

COMMISSION REGULATION (EEC) No 1633/82
of 23 June 1982

imposing a provisional anti-dumping duty on imports of fibre building board (hardboard) originating in Romania, repealing Commission Decision No 80/564/EEC of 4 June 1980 and accepting undertakings in connection with the proceeding in respect of imports of fibre building board from Czechoslovakia, Finland, Hungary, Norway, Poland, Spain, Sweden and the Soviet Union and terminating the proceeding with regard to those countries and Bulgaria

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⁾, and in particular Articles 10 and 11 thereof,

After consultations within the Advisory Committee set up under that Regulation,

Whereas, on 4 June 1980, the Commission decided to accept undertakings in connection with the anti-dumping proceeding concerning imports of fibre building board originating in Czechoslovakia, Finland, Norway, Poland, Romania, Spain, Sweden and the Soviet Union and to terminate that procedure⁽²⁾;

Whereas the Commission received a request for review of these price undertakings lodged by the European Confederation of Wood-Working Industry on behalf of Community manufacturers representing the quasi-totality of Community output of the products concerned submitting evidence that dumping was again being practised in respect of imports of hardboard and insulating board from these countries; whereas, at the same time, this federation lodged a complaint indicating that dumping was being practised in respect of imports of hardboard originating in Bulgaria and Hungary and that material injury was thus being caused to the Community industry concerned;

Whereas, since the said evidence was sufficient to justify initiating proceedings, the Commission accordingly announced by a notice published in the *Official Journal of the European Communities*⁽³⁾, that it would review the decision to accept undertakings in

connection with the anti-dumping proceeding concerning imports of fibre building board originating in the said countries and was re-opening those proceedings;

Whereas, it also announced the opening of an anti-dumping proceeding in respect of imports of fibre building board originating in Bulgaria and Hungary⁽⁴⁾; whereas the Commission commenced an investigation of the matter at Community level;

Whereas the Commission officially so advised the exporters and importers known by it to be concerned as well as the representatives of the exporting countries and the complainants;

Whereas the Commission has given the parties directly concerned the opportunity to make known their views in writing and to be heard orally;

Whereas all the exporters known to be concerned and several importers took this opportunity to present written and/or oral observations;

Whereas, in order to arrive at a preliminary assessment of the dumping margin and injury, the Commission requested from the Community producers, exporters, importers and agents concerned all the information it deemed necessary; whereas in order to verify this information it carried out inspections at the premises of the following companies:

Community producers :

Isorel SA, Paris, France
Unalit SA, St Jean de Losne, France
Herman D. Krages, Leutkirch, Germany
H. Henselmann GmbH & Co. Kg, Tiengen, Germany
Herzberger Plattenwerk GmbH & Co. Kg, Herzberg, Germany
Pim Board Co. Ltd, Sunbury on Thames, UK
Cape Insulation Limited, Queensferry, UK
Orsa Spa, Mondovì, Italy
Legnochimica SpA, Mondovì, Italy
Faesite SpA, Padova, Italy

⁽¹⁾ OJ No L 339, 31. 12. 1979, p. 1.

⁽²⁾ OJ No L 145, 11. 6. 1980, p. 39.

⁽³⁾ OJ No C 164, 4. 7. 1981, p. 3.

⁽⁴⁾ OJ No C 164, 4. 7. 1981, p. 2.

Exporters :

Karlit AB, Karlsholmsbruk, Sweden
 Ab Statens Skogsindustrier, Skinnskatteberg, Sweden
 Svaneholms AB, Svanskog, Sweden
 Holmen AB Norrköping, Sweden
 Masonite Wikström AB, Stockholm, Sweden
 Tafisa SA, Madrid, Spain
 Ahlström OY, Pihlava, Finland
 Wilh Schauman OY, Helsinki, Finland
 Enso Gutzeit OY, Helsinki, Finland
 Hackman OY, Helsinki, Finland
 Norsk Wallboard AS, Vennesla, Norway
 Treschow Fritzöe, Larvik, Norway
 Berger Langmoen AS, Brumunddal

Importers/Agents :*Germany*

Müller Szymczak & Co., Hamburg, Germany
 Steinbrugge & Berninghausen GmbH & Co., Bremen

Italy

Angelo Nicotra & Cie SpA, Acireale
 Sadepan SpA, Viadana
 Paganoni Importlegno SpA, Pioltello

Belgium

NV Unalit Geraardsbergen
 NV Beveka, Antwerpen
 NV Isipan, Gent
 Omniplex NV, Brussels

UK

Tafinsa Board Ltd, London
 Price Morgan Ltd, London
 Laconite Ltd, London
 Polish Timber Products Ltd, London

France

Konow & Smith, Paris
 Sapco SA, Paris

Whereas the Commission selected 1 January to 30 June 1981 as the investigation period for the examination of dumping;

Whereas in order to determine the existence of dumping the Commission compared the export prices of the exporters concerned with normal value during the investigation period;

Whereas with regard to Finland, Norway and Spain, normal value was established on the basis of prices charged on the domestic market during the investigation period where there were sales of the like product in the ordinary course of trade and where such sales were not made at a loss;

Whereas, however, in the case of one Finnish exporter, it was found that sales of insulation board had been made over an extended period of time and in substan-

tial quantities at prices less than all costs incurred in its production; whereas, therefore, normal value was established by adjusting the subproduction cost prices in order to eliminate loss and provide for a reasonable profit;

Whereas in the case of the sole Spanish exporter it was found that sales of dark-pine hardboard had likewise been made at a loss and normal value was established on the basis of the constructed value including a reasonable margin for overheads and profit;

Whereas in the case of the Norwegian exporters it was found that significant exports were made to the Community of Norbit insulation board, of which no sales were made in Norway; whereas normal value was, therefore, based on the list price of 20 % bitumen insulation board which was recognized as being similar;

Whereas normal value for hardboard for all exporters in Sweden was based on constructed value, including a reasonable margin for overheads and profit, either because sales of the like product in Sweden were not sufficient to be considered as representative or because sales had been made over an extended period of time and in substantial quantities at prices which were less than all costs incurred in the production of the boards in question; whereas normal value for the sole Swedish exporter of insulation board which was investigated, was based on sales on the domestic market;

Whereas, in order to establish whether the imports from Bulgaria, Czechoslovakia, Hungary, Poland, Romania and the Soviet Union were dumped, the Commission had to take account of the fact that they are not market-economy countries;

Whereas, for that reason, the Commission had to base its calculations on the normal value in a market-economy country; whereas, in this connection, the complainants had cited the Austrian and Spanish markets for hardboard and the Austrian market for insulation board;

Whereas the Commission considered that, since it had to investigate imports from 10 countries, including four market-economy countries, the additional administrative burden which would be imposed on it by carrying out investigations in a further country (Austria) would be unjustified unless it could be demonstrated that it would be manifestly more appropriate and reasonable to use Austrian domestic prices as normal value rather than use prices or costs in one of the market-economy countries under investigation; whereas no evidence was presented that Austrian prices would be more appropriate or reasonable than any of the market-economy countries involved; whereas the Commission, in the light of the results of its investigations, found it reasonable and appropriate to determine normal value for the state-trading countries involved on the basis of domestic prices for insu-

lation board in Norway and on the basis of the constructed value of dark-pine hardboard (the lowest quality) in Spain ;

Whereas no objections were received to the use of domestic prices in Norway as normal value for insulation board ; whereas, however, the Hungarian and Romanian exporters had contested the use of Spanish domestic prices on the grounds that the Spanish market was protected and that the fact that the Spanish exporters had been accused of dumping was, in itself, an indication that prices on the Spanish domestic market did not provide an adequate basis for the establishment of normal value ; whereas they had suggested that normal value be established on the basis of Yugoslav domestic or export prices ;

Whereas the Commission does not accept that the mere fact that a third country has also been accused of dumping makes the use of domestic prices in that third country inappropriate or unreasonable as a basis for the establishment of normal value in State-trading countries ;

Whereas, since, in any event, normal value was established on the basis of the costs of production, including overheads and a reasonable profit, of a Spanish producer which is acknowledged to be one of the most efficient producers in Europe, it was not necessary to consider whether the Spanish market for hardboard was protected ;

Whereas export prices for all the countries concerned were based on the export prices paid or payable for the products sold for export to the Community during the investigation period ;

Whereas in comparing normal value with export prices the Commission took account, where appropriate, of differences affecting price comparability with respect to variable distribution and selling costs, delivery terms and payment conditions where claims in these areas could be satisfactorily demonstrated ;

Whereas certain of the State-trading countries made claims for differences in quality ; whereas, however, no account could be taken of these claims, since no quantifiable evidence was brought forward to support them ;

Whereas comparisons were made in respect of the market-economy countries involved and Hungary at the ex-works level and in respect of the other non-market economy countries at fob level ;

Whereas the above preliminary examination of the facts shows the existence of dumping in respect of all the exporters involved, the margin of dumping being equal to the amount by which the normal value as

established exceeds the price for export to the Community ;

Whereas these margins vary according to the exporter, the importing Member State and the type of board concerned ; whereas the weighted average for each of the exporters investigated was as follows :

Bulgaria :

22.3 % for hardboard ; no exports of insulation board ;

Czechoslovakia :

11.1 % for hardboard ; 28.4 % for insulation board ;

Finland :

Ahlstrom : 10.2 % for hardboard ; 14.8 % for insulation board ;

Enso Gutzeit : 1.4 % for hardboard ; 25.1 % for insulation board ;

Hackman : no exports of hardboard ; 9.8 % for insulation board ;

Schauman ; 1.4 % for hardboard ; no exports of insulation board ;

Hungary :

12.8 % for hardboard ; no exports of insulation board ;

Norway :

Berger Langmoen : no exports of hardboard ; 37 % for insulation board ;

Norsk Wallboard : 10.9 % for hardboard ; 4.75 % for insulation board ;

Treschow-Fritzoe ; no exports of hardboard ; 21.3 % for insulation board ;

Poland :

10.3 % for hardboard ; 31.4 % for insulation board ;

Romania :

26.9 % for hardboard ; no exports of insulation board ;

Spain :

Tafisa : 18.8 % for hardboard ; no exports of insulation board ;

Sweden :

Assi : 11.3 % for hardboard ; no exports of insulation board ;

Holmen : 19.9 % for hardboard ; no exports of insulation board ;

Karlit : 14.3 % for hardboard ; no exports of insulation board ;

Masonite : 17.1 % for hardboard ; no exports of insulation board ;

Svaneholms : 1.7 % for hardboard ; 13.3 % for insulation board ;

Soviet Union :

27.7 % for hardboard ; no exports of insulation board ;

Whereas, with regard to the injury caused to the Community industry, the information available to the Commission shows that while imports of hardboard from the countries concerned declined slightly from the peak of 373 000 tonnes in 1979 which led to the measures taken in 1980 to 163 000 tonnes in the first half of 1981, the decline in consumption enabled them to increase their market share from 32.5 % in 1979 to 32.7 % in the first half of 1981 ; whereas with respect to insulation board, imports from the countries concerned declined from a peak of 63 000 in 1979 to 24 000 tonnes in the first half of 1981 ; whereas their market share also declined from 51.8 % in 1979 to 44 % in the first half of 1981 ;

Whereas the prices of these imports were considerably lower during the investigation period than the costs of production, including overheads and a reasonable profit margin, of the Community producers of like products ; whereas this margin of undercutting ranged from 8 % to 25 % for hardboard from the market-economy countries involved and from 32 % to 43 % for hardboard from the State-trading countries involved ; whereas, for insulation board the margins ranged from 13 % to 14 % for the market-economy countries and from 25 % to 30 % for the State-trading countries ;

Whereas the consequent impact on the Community industry, whose production has fallen from 638 000 tonnes in 1979 to 280 000 tonnes in the first half of 1981 for hardboard and from 56 000 tonnes to 21 000 tonnes in the same period for insulation board, has taken the form of suppression of prices which have not been able to develop in line with production costs, making it impossible to cover these costs ; whereas, moreover, Community producers' sales of hardboard in the Community have fallen by 18 % between 1979 and the first half of 1981 and stocks have almost doubled in the same period ; whereas sales and stocks of insulation board have remained relatively stable during the same period ;

Whereas almost all Community producers are, therefore, making considerable losses on their production of fibre building board with consequent loss of employment ;

Whereas the Commission has considered whether injury has been caused by other factors which individually or in combination could adversely affect the Community industry, such as volume and prices of other imports or reduction in demand ; whereas, however, the fact that in 1980 and the first half of 1981 dumped imports originating in the countries concerned represented more than two thirds of total imports and having regard to the fact that the Commission is at present conducting an anti-dumping proceeding against Brazilian imports of hardboard into the Community which, however, represent less than 10 % of total imports, led the Commission to deter-

mine that the dumped imports of fibre building board under investigation have caused material injury to the Community industry concerned ;

Whereas the Commission must, in these circumstances, withdraw its acceptance of the existing undertakings ;

Whereas, after being informed of the main findings of the investigation the following exporters have offered undertakings on their future pricing :

Karlit AB, Sweden ; AB Statens Skogsindustrier, Sweden ; Svaneholms AB, Sweden ; Holmen AB, Sweden ; Masonite Wikström, Sweden ; Stora Kopparberg, Sweden ; Tafisa SA, Spain ; Ahlström OY, Finland ; Wilh Schauman OY, Finland ; Enso Gutzeit OY, Finland ; Hackman OY, Finland ; Norsk Wallboard AS, Norway ; Treschow Fritzdø, Norway ; Berger Langmoen AS, Norway ; Lingnimpex, Hungary ; Paged, Poland ; Exportles, Soviet Union ; Ligna, Czechoslovakia ;

Whereas all these undertakings eliminate either dumping or injury ; whereas the Commission therefore considers them acceptable ;

Whereas imports from Bulgaria have never exceeded a market share of 0.7 % and during the investigation period were as low as 0.2 % ; whereas, in these circumstances, it is considered that protective measures against these imports are not necessary ;

Whereas, however, imports from Romania have traditionally been higher and in the first half of 1981 held a market share of 0.8 % which contributed to the injury caused to the Community industry ;

Whereas, although the possibility of finding a constructive remedy was discussed with the Romanian exporting company, no undertaking was offered ;

Whereas, in the circumstances, the interests of the Community call for immediate action to prevent the price levels established by these undertakings from being undermined by imports from Romania ;

Whereas a provisional duty should therefore be imposed on imports of fibre building board from Romania ;

Whereas, in order to determine the amount of the duty, the Commission considers that, in the circumstances of this proceeding, the most equitable solution would be to set a minimum price equal to the normal value on a fob basis increased by the average transport costs from Romania to the various markets in the Community ;

Whereas a period should be fixed within which the interested parties may, following the imposition of the provisional duty, make their views known and apply to be heard orally by the Commission,

HAS ADOPTED THIS REGULATION:

Article 1

1. The Commission Decision of 4 June 1980 accepting the undertakings given by exporters in Czechoslovakia, Finland, Norway, Poland, Romania, Spain, the Soviet Union and Sweden in connection with the anti-dumping proceeding concerning imports of fibre building board originating in those countries, is hereby repealed.

2. The new undertakings offered by Karlit AB, Sweden; AB Statens Skogsindustier, Sweden; Svaneholms AB, Sweden; Holmen AB, Sweden; Masonite Wikström, Sweden; Stora Kopparberg, Sweden; Tafisa SA, Spain; Ahlström OY, Finland; Wilh Schauman OY, Finland; Enso Gutzeit OY, Finland; Hackman OY, Finland; Norsk Wallboard AS, Norway; Treschow Fritzøe, Norway; Berger Langmoen AS, Norway; Lingnimpex, Hungary; Paged, Poland; Exportles, Soviet Union; Ligna, Czechoslovakia; are hereby accepted and the proceeding regarding imports from Bulgaria, Czechoslovakia, Finland, Hungary, Norway, Poland, Spain, the Soviet Union and Sweden is hereby terminated.

Article 2

1. A provisional anti-dumping duty is hereby imposed on imports of fibre building board weighing more than 0.8 g/cm³ (hardboard), falling within heading No ex 44.11 of the Common Customs Tariff, corresponding to NIMEXE codes 44.11-10 and 20, originating in Romania.

2. The amount of the duty shall be equivalent to the difference between the net price per square metre, free at Community frontier, not cleared through customs and 0.79 ECU for hardboard having a thickness equal to or greater than 2.8 mm and less than 3.5 mm. For other thicknesses the following index will apply:

— less than or equal to 2 mm	0.86
— greater than 2 mm but less than 2.8 mm	0.925
— equal to or greater than 3.5 mm but less than 5 mm	1.45
— equal to or greater than 5 mm but less than 7 mm	1.90
— equal to or greater than 7 mm	2.40

3. The release for free circulation in the Community of the products referred to in paragraph 1 shall be subject to the provision of a security equivalent to the amount of the provisional duty.

4. The provisions in force with regard to customs duties shall apply to the said provisional duty.

Article 3

Subject 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 a month of the entry into force of this Regulation.

Article 4

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

Subject to Articles 11, 12 and 14 of Regulation (EEC) No 3017/79, the provisions of this Regulation relating to the provisional duty shall be applicable for four months or until the adoption by the Council of definitive measures, whichever is the earlier.

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

Done at Brussels, 23 June 1982.

For the Commission

Wilhelm HAFERKAMP

Vice-President