

Proposal for a Council Regulation amending Regulation (EC) No 2334/97 as last amended by Regulation (EC) No 1678/2001 imposing a definitive anti-dumping duty on certain imports of flat pallets of wood originating in the Republic of Poland

(2002/C 262 E/12)

COM(2002) 253 final

(Submitted by the Commission on 24 May 2002)

EXPLANATORY MEMORANDUM

In November 1997, by Regulation (EC) No 2334/97, as last amended in August 2001 by Regulation (EC) No 1678/2001, the Council imposed definitive anti-dumping duties on certain imports of flat pallets of wood originating in the Republic of Poland and accepted undertakings offered by certain producers in connection with these imports.

One Polish exporting producer has now offered an undertaking which is considered acceptable as it eliminates the injurious dumping found.

At the same time, six other Polish producers which gave undertakings did not respect the prices specified therein and it is therefore considered appropriate to withdraw acceptance of the undertakings and impose an anti-dumping duty in its place.

Furthermore, one other producer which is subject to an undertaking is related to one of the six above-mentioned companies. In order to prevent one company continuing to benefit from an exemption from the anti-dumping duties by simply channelling its exports through its related company, it is therefore considered appropriate to remove the name of this related producer from the list of the companies from which undertakings were accepted.

The Member States have been consulted and are in favour of the amendment of the measures.

The Commission should therefore propose that the Council decide to amend Regulation (EC) No 2334/97 by:

- accepting the undertaking offered by the Polish exporting producer,
- imposing anti-dumping duties in place of the undertakings withdrawn by the Commission,
- amending the Annex II of the mentioned Regulation, which specifies the list of companies from which undertakings are accepted.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾, and in particular Article 8(9) and 9(4) thereof,

Having regard to Council Regulation (EC) No 2334/97 of 24 November 1997 imposing a definitive anti-dumping duty on certain imports of flat pallets of wood originating in Poland ⁽²⁾, and in particular Article 4(1) and (2) thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. PREVIOUS PROCEDURE

(1) The Council, by Regulation (EC) No 2334/97, imposed definitive anti-dumping duties on certain imports of flat pallets of wood falling within CN code ex 4415 20 20 originating in the Republic of Poland and accepted undertakings offered by certain producers in connection with these imports. Sampling was applied to Polish producers/exporters and individual duties ranging from 4,0 % to 10,6 % were imposed on the companies in the sample, while a weighted average duty of 6,3 % was imposed on other cooperating companies not included in the sample. A duty of 10,6 % was imposed on companies which either did not make themselves known or did not cooperate in the investigation. The producers from whom undertakings were accepted were exempted from anti-dumping duties with regard to imports of one specific pallet type, the EUR-pallet, which is the only pallet type covered by the undertakings.

(2) Article 4(1) of Regulation (EC) No 2334/97 stipulates that where any party provides sufficient evidence to the Commission that:

- it did not export to the Community or produce the wooden pallets described in Article 1(1) of that Regulation during the investigation period,
- it is not related to any of the producers or exporters in Poland which are subject to the anti-dumping duties imposed by that Regulation,
- it has actually exported to the Community the goods concerned after the investigation period, or it has

entered into any irrevocable contractual obligation to export a significant quantity to the Community,

then that Regulation can be amended by granting the party in question the duty rate applicable to cooperating producers who were not in the sample, i.e. 6,3 %. Exporting producers meeting the criteria of Article 4(1) and thus subject to the weighted average duty of 6,3 % are listed in Annex I to Regulation (EC) No 2334/97.

(3) Article 4(2) of Regulation (EC) No 2334/97 provides furthermore that any party meeting the criteria set out in Article 4(1) thereof can also be exempted from the payment of the anti-dumping duty if an undertaking with regard to the so-called EUR-pallets is accepted from such a party. Exporting producers from which such an undertaking is accepted are listed in Annex II to Regulation (EC) No 2334/97.

(4) The Council, by Regulations (EC) No 2079/98 ⁽³⁾, (EC) No 2048/1999 ⁽⁴⁾, (EC) No 1521/2000 ⁽⁵⁾ and (EC) No 1678/2001 ⁽⁶⁾ amended Annexes I and II to Regulation (EC) No 2334/97.

B. ACCEPTANCE OF UNDERTAKING

(5) One Polish exporting producer, P.P.H. 'Astra' Sp. z o.o., Nawojowa, which received the weighted average duty of 6,3 %, has also offered an undertaking with regard to EUR-pallets which was accepted by Commission Decision 2002/. ./EC. Consequently, this company should be added to Annex II to Regulation (EC) No 2334/97.

C. FAILURE TO COMPLY WITH THE UNDERTAKING

(6) The following six Polish exporting producers from which the Commission accepted undertakings have violated the undertaking by not respecting the minimum price specified therein:

- P.W. 'Intur-kfs' Sp. z o.o., Inowroclaw (Taric additional code 8662)
- Z.P.H.U. 'Miroslaw Przybylek', Klonowa (Taric additional code 8574)
- Import-Export 'Elko' Sp. z o.o., Kalisz (Taric additional code 8532)
- 'Drewpal' sp. j., Blizanow (Taric additional code 8534)
- 'D&M&D' Sp. z o.o., Blizanow (Taric additional code 8566)
- 'CMC' Sp. z o.o., Andrychow, Inwald (Taric additional code 8528).

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2238/2000 (OJ L 257, 11.10.2000, p. 2).

⁽²⁾ OJ L 324, 27.11.1997, p. 1. Regulation as last amended by Regulation (EC) No 1678/2001 (OJ L 227, 23.8.2001, p. 22).

⁽³⁾ OJ L 266, 1.10.1998, p. 1.

⁽⁴⁾ OJ L 255, 30.9.1999, p. 1.

⁽⁵⁾ OJ L 175, 14.7.2000, p. 1.

⁽⁶⁾ OJ L 227, 23.8.2001, p. 22.

The Commission therefore informed these six exporting producers that it was intended to remove their names from the list of companies from which an undertaking was accepted. These exporting producers commented on the breaches pointed out by the Commission and were granted a hearing where so requested. However, none of these exporting producers put forward any arguments which put into question the finding of a violation of the undertaking.

(7) In order to prevent CMC Sp. z o.o.-Andrychow continuing to benefit from an exemption from the anti-dumping duties by simply channelling its exports through its related company, the Commission considered it appropriate to withdraw its acceptance of the undertaking given by the following exporter/producer and to impose definitive anti-dumping duties:

— P.P.H.U. 'Zbigniew Marek', Andrychow (Taric additional code A113).

(8) As breaches of the undertakings have been found to have occurred, acceptance of the undertakings has been withdrawn by Commission Decision 2002/. . /EC. Definitive anti-dumping duties should therefore be imposed forthwith against the six companies mentioned in recital (6), as well as against the related company mentioned in recital (7) with regard to their exports of the EUR-pallets.

D. AMENDMENT OF THE ANNEX II TO REGULATION (EC) No 2334/97

(9) In view of all the above, the Annex II to Regulation (EC) No 2334/97 which lists the companies from which undertakings have been accepted should be amended accordingly. The exporting producers which are no longer subject to undertakings shall be subject to the appropriate duty provided for in Article 1(2) of Regulation (EC) No 2334/97.

(10) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission forthwith⁽¹⁾ with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with e.g. that name change or that change in the production and sales entities. The Commission, if appropriate, will, after consultation of the Advisory Committee, amend the Regulation accordingly by updating the list of companies benefiting from individual duty rates,

HAS ADOPTED THIS REGULATION:

Article 1

Annex II to Regulation (EC) No 2334/97, as last amended by Regulation (EC) No 1678/2001, shall be replaced by Annex I to this Regulation.

Article 2

1. Definitive anti-dumping duties are hereby imposed on imports of EUR-pallets falling within CN code ex 4415 20 20 (Taric code: 4415 20 20* 10) originating in the Republic of Poland and exported by the following companies:

- P.W. 'Intur-kfs' Sp. z o.o., Inowroclaw
- Z.P.H.U. 'Miroslaw Przybylek', Klonowa
- Import-Export 'Elko' Sp. z o.o., Kalisz
- 'Dreupal' sp. j., Blizanow
- 'D&M&D' Sp. z o.o., Blizanow
- 'CMC' Sp. z o.o., Andrychow, Inwald
- P.P.H.U. 'Zbigniew Marek', Andrychow.

2. The rate of the anti-dumping duty applicable to the net, free-at-Community frontier prices, before duty, on EUR-pallets, shall be as follows:

Name of the company	Anti-dumping rate	Taric code
P.W. 'Intur-kfs' Sp. z o.o., Inowroclaw	9,7 %	8016
Z.P.H.U. 'Miroslaw Przybylek', Klonowa	6,3 %	8019
Import-Export 'Elko' Sp. z o.o., Kalisz	6,3 %	8019
'Dreupal' sp. j., Blizanow	6,3 %	8019
'D&M&D' Sp. z o.o., Blizanow	6,3 %	8019
'CMC' Sp. z o.o., Andrychow, Inwald	6,3 %	8019
P.P.H.U. 'Zbigniew Marek', Andrychow	6,3 %	8019

Article 3

This Regulation shall enter into force on the day following that of 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.

⁽¹⁾ Commission of the European Communities, Directorate-General for Trade, Terv 00/13, B-1049 Brussels, Belgium.

ANNEX I

Manufacturer	Additional Taric Code
1. 'Baumann Palety' Sp. z.o.o., Barczewo	8570
2. E. Dziurny — C. Nowak S.C., Snietnica	8571
3. F.P.H. 'Tina' S.C., Katowice	8572
4. Firma 'Sabelmar' S.C., Konczyce Male	8573
5. 'Kross-Pol' Sp. z.o.o., Kolobrzeg	8576
6. P.P.H. 'GKT' S.C., Bilgoraj	8584
7. P.P.H. 'Unikat', Aleksandrow IV 697	8586
8. P.P.H.U. 'Adapol' S.C., Wolomin	8587
9. P.P.H.U. 'Alpa' Sp. z.o.o., Dobrzyca	8588
10. P.P.U.H. 'Alwa' Sp. z.o.o., Slawno	8589
11. P.P.H.U. 'Palimex' Sp. z.o.o., Wloszakowice	8590
12. P.P.U.H. 'SMS' — St. Mrozowicz, Suleczyno	8591
13. P.T.H. 'Mirex', Kolobrzeg	8597
14. P.W. 'Peteco' Sp. z.o.o., Warszawa	8690
15. 'Paletex' Produkcja Palet, Roman Panasiuk, Warszawa	8691
16. Produkcja Palet 'A. Adamus', Kuznia Grabowska	8692
17. P.P.H. Zygmunt Skibinski, Kowal	8693
18. 'Scanproduct' S.A., Czarny Dujanec	8715
19. 'Transdrewneks' Sp. z.o.o., Grudziadz-Owczarki	8716
20. W.Z.P.U.M. 'Euro-Tech', Rakszawa	8725
21. Z.P.H. 'Palettenwerk' — K. Kozik, Jordanow	8726
22. Zaklad Przerobu Drewna S.C., Drawsko Pomorskie	8745
23. Z.P.H.U. 'Sek-Pol' Sp. z.o.o., Tarnobrzeg	8526
24. 'Euro-Mega-Plus' Sp. z.o.o., Kielce	8527
25. Wyrob, Sprzedaz, Skup Palet, Josef Kolodziejczyk, Aleksandrow IV 704	8529
26. Firma Produkcyjno Transportowa Marian Gerka, Brodnica	8530
27. Z.P.H.U. 'Drewnex' Mamos, Luczak, Mamos s.j., Cekow	8531
28. P.P.H.U. 'Probox', Import-Export, Kalisz	8533
29. Zaman S.C., Radom	8535
30. 'Marimpex', Pulawy	8537
31. 'AVEN' Sp. z.o.o., Kostrzyn	8558
32. P.P.H.U. 'Eurex' BIS, Godynice	8538
33. ENKEL S.C., Pulawy	8540

Manufacturer	Additional Taric Code
34. Produkcja Stolarska Posrednictwo Export-Import, W.i.T. HENSOLDT, Lebork	8541
35. P.P.U.H. 'DREWPOL', Braszewice	8834
36. PTN Krukłanki Sp. z.o.o., Krukłanki	8556
37. WEDAM S.C., Stezyca	8557
38. Import-Export Jan Sibinski, Czajkow	8559
39. P.P.H.U. 'Alk', Bierzwnik	8561
40. 'Empol' S.C., Jastrzebniki 37	8560
41. Euro-Handels Sp. z.o.o., Szczecin	8440
42. P.P.H. 'Paletex' Sibinski Jaroslaw, Czajkow	8441
43. Firma 'KIKO' S.C., Poznan	8443
44. 'Enkel' Waldemar Wnuk, Pulawy	8444
45. Firma Borkowski S.C. Export-Import, Grabow n. Prosna	8446
46. 'Bilusa' Sp. z.o.o., Klodawa	8484
47. P.P.U.H PAL-POL S.C., Prabuty	8485
48. Firma 'A.C.S.' S.C., Kamien	8486
49. 'SMT' Sp. z.o.o., Miastko	8562
50. Firma Transdrewneks Gadzala Antoni, Torun	8563
51. 'Palko' Sp. z.o.o., Sedziszow	8565
52. P.P.H. 'Vector', Kalisz	8567
53. P.P.H.U. 'ELMA' S.C., Sobieseki	A109
54. P.P.H. SWENDEX S.C., Lublin	A110
55. Pomorski Serwis Paletowy Sp. z o.o., Kobylnica	A114
56. 'EM' S.C., Bilgoraj	A124
57. P.P.H.U ROMAX Import-Eksport, Wroclaw	A133
58. P.P.D.B. 'Lesnik' S.C., Krosno	A259
59. 'EUROPAL' S.C., Brzeziny	A260
60. P.P.U.H. 'CENTROPAL' EKSPORT-IMPORT, Czajkow	A261
61. Energomontaz Polnoc Serwis Sp. z.o.o., Swierze Gorne	A262
62. P.P.H. 'BOM'S' S-ka z.o.o., Suwalki	A263
63. P.P.H. 'Astra' Sp. z.o.o., Nawojowa	