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(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1694/2002

of 27 September 2002

imposing definitive safeguard measures against imports of certain steel products

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 Articles 7 and 16 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 Articles 6 and 15 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 US market implied by US 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 US to the European Community ('the Community'). They claimed that steel destined for the US would be re-directed 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.

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[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 numbers 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 Articles 5 of Council Regulation (EC) No 519/94 and 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 and importers 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 2 importers.

(9) The results of the investigation in relation to product numbers 1, 2, 3, 4, 5, 18 and 19 are set out below. The results of the investigation in relation to the remaining products are set out in a separate regulation relating to those products.

RESULTS OF THE INVESTIGATIONS

1. PRODUCT 1: HOT ROLLED COILS

1.1. *Product Concerned and Like or Directly Competing Product*

1.1.1. Product Concerned

(10) The product concerned is certain flat rolled products of iron or non-alloy steel, of a width of 600mm or more, not clad, plated or coated, in coils, not further worked than hot-rolled (hereinafter referred to as 'hot rolled coils'). The product concerned is currently classified under CN codes 7208 10 00, 7208 25 00, 7208 26 00, 7208 27 00, 7208 36 00, 7208 37 10, 7208 37 90, 7208 38 10, 7208 38 90, 7208 39 10, 7208 39 90.

(11) Hot rolled coils are generally obtained in steel mills by hot rolling semi-finished steel products after the final rolling pass or after pickling or continuous annealing. Hot rolled coils are wound into a regular coil.

(12) Hot rolled coils can be of various grades and dimensions. The vast majority of imports from third countries consist of 'structural steels' (such as S235 and S275 according to Euronorm EN 10025) and 'mild steels' (such as DD11, DD12, DD13 according to EN10011 and 'Deutsche Industrie Norm' DIN 1614/1). Each of the relevant CN codes listed above corresponds to a specific product type as differentiated by width and thickness within the above ranges.

(13) The product concerned is also classified into two distinct categories according to its finish: black hot rolled coils, which are the basic product, and pickled hot rolled coils, which, after being hot rolled, go through an additional surface treatment called pickling. The distinction between black coils and pickled coils is also reflected in the structure of the Combined Nomenclature as coils classified under the two categories belong to specific and separate CN codes.

(14) Hot rolled coils are used as a pre-material for manufacturing other steel products (wide and narrow strips, all cold rolled products, tubes, etc.).

(15) Notwithstanding the fact that each CN code corresponds to a distinguishable type of hot rolled coil, it was found that they all have identical characteristics or similar physical and technical characteristics, uses and applications. Accordingly, all types of hot rolled coils form one single product falling under the relevant CN codes listed above.

1.1.2. Like Or Directly Competing Products

(16) The Commission has examined whether the product produced by the Community producers (hereinafter referred to as 'the like product') is like the imported product concerned. In the course of the investigation, the Commission received submissions from certain major exporters and importers of hot rolled coils which alleged that certain types of hot rolled coil imported into the Community were not produced by the Community producers and therefore should not be considered as 'like' the product concerned.

(17) The Commission examined these submissions in detail, and took into account in particular the following findings of the investigation:

(a) the imported product and the Community product shared the same international classification for tariff purposes. Furthermore, they shared the same or similar physical properties such as composition, size, shape and texture and were manufactured to internationally recognised standards;

(b) the imported product and the Community product were sold via similar or identical sales channels and price information was readily available (for example, details of prices are published in industry periodicals, such as the Metal Bulletin and Steel Weekly) and the product concerned and the product of the Community producers competed mainly on price;

(c) the imported product and the Community product were both capable of serving the same or similar end-uses, they were, therefore, largely alternative or substitute products and were easily interchangeable;

(d) the imported product and the Community product were both perceived by consumers as alternative means of performing particular functions in order to satisfy a particular want or demand, in this respect the differences identified by the exporter/importer were simply minor variations manufactured for a particular customer.

(18) The Commission has concluded that despite the alleged technical differences in the product characteristics and qualities identified in those submissions, the imported product and the Community product are 'like or directly competing'.

1.2. *Increased Imports*

(19) The Commission has examined whether the product concerned is imported into the Community in such greatly increased quantities, absolute or relative to Community production and/or on such terms or conditions as to cause or threaten to cause, serious injury to the Community producers. In this respect, the Commission has focused on imports of the product concerned in the most recent period for which data were available in absolute terms and relative to production destined for sales (excluding 'captive use') and total production. The table below shows the development of imports in absolute terms and against both Community production destined for sales and total Community production (including captive use) for each of the years 1997 to 2001.

Product 1

Hot rolled coils

CONSUMPTION

	1997	1998	1999	2000	2001
Volume (tonnes)	22 943 397	22 894 274	22 544 897	23 178 301	22 501 555

IMPORT DATA

	1997	1998	1999	2000	2001
Total imports (including agreement countries)					
Volume (in tonnes)	3 281 808	4 817 109	3 847 708	4 829 175	5 011 290
Rate of increase (in %)		46,8 %	– 20,1 %	25,5 %	3,8 %
Market share (in %)	14,3 %	21,0 %	17,1 %	20,8 %	22,3 %
Ratio between imports and total production (in %)	4,9 %	7,4 %	5,8 %	7,2 %	8,0 %
Ratio between imports and production sold (in %)	14,8 %	23,7 %	18,6 %	23,8 %	25,8 %
Unit prices (in euro/tonne)	242	221	223	290	254

	1998/1997	1999/1998	2000/1999	2001/2000
Volume as moving averages (in tonnes)	4 049 459	4 332 409	4 338 442	4 920 233

(20) In the period prior to the Asian crisis [1], imports were more or less constant at around 2,4m tonnes (1995: 2,26m tonnes, 1996: 2,39m tonnes). As a result of the Asian crisis, between 1997 and 1998, imports increased by around 47 % whilst their average price fell by nearly 9 %. Relative to total Community production, imports increased from around 5 % to around 7 %, whilst relative to production sold, they increased from 14,8 % to 23,7 %. However, the Commission considers that the level of imports in 1998 was non representative due to the extremely low prices practised by Asian producers and the resulting influx of imports.

(21) In the following year, as the effects of the Asian crisis began to recede, imports fell back to more normal levels albeit somewhat higher than in 1997 but their average price remained depressed. In 1999, imports also fell relative to total production and to production sold on the free market. Nevertheless, comparing 1997 and 1999, a progression in import penetration by imports can be observed in absolute terms, and relative to production destined for sales and total production.

[1] The effects of the Asian crisis were felt around the world in 1998 and 1999. In particular, as Asian steel producers fought to maintain sales volumes in the face of the collapse of their domestic markets, they sought to open up new markets by offering low prices, and found the Community market to be an important outlet for their goods. In consequence, imports of the products concerned increased markedly in 1998, and prices fell sharply in 1999.

(22) Between 1999 and 2000, there was an increase in imports from 3,85m tonnes to 4,83m tonnes, an increase of 0,98m tonnes or 25 %. Over the same period, production destined for sales fell slightly (from 20,7mt to 20,3mt) so that the increase relative to free market production was 28 %. Total production increased by nearly 2 % in 2000, reflecting an increase in production for captive use, so that the increase in imports relative to total production was smaller, at 24 %.

(23) Between 2000 and 2001, imports increased further to 5,01 million tonnes (an increase of about 0,18m tonnes or 4 %). In 2001, production destined for sales contracted by a further 4,2 % to 19,45m tonnes so that, relative to production sold on the free market, imports increased by around 8 %. Total production also fell in 2001 (by 5,05m tonnes or 7,5 %), reflecting a decrease in production for captive use and in production sold on the free market, so that the increase in imports relative to total production was around 11 %.

(24) The price of the product concerned fell between 1997 and 1998, and remained at a depressed level in 1999. The fall in 1998 and continuing price depression in 1999 appear to have resulted from the Asian crisis. Prices rose in 2000 (to 290 EUR/tonne) but fell again in 2001 (by 13 %). The Commission notes that, although prices increased in 2000, the increase in imports (both absolute and relative to production) continued in 2001 against a background of falling prices. The average price of imports fell from 290 EUR/tonne in 2000 to 254 EUR/tonne in 2001. The Commission also notes that the further increase in imports to the Community occurred at a time when the euro was relatively weak by comparison to the US dollar and, during which prices in the US for hot rolled coils were between 30 % and 40 % higher than prices for that product in the Community.

1.2.1. Two year moving average

(25) In order to establish the underlying trend in the level of imports between 1997 and 2001 and determine whether the recent increases in imports form an established trend, the Commission considered two year moving averages. These illustrate that, whilst between 1997/98 and 1999/00, imports in any two year period fluctuated between 4,05m tonnes and 4,34m tonnes, between 1999/00 and 2000/01 they increased by over 13 % from 4,34m tonnes to 4,92m tonnes.

1.2.2. Market share of imports

(26) The market share of imports increased steeply between 1997 and 1998 as a result of the Asian crisis, before falling back to 17,1 % in 1999, representing an increase of around 19 % relative to 1997. From 2000 onwards, the market share of imports increased to 20,8 % and then 22,3 % — increases of around 22 % and 7 % respectively.

1.2.3. Conclusion

(27) Whilst imports increased sharply in 1998, the Commission considers that that increase was exceptional and cannot be considered to represent part of the normal development of imports. This is also reflected in the fact that imports declined substantially in 1999. Leaving aside 1998, the annual rate of growth in imports between 1997 and 1999 was 8,6 % in absolute terms (9.2 % relative to total production and 13 % relative to production sold on the free market). By contrast between 1999 and 2000, the annual rate of growth in imports in absolute terms was 25 % (24 % relative to total production and 28 % relative to production sold on the free market). By each measure, the annual rate of growth of imports was more than twice as high between 1999 and 2000 than in the previous period with a further increase in 2001. It should be noted that the high level of imports according to the utilisation of the quota set at the provisional stage appears to be confirmed for 2002.

(28) That recent increases in imports are not attributable to established trends in import levels is demonstrated by the development of the two year moving average of imports over the five year period of investigation.