COMMISSION REGULATION (EC) No 142/2003

of 27 January 2003

terminating the safeguard proceedings relating to certain steel products and providing for the refund of certain duties

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3285/94 of 22 December 1994 on common rules for imports and repealing Regulation (EC) No 518/94 [1], as last amended by Council Regulation (EC) No 2474/2000 [2], and in particular Article 7 thereof,

Having regard to Council Regulation (EC) No 519/94 of 7 March 1994 on common rules for imports from certain third countries and repealing Regulations (EEC) No 1765/82, (EEC) No 1766/82 and (EEC) 3420/83 [3], as last amended by Regulation (EC) No 1138/98 [4], and in particular Article 6 thereof,

After consultations within the Advisory Committee established under Article 4 of Regulation (EC) No 3285/94 and of Regulation (EC) No 519/94 respectively,

Whereas:

PROCEDURE

(1) On 6 March 2002, certain Member States ('the Member States concerned') informed the Commission that trends in imports appeared to call for safeguard measures, submitted information containing the evidence available as determined on the basis of Article 10 of Regulation (EC) No 3285/94 and Article 8 of Regulation (EC) No 519/94, and requested the Commission to impose provisional safeguard measures and to open a safeguard investigation.

(2) The Member States concerned claimed that there had been recent substantial increases in imports of certain steel products and that the closure of the USA market implied by USA trade defence measures not only substantially denied the Community producers an important outlet for their exports, but also created the conditions for a huge diversion of steel trade from the USA to the European Community ('the Community'). They claimed that steel destined for the USA would be redirected to the Community. This could lead to a dramatic increase in the existing high level of imports at low prices, exacerbating the already serious disruption on the Community steel market due to previous increased imports which threatened serious injury to the Community producers.

(3) The Member States concerned advised that the Community producers had submitted relevant information and urged the adoption of Community safeguard measures as a matter of urgency because any delay in their adoption would cause damage which it would be difficult to repair.

(4) The Commission informed all Member States of the alleged situation and consulted with them on the terms and conditions of imports, import trends and the serious injury or threat thereof to each of the sectors concerned, and the various aspects of the economic and commercial situation with regard to the Community products in question.

[1] OJ L 349, 31.12.1994, p. 53.
[2] OJ L 286, 11.11.2000, p. 1.
[3] OJ L 67, 10.3.1994, p. 89.
[4] OJ L 159, 3.6.1998, p. 1.

(5) On 28 March 2002, the Commission initiated an investigation relating to serious injury or threat thereof to the Community producers of products like or directly competing with certain imported steel products. The 21 steel products covered by the investigation are (1) non-alloy hot-rolled coils, (2) non-alloy hot-rolled sheets and plates, (3) non-alloy hot-rolled narrow strip, (4) alloy hot-rolled flat products, (5) cold-rolled sheets, (6) electrical sheets (other than GOES), (7) metallic coated sheets, (8) organic coated sheets, (9) tin mill products, (10) quarto plates, (11) wide flats, (12) non-alloy merchant bars and light sections, (13) alloy merchant bars and light sections, (14) rebars, (15) stainless bars and light shapes, (16) stainless wire rod, (17) stainless steel wire, (18) fittings (< 609,6 mm), (19) flanges (other than of stainless steel), (20) gas pipes and (21) hollow sections.

(6) On the same day, on the basis of information gathered and verified prior to the initiation, provisional measures were imposed on 15 of the steel products covered by the investigation. These are the product Nos 1, 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 14, 17, 18 and 19 referred to in recital 5 above.

(7) The Commission proceeded to a full investigation in relation to each of the 21 products. The Commission officially advised the exporting producers and importers as well as their representative associations known to be concerned, the representatives of exporting countries and the Community producers. The Commission sent questionnaires to all these parties and to those who made themselves known within the time limits set in the notice of initiation. Pursuant to Article 5 of Council Regulation (EC) No 519/94 and Article 6 of Council Regulation (EC) No 3285/94 the Commission also gave parties directly concerned the opportunity to make their views known in writing and to request a hearing.

(8) Certain exporting producers, Community producers, importers and users, their respective associations, as well as third country governments submitted comments in writing. All interested parties who requested a hearing within the time limit set and who indicated that they were likely to be affected by the result of the proceeding and that there were particular reasons why they should be heard, were granted such a hearing. The oral and written comments submitted by the parties were considered and taken into account in reaching the definitive findings. The Commission sought and verified all the information which it deemed necessary for the purpose of a definitive determination. Verification visits were carried out at the premises of 30 Community producers, 12 exporting producers and two importers.

(9) The results of the investigations in relation to product Nos 1, 2, 3, 4, 5, 18 and 19 are set out in Commission Regulation (EC) No 1694/2002 [1] which imposed definitive safeguard measures in relation to those products, whilst those in relation to product Nos 6, 7, 8, 11, 12, 13, 15, 16, 17, 20 and 21 are set out in Commission Regulation (EC) No 1695/2002 [2] which terminated the safeguard proceedings in relation to those products, established a system of monitoring of certain steel products and provided for the refund of certain duties.

(10) In September 2002, the Commission received new information for product Nos 9, 10 and 14, alleging that import trends in 2002 appeared to be much higher than for 2001, and that the Community producers were suffering financial losses and reduced sales in 2002. Therefore, the Commission considered it appropriate to continue the investigations for these products. In this connection, the Commission gave notice on 11 December 2002 [3] that, in the exceptional circumstances described therein, the time limit for completion of the safeguard investigations in relation to those products was extended from 27 December 2002 to 27 February 2003. The Commission sought and verified the further information which it deemed necessary from Community producers and exporters to the Community, and carried out further verification visits at the premises of 14 Community producers. Those investigations are now complete, and the results in relation to product Nos 9, 10 and 14 are set out below.

[1] OJ L 261, 28.9.2002, p. 1.
[2] OJ L 261, 28.9.2002, p. 124.
[3] OJ C 308, 11.12.2002, p. 37.

RESULTS OF THE INVESTIGATIONS

Product 9: Tin mill products

Product concerned

(11) The product concerned is certain flat-rolled products of iron or non-alloy steel:

— in coils, not clad, plated or coated, not further worked than cold rolled, or

— plated or coated with tin, chromium oxides or chromium and chromium oxides, painted, varnished or coated with plastics, or certain other substances.

(12) The product concerned (hereinafter referred to as 'tin mill products') is currently classifiable under CN codes 7209 18 99, 7210 11 10, 7210 11 90, 7210 12 11, 7210 12 19, 7210 12 90, 7210 50 10, 7210 50 90, 7210 70 31, 7210 90 33, 7211 23 51, 7212 10 10, 7212 10 91, 7212 10 93, 7212 10 99, 7212 40 10, 7212 40 95.

(13) Tin mill products are manufactured by cold-rolling sheets of iron or non-alloy steel and, as the case may be, painting, varnishing or coating with tin or other materials. They are generally used in the manufacture of tin cans and other types of packaging.

Increase in imports

(14) The Commission analysed imports of the product concerned over the period 1997 to 2001, in absolute terms and relative to production destined for sales and to total Community production including captive use ('total production'). The Commission also analysed the development of imports in 2002, both in absolute and relative terms. The following table shows this development for each of the years 1997 to 2001. For 2002, actual imports up to June are shown together with an estimate for the whole year.

Product No 9

Tin mill products

Consumption

	1997	1998	1999	2000	2001	2002 Estimate	2002 January to June
Volume (in tonnes)	3 947 987	4 147 807	3 932 959	4 249 024	3 889 003	4 006 821	2 109 939

Import data	1997	1998	1999	2000	2001	2002 Estimate	2002 January to June
Volume (in tonnes)	338 999	479 313	616 680	536 302	524 836	547 780	299 709
Rate of increase (in %)		41,4	28,7	- 13,0	- 2,1	4,4	
Market share (in %)	8,6	11,6	15,7	12,6	13,5	13,7	14,2
Ratio between imports and total production (in %)	7,5	10,1	14,4	11,4	12,1	12,4	12,9
Ratio between imports and production sold (in %)	7,5	10,3	14,5	11,5	12,2	12,6	13,2
Unit prices (in EUR/tonne)	n/a	583	539	676	596	550	557

	1998/1997	1999/1998	2000/1999	2001/2000	2002/2001
Volume as moving averages (in tonnes)	409 156	547 997	576 491	530 569	536 308

(15) Imports of the product concerned rose by 80 % in absolute terms from 1997 to 1999, but then fell by 15 % from 1999 to 2001. Imports increased by 4 % in 2002. Relative to both total production and production destined for sales, imports increased from around 7,5 % in 1997 to around 14,5 % in 1999. They fell back to around 11,5 % in 2000, before rising again in 2001. In 2002, imports increased relative to both total production and production destined for sales, but remained below their 1999 level.

Conclusion

(16) In light of the fall in imports between 1999 and 2001, both in absolute and relative terms, and notwithstanding the increase in imports in 2002, it cannot be established that there is a sudden, sharp and significant increase in imports in the recent past. Therefore, the Commission concludes that the basic condition for the adoption of definitive safeguard measures is not met.

Product No 10: Quarto plates

Product concerned

(17) The product concerned is:

certain flat products of iron or non-alloy steel not clad, plated or coated, not in coils, not further worked than hot rolled:

— other than with patterns in relief of a width of 600 mm or more and a thickness exceeding 10 mm, currently classifiable under CN codes ex 7208 51 30 (TARIC code 7208 51 30 10), ex 7208 51 50 (TARIC code 7208 51 50 10), ex 7208 51 91 (TARIC code 7208 51 91 10), ex 7208 51 99 (TARIC code 7208 51 99 10), or of a width of 2 050 mm or more and a thickness of 4,75 mm or more but not exceeding 10 mm, currently classifiable under CN code ex 7208 52 91 (TARIC code 7208 52 91 10), or

— of a width of 600 mm or more, other than not further worked than hot rolled, currently classifiable under CN codes 7208 90 10 and 7208 90 90,

certain flat products of iron or non-alloy steel of a width of 600 mm or more, clad, plated or coated, other than plated or coated with tin, lead (including terne-plate), zinc, chromium oxides or chromium and chromium oxides, aluminium, or painted, varnished or coated with plastics; other than silvered, gilded, platinum plated or enamelled; not further worked than surface treated, including cladding, or simply cut into shapes other than rectangular (including square), clad (ECSC), currently classifiable under CN code 7210 90 31, and

certain flat products of alloy steel (other than stainless steel), of a width of 600 mm or more, other than of silicon electrical steel or high speed steel,

— not further worked than hot rolled, not in coils, other than of a thickness less than 4,75 mm (ECSC), currently classifiable under CN codes 7225 40 20 and 7225 40 50; and

— other than not further worked than hot rolled or cold rolled; other than plated or coated with zinc, not further worked than surface treated, including cladding, or simply cut into shapes other than rectangular (including square) (ECSC) currently classifiable under CN code 7225 99 10.

(18) The product concerned is manufactured by rolling steel plate on four sides. It is used in many applications, including shipbuilding, engineering and the manufacture of tubes and pipes.

Increase in imports

(19) The Commission analysed imports of the product concerned over the period 1997 to 2001, in absolute terms and relative to production destined for sales and to total Community production including captive use ('total production'). The Commission also analysed the development of imports in 2002, both in absolute and relative terms. The following table shows this development for each of the years 1997 to 2001. For 2002, actual imports up to June are shown together with an estimate for the whole year.

Product No 10

Quarto plates

Consumption

	1997	1998	1999	2000	2001	2002 Estimate	2002 January to June
Volume (in tonnes)	9 198 227	10 069 103	8 207 564	8 699 946	9 045 288	8 411 598	4 552 723

Import data

Total imports	1997	1998	1999	2000	2001	2002 Estimate	2002 January to June
Volume (in tonnes)	1 811 787	2 285 468	1 423 355	1 173 890	1 715 357	1 453 445	775 131
Rate of increase (in %)		26,1	- 37,7	- 17,5	46,1	- 15,3	- 17,3
Market share (in %)	19,7	22,7	17,3	13,5	19,0	17,3	17,0
Ratio between imports and total production (in %)	16,6	20,4	14,7	11,5	17,0	15,3	16,4
Ratio between imports and production sold (in %)	19,7	24,3	17,9	13,3	19,7	18,1	19,3
Unit prices (in EUR/tonne)	269	330	268	320	323	332	330

	1998/1997	1999/1998	2000/1999	2001/2002	2002/2001
Volume as moving averages (in tonnes)	2 048 628	1 854 412	1 298 623	1 444 624	1 584 401

(20) Imports of the product concerned rose in absolute terms from 1,8 million tonnes in 1997 to 2,3 million tonnes in 1998, but then fell to 1,2 million tonnes in 2000, before increasing again to 1,7 million tonnes in 2001. Whilst there was a large increase between 2000 and 2001, this increase must be considered in the context of imports remaining below their 1997 and 1998 levels. Imports are estimated to fall to 1,5 million tonnes in 2002.

(21) The same broad trends can be observed in relation to the development of both the ratio of imports to total production and imports to production destined for sales.

Conclusion

(22) In light of the development of imports (and, in particular the fact that recent import levels remain below those in 1997 and 1998), it cannot be established that there is a sudden, sharp and significant increase in imports in the recent past. Therefore, the Commission concludes that the basic condition for the adoption of definitive safeguard measures is not met.

Product No 14: Rebars

Product concerned

(23) The product concerned is bars and rods of iron or non-alloy steel, not further worked than forged, hot rolled, hot drawn or hot extruded, but including those twisted after rolling and containing indentations, ribs, grooves or other deformations produced during the rolling process or twisted after rolling. The product concerned is currently classified under CN codes 7214 20 00 and 7214 99 10.

(24) The product concerned is manufactured using billets (a semi-finished product) which are then hot rolled to the required diameter. It is used primarily for reinforcement in the construction industry.

Increase in imports

(25) The Commission analysed imports of the product concerned over the period 1997 to 2001, in absolute terms and relative to production destined for sales and to total Community production including captive use ('total production'). The Commission also analysed the development of imports in 2002, both in absolute and relative terms. The following table shows this development for each of the years 1997 to 2001. For 2002, actual imports up to June are shown together with an estimate for the whole year.

Product No 14

Rebars

Consumption

	1997	1998	1999	2000	2001	2002 Estimate	2002 January to June
Volume (in tonnes)	11 343 116	11 879 644	13 101 025	12 866 281	13 227 634	13 680 979	7 134 912

Import data

Total imports	1997	1998	1999	2000	2001	2002 Estimate	2002 January to June
Volume (in tonnes)	476 486	676 765	1 456 082	1 216 116	1 499 580	1 673 218	816 274
Rate of increase (in %)		42,0	115,2	- 16,5	23,3	11,6	
Market share (in %)	4,2	5,7	11,1	9,5	11,3	12,2	11,4
Ratio between imports and total production	4,1	5,8	11,9	10,0	11,9	13,3	12,8
Ratio between imports and production sol	4,1	5,8	11,9	10,0	11,9	13,3	12,8
Unit prices (in EUR/tonne)	223	224	213	247	249	248	240

	1998/1997	1999/1998	2000/1999	2001/2000	2002/2001
Volume as moving averages (in tonnes)	576 626	1 066 424	1 336 099	1 357 848	1 586 399

(26) Imports of the product concerned rose in absolute terms from 0,5 million tonnes in 1997 to 1,5 million tonnes in 1999, they fell back to 1,2 million tonnes in 2000 before returning to 1,5 million tonnes 2001. The ratio of imports to total production and imports to production destined for sales rose in the same manner in this period. Imports increased to 1,7 million tonnes in 2002.

Serious injury

(27) The Commission examined whether the Community producers have suffered serious injury caused by increased imports. Taking the period 1997 to 2001 as a whole, and developments in 2002, the following was observed:

— capacity decreased slightly from 18,8 million tonnes in 1997 to 18,2 million tonnes in 2001, and remained at 18,2 million tonnes in 2002,

— production increased by 8 % over the period 1997 to 2001 to 12,6 million tonnes, and remained stable (12,5 million tonnes) in 2002,

— sales in the Community showed an increase of 9 % over the period 1997 to 2001, reaching 12,7 million tonnes in 2001. Sales remained stable (12,8 million tonnes) in 2002,

— the unit price of Community sales decreased slightly in 1997 and 1998 but has since shown a steady rise with a price of EUR 253/tonne in 2002, an overall increase of 5 % on 1997 prices. In 2002, prices rose by a further 2 % EUR 258/tonne,

— average import prices did not undercut the average price of the Community product in either 2001 (-3,4 %) or 2002 (-0,6 %),

— net profit on Community sales (%) increased from 0,5 % to 3,5 % between 1997 and 2001, and further improved to 4,6 % in 2002,

— The Community producers' market share declined from 96 % to 89 % between 1997 and 2001, and to 88 % in 2002.

Conclusion

(28) Although the Community producers have suffered loss of market share in the period 1997 to 2001, taken as a whole, the economic indicators of the Community producers' situation do not demonstrate a significant overall impairment in their position. Indeed, profitability and most other indicators have shown positive development in the most recent period. In 2002, the Community producers again lost market share but profitability and most other indicators showed an improvement, so that their overall situation remains positively oriented.

(29) Whilst it could reasonably be argued that imports have increased in a manner which is sudden, sharp and significant, in light of the lack of a significant overall impairment in the situation of the Community producers and the positive development of most injury indicators in 2001, a trend which is confirmed in 2002, the Commission concludes that, the basic condition for the adoption of definitive safeguard measures is not met.

FINAL CONSIDERATIONS

(30) The Commission considers that, for the reasons set out above, the conditions for the imposition of definitive safeguard measures for product Nos 9, 10 and 14 are not met.

(31) The safeguard proceedings should therefore be terminated in relation to those products. Any additional duties paid in relation to those products in accordance with the provisional measures should be refunded.

(32) This Regulation is without prejudice to the system of retrospective surveillance established by Commission Regulation (EC) No 1695/2002, which also concerns product Nos 9, 10 and 14,

HAS ADOPTED THIS REGULATION:

Article 1

The safeguard proceedings with respect to the product Nos 9,10 and 14, more particularly described in Annex 1, are terminated.

Article 2

Any amounts paid in respect of additional duties under the provisional safeguard measures imposed by Commission Regulation (EC) No 560/2002 [1] in relation to product Nos 9,10 and 14, more particularly described in Annex 1, shall be refunded as soon as possible.

Article 3

The Member States and the Commission shall cooperate closely to ensure compliance with this Regulation.

Article 4

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

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

Done at Brussels, 27 January 2003.

For the Commission
Pascal LAMY
Member of the Commission

[1] OJ L 85, 28.3.2002, p. 1.

ANNEX

Product No	Product	CN codes
9	Tin mill products	7209 18 99, 7210 11 10, 7210 11 90, 7210 12 11, 7210 12 19, 7210 12 90, 7210 50 10, 7210 50 90, 7210 70 31, 7210 90 33, 7211 23 51, 7212 10 10, 7212 10 91, 7212 10 93, 7212 10 99, 7212 40 10, 7212 40 95
10	Quarto plates	7208 51 30, 7208 51 50, 7208 51 91, 7208 51 99, 7208 52 91, 7208 90 10, 7208 90 90, 7210 90 31, 7225 40 20, 7225 40 50 and 7225 99 10.
14	Rebars	7214 20 00 and 7214 99 10