COMMISSION REGULATION (EEC) No 1129/84

of 18 April 1984

imposing a provisional anti-dumping duty on imports of certain angles, shapes and sections, of iron or steel, originating in the German Democratic Republic

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3017/79 of 20 December 1979 on protection against dumped or subsidized imports from countries not members of the European Economic Community (1), as amended by Regulation (EEC) No 1580/82 (2), and in particular Article 11 thereof,

After consultations within the Advisory Committee as provided for by the abovementioned Regulation,

Whereas :

A. Procedure

(1) In July 1983, the Commission received a request for initiation of a proceeding from the 'Syndicat national français du profilage à froid des produits plats en acier', acting also for the Netherlands 'Stichting Koudprofilers in oprichting', and one Belgian company, whose combined production represents a major proportion of Community output of the products under consideration. This request contained evidence of the existence of dumping and of substantial injury resulting therefrom ; this evidence was considered sufficient to justify initiating a proceeding. The Commission accordingly published in the *Official Journal of the European Communities* (3) a notice of initiation of an anti-dumping proceeding concerning imports into the Community of certain angles, shapes and sections, of iron or steel, falling within subheading ex 73.11 A III of the Common Customs Tariff, which corresponds to NIMEXE code 73.11-31, originating in the German Democratic Republic, and began an investigation.

(2) The Commission officially notified the relevant exporters and importers and invited the parties directly concerned to make known their views in writing and to request a hearing.

Most of the Community producers and importers communicated their views in writing, without requesting a hearing. Although the Commission re-emphasized the urgency of the proceeding, a written submission and request for a hearing were not received from the exporter until after the time limit laid down in the notice of initiation of the proceeding and after the Commission had concluded its preliminary investigation. It was too late for the Commission to be able to take the information provided into account or to arrange a hearing. No submissions were made by or on behalf of Community purchasers or processors of the goods in question.

(3) The Commission procured and verified all the information it deemed necessary for a preliminary determination and carried out investigations at the premises of the following undertakings :

EEC producers :

in France :

— Profilafroid SA, Paris,
— Profiles et Tubes de l'Est, Paris ;

in the Netherlands :

Thomas Regout NV, Maastricht ;

in Belgium :

SADEF, Hooglede-Gits ;

EEC importer (in France) :

Starval SA, Paris.

The Commission requested and received detailed written submissions from the complainant producers in the Community and from importers.

B. Normal value

(4) In order to establish whether the imports from the German Democratic Republic were dumped, the Commission had to take account of the fact that that country does not have a market economy ; the Commission therefore had to base its calculations on the normal value in a market-economy country. The Austrian market was suggested by the complainants for this purpose.

(1) OJ No L 339, 31. 12. 1979, p. 1.
(2) OJ No L 178, 22. 6. 1982, p. 9.
(3) OJ No C 13, 19. 1. 1984, p. 4.

The Commission is satisfied that production methods in Austria are similar to those in the exporting country, that like goods sold on the domestic market in Austria are largely manufactured there and that Austrian price control is such as to ensure that prices are in reasonable proportion to production costs.

The Commission accordingly established the normal value on the basis of prices for standard cold-formed or cold-finished angles, shapes and sections on the Austrian market, since the Austrian producer's sales are largely conducted in normal trading conditions. Due account was taken of disparities which diminished price comparability; thus freight costs and special discounts granted for purchase of larger quantities were deducted from the Austrian prices.

C. **Export price**

(5) As the data provided by the exporter did not arrive in time, the export prices had to be determined on the basis of the information available. The Commission made use of data provided by the importers known to it. It also consulted the relevant external trade statistics of the Statistical Office of the European Communities. The export prices, free-at-frontier of the Community country of destination and calculated on the basis of the above, were then expressed net of estimated transport costs.

D. **Comparison**

(6) In comparing normal value with export prices, the Commission took account, where appropriate, of conditions and terms of sale. All comparisons were made at ex-works level.

E. **Margins**

(7) The first preliminary examination of the facts showed the existence of dumping by Metallurgiehandel GmbH, Berlin, German Democratic Republic, the margin of dumping being equal to the amount by which the normal value as established exceeds the price for export to the Community. These margins exceeded 90 %.

F. **Injury**

(8) With regard to the injury caused by the dumped imports, the evidence available to the Commission shows that imports into the Community from the German Democratic Republic of cold-formed angles, shapes and sections (excluding inter-German trade) rose from 5 172 tonnes in 1981 to 12 377 tonnes in 1983. The principal destinations of these imports were France and the Benelux countries, where their share of the market increased from 2,7 % in 1981 to 7,6 % in 1983. In the Benelux countries alone, their market share rose in this period from 5,6 to 20,8 %.

The weighted average prices of these imports undercut the Community producers' prices for like goods by 40 to 45 % during the investigation period. They were thus far lower than the price levels required to cover the costs of Community producers and provide a reasonable profit.

(9) The impact of these dumped imports made it impossible for Community producers to maintain economically viable production of standard cold-formed angles, shapes and sections. This led to a reduction, and even cessation, of production, under-utilization of production capacity, a considerable drop in sales of the goods in question and in their share of the market, and to job losses.

(10) The Commission investigated whether injury was caused by other factors such as imports from other countries or a decline in demand, and established that, although consumption within the Community did indeed drop significantly between 1981 and 1983, imports into the Community from other countries decreased at a considerably faster rate during the same period.

The substantial increase in dumped imports and the prices at which they are offered for sale in the Community led the Commission to conclude that the effects of dumped imports of cold-formed angles, shapes and sections originating in the German Democratic Republic are to be taken as the direct cause of substantial injury suffered by the Community industry in question.

G. **Community interest**

(11) The Commission considered whether it would be in the Community's interest to take protective measures and came to the conclusion that, in veiw of the serious difficulties facing the complainants, action should be taken. In order to prevent further injury being caused during the remainder of the proceeding, this action should take the form of a provisional anti-dumping duty.

H. Rate of duty

(12) Having regard to the extent of injury caused, the rate of such duty should be less than the dumping margin provisionally established, but adequate to remove the injury caused.

(13) Having taken into account the production costs of representative Community producers and in particular the minimum prices introduced on 1 January 1984 for the primary products and the need to ensure that the selling price to the steel dealer who is also importing the dumped goods is sufficient at least to cover costs, the Commission has determined the amount of duty necessary to eliminate the injury to be 110 ECU per 1 000 kilograms.

(14) A time limit is to be laid down within which the parties concerned may communicate their views in writing and request a hearing,

HAS ADOPTED THIS REGULATION :

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of certain angles, shapes and sections, of iron or steel, not further worked than cold-formed or cold-finished from coils for re-rolling, universal plates, hoop, strip, sheets or plates, falling within subheading ex 73.11 A III of the Common Customs Tariff, corresponding to NIMEXE code 73.11-31, originating in the German Democratic Republic.

2. The amount of the duty shall be equivalent to 110 ECU per 1 000 kilograms.

Article 2

Without prejudice to Article 7 (4) (b) and (c) of Regulation (EEC) No 3017/79, 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 Regulation.

Article 3

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

Without prejudice to Articles 11, 12 and 14 of Regulation (EEC) No 3017/79, this Regulation shall apply until such time as the Council adopts definitive measures, and in any event for a maximum period of four months.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 18 April 1984.

For the Commission

Étienne DAVIGNON

Vice-President