Portuguese companies may sell within the Community at their list prices or, if these are too high, they may align their prices on the list prices of Community producers. Portuguese companies would not be free however to align their prices on any prices occurring on the market which were lower than the list prices, because such prices would be unlawful under the ECSC Treaty.

Normal value

(13) Normal value was provisionally determined on the basis of the net ex-works domestic prices of the only producer which exported to the Community and which provided sufficient evidence concerning the prices actually paid in the ordinary course of trade for the like product intended for consumption in Portugal. Account was taken of payment terms.

Export price

(14) The export prices were determined on the basis of the net ex-works prices actually paid for the product sold for export to the Community. Account was taken of transport within the country and payment terms.

Comparison and dumping margin

(15) The export price of each individual transaction has been compared at an ex-works level with the normal value determined on the basis of sales during the same period of wire rod of a similar diameter corresponding to list prices which reflected the actual prices. The weighted average dumping margin so calculated amounts to 49 % on a cif Community frontier basis, the margin of dumping being equal to the amount by which the normal value as established exceeds the price for export to the Community.

(c) *Trinidad and Tobago*

Normal value

(16) Since during the entire period under investigation all domestic transactions were being made at a loss, the normal value was provisonally determined on the basis of the constructed value computed by adding all costs of production and a reasonable profit margin.

Export price

(17) The export prices were determined on the basis of the net ex-works prices actually paid for the products sold for export to the Community. The request to exclude the second-grade product exported to the Community from the determination of the export price was not granted because insufficient evidence was submitted concerning the lower quality of these products. Account was taken, where appropriate, of inland and ocean freight, insurance, commissions and other charges such as overtime at loading.

Comparison and dumping margin

(18) The export price of each individual transaction has been compared with the normal value at an ex-works level. The weighted average dumping margin calculated as such amounts to 44 % on a cif Community frontier basis, the margin of dumping being equal to the amount by which the normal value as established exceeds the price for export to the Community.

(d) *Venezuela*

Normal value

(19) All domestic transactions being made at a loss during the entire period under investigation, the normal value was provisionally determined on the basis of the constructed value computed by adding all costs of production and a reasonable profit margin.

Export price

(20) The export price was determined on the basis of the price actually paid for the product sold for export to the Community at a net ex-works level (only one export transaction took place during the period under investigation).

Comparison and dumping margin

(21) A comparison between the normal value and the export price at an ex-works level revealed a dumping margin of 0,3 %, which is considered *de minimis*.

D. Injury

(22) With regard to the allegation of injury caused by the dumped imports the evidence available to the Commission shows that imports into the Community from Portugal amounted to 60 900 tonnes in 1983 and 72 700 tonnes in 1984 whereas no imports had taken place in 1981 and 1982. The imports originating in Trinidad and Tobago amounted to 2 000 tonnes in 1982, whereas no imports had taken place in 1981 ; in 1983 they increased to 30 700 tonnes and decreased to 24 600 tonnes in 1984.

(23) Although the products originating in all exporting countries concerned in this proceeding are comparable, it is considered appropriate to determine an aggregated market share only with regard to imports originating in Portugal and Trinidad and Tobago for which dumping has been established. In 1983 and 1984 the combined market share of the imports of wire rod originating in these countries amounted to 0,9 % of the Community market.

(24) In the course of the investigation it was found that the resale prices of the product originating in Portugal undercut the prices of the Community producers during the period under investigation by up to 13 %. Information relating to possible price undercutting during the period under investigation with regard to the product originating in Trinidad and Tobago was not available.

(25) It appears from the information available to the Commission that production by Community producers dropped from 10 506 000 tonnes in 1981 to 9 637 200 tonnes in 1982, but increased to 9 816 000 tonnes in 1983 and again to 10 650 000 tonnes in 1984. Average capacity utilization of Community producers of wire rod dropped from 54,7 % in 1981 to 50,7 % in 1982, but increased to 54 % in 1983 and to 64,1 % in 1984. Considering that most manufacturers of wire rod in the Community produce the product only after having received orders, stocks were insignificant and sales figures followed the trend of the production figures.

(26) The market share held by Community producers dropped from 96,1 % in 1981 to 94,4 % in 1982 and to 92,4 % in 1983. In 1984 it increased to 93 %.

(27) Although the figures concerning employment showed a negative trend between 1981 and 1984, it is considered that this is due to plant closures which were mainly carried out within the framework of the restructuring of the Community steel industry rather than to the imports of the dumped products.

(28) When examining the impact of the dumped imports on the situation of the Community producers, the Commission took account of the fact that imports of the product concerned from other third countries (excluding Brazil and Venezuela) increased from 3,9 % in 1981 to 5,3 % in 1984. The volume of imports from those countries was significantly higher than that from the countries concerned in this proceeding.

E. Protective measures

(29) Considering that with regard to imports of the product concerned originating in Brazil and Venezuela there was no dumping margin at all, or only a *de minimis* dumping margin, it is considered that protective measures cannot be envisaged with regard to those countries.

(30) As far as the imports of the product concerned originating in Portugal and Trinidad and Tobago are concerned, with regard to which substantial dumping margins have been found, protective measures cannot be envisaged because it is considered that, even if the injury could be attributed to the imports under consideration, it could not be qualified as material injury to the Community industry in view of the facts mentioned in recitals 22 to 27. No positive findings concerning factors other than price undercutting for the purpose of determining injury could be made ; the price undercutting found with regard to imports from Portugal is considered in the circumstances of this case not to be sufficient for determining material injury.

(31) With regard to the allegations of threat of injury it is considered that the conditions necessary for such a determination are not fulfilled for the following reasons :

— the absence of a further increase in 1984 of the combined market share held by imports of the product concerned originating in Portugal and Trinidad and Tobago,

— on the basis of the information available to the Commission there is no growing production or export capacity in the countries concerned; furthermore, with regard to Portugal, as of 1 January 1986 imports of steel products will be subject to special rules agreed upon in the Act of Accession.

The fact that protective measures have been taken or that proceedings have been initiated by an important importing country, which is one of the main trading partners of the Community, is not considered in itself to constitute sufficient grounds for determining that significant exports are likely to be deflected into the Community.

F. Termination

(32) In these circumstances, therefore, the proceeding concerning imports of wire rod originating in Brazil, Portugal, Trinidad and Tobago and Venezuela should be terminated.

(33) The complainant was informed of the essential facts and considerations on the basis of which the Commission intended to terminate this proceeding. Subsequently, the complainant requested and was granted additional information.

(34) At the disclosure conference it was suggested by the complainant that a new investigation should be carried out in order to cover the period 1 January 1983 to 31 December 1983. However, this request cannot be granted because the period under investigation was already much longer (see recital 6) than the minimum standard of six months set in Article 7 (1) (c) of Decision No 2177/84/ECSC. Furthermore, the Community producers were aware of the fact that the original period under investigation (1 July 1984 to 31 January 1985) had already been extended shortly after the initiation of the proceeding in order to cover the first six months of 1984.

The complainant also argued at the disclosure conference that protective measures could be based only on the impact of the pricing of the dumped imports on the Community industry. This cannot be accepted, however, because Article 4 (2) of Decision No 2177/84/ECSC provides for a list of factors which should be taken into consideration when injury is assessed. It is therefore not appropriate to justify protective measures on the basis of data relating to prices only, while at the same time ignoring other data indicating that the Community industry did not suffer material injury caused by the dumped imports.

HAS DECIDED AS FOLLOWS :

Sole Article

The anti-dumping proceeding in respect of wire rod originating in Brazil, Portugal, Trinidad and Tobago and Venezuela is hereby terminated.

Done at Brussels, 11 November 1985.

For the Commission

Willy DE CLERCQ

Member of the Commission