COMMISSION

COMMISSION DECISION

of 5 March 1986

authorizing Spain to adopt protective measures in respect of imports of certain steel products

(Only the Spanish text is authentic)

(86/97/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to the Act of Accession of Spain and Portugal, and in particular Article 379 thereof,

Whereas, by letter of 3 March 1986, the Spanish Government applied to the Commission for authorization to adopt, pursuant to Article 379 of the Act of Accession, protective measures in the sector of steel products;

Whereas in their application the Spanish authorities provided the Commission with information enabling the latter to establish that the Spanish steel industry is currently experiencing serious difficulties that are likely to persist;

Whereas, pursuant to Commission Decision No 3485/85/ECSC [1], production by Spanish undertakings is subject to a system of monitoring; whereas, pursuant to Commission Decision No 3717/83/ECSC [2], which has been applicable to Spanish undertakings since 1 March 1986, deliveries of certain products must be accompanied by a production certificate and an accompanying document;

Whereas deliveries to Spain from steel undertakings in the other Member States have increased sharply since January 1986; whereas import certificates issued for the month of January for the products in these sectors involve quantities of around 400 000 tonnes; whereas according to the figures provided by the Spanish Government actual deliveries in January amounted to some 261 000 tonnes; whereas deliveries of these products in recent years have averaged 100 000 tonnes a month;

Whereas deliveries of the products concerned have thus risen sharply by about 160 % on average since accession; whereas this rise has been particularly marked for the sectors covered by categories Ia, Ib and II, as defined in Decision No 3485/85/ECSC;

Whereas Spanish steel undertakings are currently in the process of restructuring and hence highly vulnerable; whereas the rise in deliveries of steel products from the other Member States is liable to jeopardize this process of restructuring; whereas the volume of deliveries of products from the other Member States is one of the main reasons for the difficulties indicated by the Spanish authorities in their application; whereas if no immediate action is taken these difficulties are likely to persist;

Whereas, under the circumstances, a quantitative restriction on deliveries from the other Member States should allow Spanish steel undertakings to continue their process of restructuring along the lines of the plans referred to in Protocol No 10 attached to the Act of Accession and to redress the situation; whereas this measure should allow the sector, and in particular the undertakings concerned, to adapt to the economy of the common market;

Whereas it is sufficient for the quantitative restriction to apply to categories Ia, Ib and II, as defined by Decision No 3485/85/ECSC, given that the increase in deliveries from the other Member States is concentrated in these three categories;

Whereas authorization of a quantitative restriction up to 31 December 1986 will serve the desired purpose;

Whereas an extension to Spanish undertakings and the Spanish steel market of the quota system applicable to undertakings in the other Member States could help to solve the problems of Spanish steel undertakings; whereas the Commission will take the necessary measures to apply that system to these undertakings as soon as possible;

Whereas in addition to these restrictions on deliveries there is the system of surveillance of products originating in non-member countries established by Commission Recommendation No 3658/85/ECSC [3]; whereas this system should be reinforced by more rapid provision of information to the Commission;

[1] OJ No L 340, 18. 12. 1985, p. 5.
[2] OJ No L 373, 31. 12. 1983, p. 9.
[3] OJ No L 348, 24. 12. 1985, p. 32.

Whereas the provisions adopted may not under any circumstances restrict deliveries of each of the products in question to a level below that of actual imports in 1984;

Whereas, to achieve an equitable distribution of the authorized quantities both among the Member States and among the operators concerned, the existing patterns of trade must be respected yet account must also be taken of the interests of any new operators;

Whereas the situation is so grave that the protective measures must apply even to current contracts; whereas, to avoid additional prejudice to the operators concerned, this Decision must not affect goods already in shipment; whereas, however, the Spanish authorities should be allowed the possibility of taking into account the total volume of these shipments for the purposes of distribution of total quantities;

Whereas the proper application of the provisions of this Decision requires the establishment of highly specific implementation and management rules; whereas, to prevent the disturbance in the market of the products in question from worsening, the quantities admitted into Spain up to the end of 1986 should be distributed by quarter, the quantities of the second quarter of 1986 also comprising the quantities for the days in March after this Decision takes effect; whereas, to allow adjustment to demand, it should also be possible to transfer authorizaions between the categories stipulated by this Decision up to 5 % of the limit established for each category;

Whereas the proper application of this Decision requires the establishment of joint information and consultation procedures by the Commission and the Spanish authorities;

Whereas, since this Decision can only be justified if the condition of application referred to in Article 379 of the Act of Accession are still present, the Commission may be prompted to amend or rescind it; whereas the Commission must therefore keep a constant check on the facts underlying this Decision;

Whereas the Commission is obliged to take, in the first place, measures which least disrupt the functioning of the common market; whereas, in the light of the examination that the Commission has conducted of the economic difficulties, the restrictions adopted constitute measures which, while enabling the desired result to be obtained, least disturb the functioning of the common market,

HAS ADOPTED THIS DECISION:

Article 1

Spain is hereby authorized under the conditions specified below to restrict up to 31 December 1986 deliveries to Spain of products originating in the other Member countries as listed in Article 2 and defined in the Annex.

Article 2

The restricted quantities established in accordance with Article 1 shall not be lower than:

— category Ia: 296 083 tonnes,
— category Ib: 172 716 tonnes,
— category II: 36 234 tonnes.

Article 3

1. The application of this Decision shall under no circumstances result in deliveries of each of the products listed in Article 2 being restricted to a level below that of actual imports in 1984 during a period corresponding to that of the validity of this Decision.

2. For the purposes of the administration of the import restrictions provided for by this Decision, the Spanish authorities shall respect existing trade patterns both in respect of the countries of origin of the products concerned and in respect of the operators involved.

Article 4

1. The Spanish authorities shall issue the authorizations free of charge within five days of receipt of the application up to the limit of the share of each operator. However, the Spanish authorities shall set the dates on which the authorizations take effect in such a way as to ensure distribution of the quantities by quarter, the first quarter also comprising the corresponding quantities for the days in March from the date on which this Decision takes effect.

2. The Spanish authorities shall set aside 3 % of the total restricted quantities of each product for any operators not having so far made delivieries to Spain.

3. The Spanish authorities shall carry forward for distribution in the following quarter the quantities corresponding to all the shares not used in each quarter.

4. For quantities not exceeding 5 % of the permitted total in each category, the Spanish authorities may agree that authorizations issued for one of the categories listed in this Decision may be used for the delivery of products in one of the other categories.

5. The Spanish authorities may not require the authorization provided for in paragraph 1 for the delivery of goods referred to by this Decision which were already in the process of shipment on the day it took effect. However, the Spanish authorities may deduct these deliveries from the quantities provided for by this Decision for each of the categories in question.

Article 5

1. The Spanish authorities shall communicate to the Commission, not later than 15 April 1986, the national measures for implementing this Decision.

2. The Spanish authorities shall also transmit on the 30th of each month the data relating to deliveries from the other Member States for the previous month. These data, which shall be broken down by country, shall relate both to the quantities of products actually delivered and to the authorizations issued.

Article 6

1. The Spanish authorities shall transmit to the Commission each week the data concerning imports from non-member countries, broken down by country, which have been collected in accordance with Recommendation No 3658/85/ECSC.

2. The Spanish authorities shall inform the Commission immediately of any marked change in the imports of products listed in Article 2 from non-member countries.

Article 7

1. The Commission shall monitor the application of this Decision and reserves the right to amend or repeal it.

2. In addition, on the basis of the results observed and verification of the data relating to the sectors concerned, the Commission shall if necessary revise the restrictions applicable to the last six months of the period of validity of this Decision.

3. Any difficulties which may arise in the application of this Decision shall be examined jointly by the Spanish authorities and the Commission.

Article 8

1. This Decision shall take effect on the day following its notification to the Spanish Government and shall remain valid until 31 December 1986.

2. This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 5 March 1986.

For the Commission

Karl-Heinz NARJES

Vice-President

ANNEX

Definition of products

	NIMEXE code
Category Ia :	73.08-01, 73.08-03, 73.08-05, 73.08-07, 73.08-21, 73.08-25, 73.08-29, 73.08-41, 73.08-45, 73.08-49, 73.12-11, 73.12-19, 73.13-17, 73.13-21, 73.13-23, 73.62-10, 73.64-20, 73.65-23, 73.72-11, 73.72-19, 73.74-29, 73.75-39 ;
Category Ib :	73.13-16, 73.13-26, 73.13-32, 73.13-34, 73.13-36, 73.13-41, 73.13-43, 73.13-45, 73.13-47, 73.13-49, 73.13-50, 73.65-25, 73.65-53, 73.65-55, 73.75-49, 73.75-59, 73.75-69 ;
Category II :	73.09-00, 73.13-19, 73.13-92, 73.62-30, 73.65-21, 73.65-81, 73.72-39, 73.75-29, 73.75-89.