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In accordance with Council Regulation (EEC, Euratom) No 354/83 of 1 February 1983 concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community (OJ L 43, 15.2.1983, p. 1), as amended by Regulation (EC, Euratom) No 1700/2003 of 22 September 2003 (OJ L 243, 27.9.2003, p. 1), this file is open to the public. Where necessary, classified documents in this file have been declassified in conformity with Article 5 of the aforementioned regulation.

In Übereinstimmung mit der Verordnung (EWG, Euratom) Nr. 354/83 des Rates vom 1. Februar 1983 über die Freigabe der historischen Archive der Europäischen Wirtschaftsgemeinschaft und der Europäischen Atomgemeinschaft (ABl. L 43 vom 15.2.1983, S. 1), geändert durch die Verordnung (EG, Euratom) Nr. 1700/2003 vom 22. September 2003 (ABl. L 243 vom 27.9.2003, S. 1), ist diese Datei der Öffentlichkeit zugänglich. Soweit erforderlich, wurden die Verschlussachen in dieser Datei in Übereinstimmung mit Artikel 5 der genannten Verordnung freigegeben.

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(83) 715 final

Brussels, 24 November 1983

Proposal for a
COUNCIL REGULATION (EEC)

imposing a definitive anti-dumping duty on imports of hardboard
originating in Czechoslovakia and Poland and definitively
collecting the amounts secured by way of provisional duty
certain imports of hardboard originating in Sweden

(submitted to the Council by the Commission)



COM(83) 715 final

EXPLANATORY MEMORANDUM

1. In June 1982 the Commission accepted price undertakings concerning exports of hardboard to the Community originating in Finland, Sweden, Spain and in five Eastern European countries which eliminated the dumping margins established in the course of the preceding anti-dumping investigation.
2. In July 1983 it was determined that two Swedish exporters (Swedeboard and ASSI) and the Polish and Czechoslovakian export organisations had exported significant quantities of hardboard to the Community at prices below the undertaking level. Consequently, the Commission withdrew its acceptance of the undertakings concerned and, on 31 August 1983, imposed a provisional anti-dumping duty on imports of hardboard from these suppliers.
3. In the course of the subsequent investigation definitive dumping margins were established for each of the companies on the basis of a comparison of export prices with normal values covering the period October 1982 to March 1983 during which the violation of the undertakings had been found to have occurred. These comparisons showed dumping margins of 6,13% for ASSI, 3,05% for Swedeboard, 11,33% for the Polish and 21,13% for the Czechoslovakian exporter.
4. With regard to injury, the Commission has noted that there has been no fundamental change in the situation of the Community industry. While imports from the countries covered by price undertakings have stabilized, EEC producers are still suffering from low capacity utilization, reduced profits or losses and are exposed to strong price pressure due to those imports. There is no indication that, in the absence of protective measures, the dumped imports would not again cause material injury to the EEC industry and the continued application of protective measures is therefore considered necessary.
5. Swedeboard has offered another price undertaking which would eliminate the dumping margin. ASSI has stopped producing hardboard and has sold its hardboard mills to another Swedish manufacturer who has also offered an undertaking. The Commission, after consultations within the Advisory Committee set up by Regulation (EEC) No 3017/79, considers both price undertakings acceptable. It is not considered necessary, therefore, to impose definitive duties on imports from these two Swedish companies. The Czechoslovakian export organization has also offered an undertaking which, after consultations, the Commission did not consider acceptable in view of the seriousness of the violation of the undertaking by this company.
6. Under these circumstances it is proposed to impose a definitive anti-dumping duty on imports of hardboard originating in Poland and Czechoslovakia, the rate of which should be equal to the dumping margins definitively established, and to collect definitively the amounts secured by way of provisional duty, including those concerning imports from Sweden.

Proposal for a
COUNCIL REGULATION (EEC)

imposing a definitive anti-dumping duty on imports of hardboard originating in Czechoslovakia and Poland and definitively collecting the amounts secured by way of provisional duty on certain imports of hardboard originating in Sweden

THE COUNCIL 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 Community¹, as amended by Regulation (EEC) No 1580/82², and in particular Article 12 thereof,

Having regard to the proposal submitted by the Commission after consultations within the Advisory Committee as provided for under the above Regulation,

Whereas:

Provisional action

1. After having established that two Swedish companies (Swedeboard Vrena AB and AB Statens Skogsindustrier (ASSI)) as well as Ligna Foreign Trade Corporation, Czechoslovakia, and Paged Foreign Trade Enterprise, Poland had exported significant quantities of hardboard to the Community in violation of the undertakings previously offered to and accepted by the Commission, the Commission, by Regulation (EEC) No 2444/83³, withdrew its acceptance of the price undertakings, re-opened the anti-dumping proceedings and imposed a provisional anti-dumping duty on certain imports of hardboard originating in Sweden, Czechoslovakia and Poland.

¹ OJ No L 339, 31.12.1979, p. 1.

² OJ No L 178, 22.06.1982, p. 9.

³ OJ No L 241, 31.08.1983, p. 9.

Subsequent procedures

2. Following the imposition of the provisional anti-dumping duty and within the time limit set by the Regulation imposing the duty, several importers made known their views in writing and some of them, as well as Swedeboard Vrena AB and Ligna Foreign Trade Corporation, requested and were granted a hearing.

3. The investigation of dumping covered the period 1 October 1982 to 31 March 1983 during which the violation of the undertakings had been found to have occurred.

Dumping

4. In order definitively to determine the margin of dumping the Commission compared the export prices of the exporters concerned with normal value during the investigation period.

5. Information regarding normal value for the two Swedish exporters had been submitted in and subsequent to the reports of April 1983. In addition, the Commission carried out an on-the-spot investigation at the premises of Swedeboard Vrena AB. Based on this information normal value for both Swedish companies was based on constructed value because both companies had sold like products on the domestic market over an extended period of time and in substantial quantities at prices which were less than all costs ordinarily incurred in production. Constructed value was computed by taking each company's total cost of materials and manufacture, including overheads, and a margin for profit determined to be reasonable on the basis of past experience on the Swedish market.

6. In order definitively to establish the margin of dumping for the imports from Czechoslovakia and Poland, the Commission had to take account of the fact that these countries are not market economy countries. For that reason the Commission had to base its calculations on the normal value in a market economy country. In the preceding investigation which had led to the acceptance of undertakings offered by Paged and Ligna normal value was established by reference to the constructed value of dark-pine hardboard, the lowest quality hardboard, produced in Spain. The reasons which led to the use of this Spanish normal value in the preceding investigation and which are set out

in Commission Regulation (EEC) No 1633/82¹ are still valid. The Commission considered, therefore, that it was appropriate again to use this Spanish value in the present case. For the purpose of establishing this normal value for the period under investigation the Commission also carried out an on-the-spot investigation at the premises of the sole Spanish producer of the products in question, Tafisa SA.

7. Export prices of all companies concerned were based on the prices paid or payable for the products sold for export to the Community during the period under consideration which had been reported by all companies in April 1983 and for which sufficient documentary evidence had been submitted.

8. In comparing normal value with export prices the Commission took account, where appropriate, of differences affecting price comparability and in particular of commissions paid to agents in the European Community. The comparisons concerning the Swedish companies were made at ex-factory level while the comparisons relating to the East European exports were made at FOB level.

9. These comparisons show weighted average dumping margins for ASSI of 6.13%, for Swedeboard Vrena AB of 3.05%, for Ligna of 21.13 % and for Paged of 11.33 %.

Injury and Community interest

10. In 1982, after having carried out anti-dumping investigations concerning imports of hardboard from various countries, the Commission established that dumped imports of hardboard, including imports from Sweden, Poland and Czechoslovakia, had caused material injury to the Community industry concerned and that protective measures were necessary. Consequently, it accepted the undertakings eliminating the dumping margins which were offered by all exporters involved. While these undertakings have improved the position of the Community hardboard industry and imports of hardboard into the Community from the countries concerned have decreased, there has been no fundamental change in the situation of the Community industry. It is still characterized

¹ OJ N° L181, 25.06.1982, p. 19.

by low capacity utilization, reduced profits or even losses and high import penetration. In addition, the industry is exposed to substantial price pressure because the undertaking prices, although eliminating the dumping margins, are still considerably lower than the industry's break-even point. There is no indication, therefore, that in the absence of protective measures, dumped imports of hardboard would not again cause material injury to the Community industry.

11. In addition, it is essential to ensure that dumped imports from the countries under consideration cannot undermine the stability of the pricing structure established by the totality of undertakings accepted in the hardboard sector and to avoid an exporter who has violated his undertaking being placed in a more favourable position than those exporters who have fully respected their obligations. Protection of Community interests therefore calls for the imposition of a definitive anti-dumping duty, the rate of which should be equal to the dumping margins found, and for the definitive collection of the amounts secured by way of provisional duty not exceeding the amount of the dumping margins definitively established.

12. Swedeboard Vrena AB has offered a price undertaking, eliminating the dumping margin found, which has been accepted by the Commission. In addition, ASSI has ceased producing hardboard and has sold its hardboard mills and stocks to another Swedish company. It is not appropriate or necessary, therefore, to impose a definitive anti-dumping duty on exports made by either of these two companies. The Czechoslovakian export organization has also offered an undertaking which, after consultations, the Commission did not consider acceptable in view of the seriousness of the violation of the undertaking by this company.

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of fibre building board weighing more than 0.8 g/cm^3 (hardboard), falling within heading No ex 44.11 of the Common Customs Tariff, corresponding to NIMEXE codes 44.11-10 and 20, originating in Czechoslovakia and Poland.

2. The rates of the duty shall be based on the customs value determined in accordance with Council Regulation (EEC) No 1224/80 of 28 May 1980 on the valuation of goods for customs purposes¹ and are as follows:

¹ OJ No L 134, 31.05.1980, p. 1.

- 21.13% in the case of hardboard from Czechoslovakia
- 11.33% in the case of hardboard from Poland.

3. The provisions in force concerning customs duties shall apply for the application of the duty.

Article 2

The amounts secured by way of provisional duty pursuant to Regulation (EEC) No 2444/83 shall be definitively collected at the following rates based on the customs value:

- 11.10% in the case of hardboard from Czechoslovakia
- 10.30% in the case of hardboard from Poland
- 6.13% in the case of hardboard exported by AB Statens Skogsindustrier, Sweden
- 3.05% in the case of hardboard exported by Swedeboard Vrena AB, Sweden.

Article 3

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

For the Council