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.