

## II

(Acts whose publication is not obligatory)

## COMMISSION

## COMMISSION DECISION

of 9 June 1986

accepting undertakings given in connection with the anti-dumping proceeding concerning imports of hardboard originating in Argentina, Switzerland and Yugoslavia and terminating the investigation

(86/232/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2176/84 of 23 July 1984 on protection against dumped or subsidized imports from countries not members of the European Economic Community<sup>(1)</sup>, and in particular Article 10 thereof,

After consultations within the Advisory Committee as provided for under the above Regulation,

Whereas :

#### A. Procedure

1. In February 1985 the Commission received a complaint lodged by the European Confederation of Woodworking Industries on behalf of EEC producers of hardboard, whose collective output constitutes practically all of the Community production of the product in question. The complaint contained evidence of dumping and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding. The Commission accordingly announced, by a notice published in the *Official Journal of the European Communities*<sup>(2)</sup>, the initiation of an anti-dumping proceeding concerning imports into the Community of fibre building board of wood weighing more than 0,80 g/cm<sup>3</sup> (hardboard) falling within Common Customs Tariff heading No ex 44.11, corresponding to NIMEXE code 44.11-10 and 20, and originating in Argentina, Portugal, Switzerland and Yugoslavia, and

commenced an investigation. The anti-dumping proceeding concerning imports of hardboard originating in Portugal was subsequently terminated<sup>(3)</sup>.

2. The Commission officially advised the exporters and importers known to be concerned, the representatives of the exporting country and the complainants of the initiation of the anti-dumping proceeding and gave the parties directly concerned the opportunity to make known their views in writing and to request a hearing.
3. The majority of the Community producers, all exporters and some importers made their views known in writing. Furthermore, all exporters have requested and have been granted hearings. In addition, one exporter requested the opportunity to meet the representatives of the Community industry. The Commission transmitted this request to the complainant association which subsequently advised the Commission that its members did not wish to attend such a meeting.
4. The Commission sought and verified all information it considered necessary for its investigation of the following companies :

#### EEC :

- Hornitex Werke, Horn-Bad Meinberg, Federal Republic of Germany,
- Renitex GmbH, Losheim/Saar, Federal Republic of Germany,
- Isoroy SA, Lisieux, France,
- Unalit SA, St Jean-de-Losne, France,
- Legnochimica SpA, Mondovi, Italy,
- Orsa SpA, Mondovi, Italy ;

<sup>(1)</sup> OJ No L 201, 30. 7. 1984, p. 1.

<sup>(2)</sup> OJ No C 47, 19. 2. 1985, p. 3.

<sup>(3)</sup> OJ No L 81, 26. 3. 1986, p. 30.

*Producers/Exporters :*

- Argentina : Fiplasto SA, Buenos Aires,
- Switzerland : Pavatex SA, Cham/Zürich,
- Yugoslavia :
  - Lesonit/Slovenijales, Illirska Bistrica/Ljubljana,
  - Šik 'Kopaonik', Kuršumlja,
  - Šipad Timber Export, Sarajevo ;

*Importers :*

- Beveka, Antwerpen, Belgium,
- Resim, Trieste, Italy.

The investigation of dumping covered the period from 1 January to 31 December 1984.

**B. Normal Value***(a) Argentina*

5. Normal value for Fiplasto SA was established on the basis of the domestic prices actually paid or payable in the ordinary course of trade for the like product.

*(b) Switzerland*

6. Normal value for Pavatex SA was established on the basis of the domestic prices actually paid or payable in the ordinary course of trade for the like product.

*(c) Yugoslavia*

7. Normal value for Lesonit and Šik 'Kopaonik' was established on the basis of the domestic prices actually paid or payable in the ordinary course of trade for the like product. Šipad Timber Export did not provide sufficient evidence as to their domestic prices and the Commission, therefore, based its findings with regard to that company on the verified information on domestic prices of the other two Yugoslav producers.

**C. Export Price**

8. Export prices for all exporters concerned were determined on the basis of the prices actually paid or payable for the products sold for export to the Community.

**D. Comparison**

9. In comparing normal value with export prices the Commission took account, where appropriate, of differences affecting price comparability, such as rebates, quantity discounts, commissions, credit terms, transport and insurance as well as refunds of import charges borne by materials physically incorporated in the like product when destined for

consumption in the country of origin, where claims in these areas could be satisfactorily proved.

10. The Swiss exporter claimed that any dumping margin found for his exports was due to differences in quality and format between the exported product and the like product sold domestically. It argued that due to the constraints of Swiss legislation it was, however, not in a position to prove to what extent different qualities and formats had actually been produced and been sold on different markets. It consequently did not provide the evidence to enable the Commission to verify whether the claim was justified, and the Commission therefore did not make any allowance for the claimed differences.
11. All comparisons were made at ex-works level.

**E. Margins**

12. The above examination of the facts shows the existence of dumping in respect of all exporters concerned in the present proceeding, the margin of dumping being equal to the amount by which the normal value as established exceeds the price for export to the Community.

13. These margins vary according to the exporter and the importing Member State, the weighted average margin for each of the exporters investigated being as follows :

— Argentina : Fiplasto SA, Buenos Aires	34,7 %
— Switzerland : Pavatex SA, Cham/Zürich	47,0 %
— Yugoslavia :	
— Lesonit/Slovenijales, Illirska Bistrica/Ljubljana	34,0 %
— Šik 'Kopaonik', Kuršumlja	29,6 %
— Šipad Timber Export, Sarajevo	57,4 %

**F. Injury**

14. With regard to the injury caused by the dumped imports, the evidence available to the Commission shows that imports of hardboard into the Community from Argentina, Switzerland and Yugoslavia increased from 31 341 tonnes in 1981 to 66 501 tonnes in 1984, i.e. by 112 %. This represents an increase in market share held by imports from these countries from 3,3 % to 7,5 % over the same period. Imports from Argentina into the Community increased from 4 550 tonnes in 1981 to 9 101 tonnes in 1984 which represents an increase in market share from 0,5 % to 1,0 %. Imports from Switzerland increased over the same period from 9 723 tonnes to 13 667 tonnes, raising their market share in the Community from 1,0 % to 1,5 %. During the same period, imports from Yugoslavia increased from 17 068 tonnes to 43 737, which represents an increase in market share from 1,8 % to 4,9 %.

15. The resale prices of these imports undercut the prices of the Community producers during the investigation period by between 3 % and 88 %. The weighted average margin of undercutting for each exporter was as follows :

— Fiplasto SA, Buenos Aires	14,0 %,
— Pavatex SA, Cham/Zürich	18,8 %,
— Lesonit/Slovenijales, Illirska Bistrica/Ljubljana	16,8 %,
— Šik 'Kopaonik', Kuršumlja	31,8 %,
— Šipad Timber Export, Sarajevo	37,9 %.

16. While anti-dumping measures taken by the Community institutions and in operation since 1982 against imports of hardboard from other countries have improved the position of the Community hardboard industry, the situation of this industry is still far from satisfactory. It is characterized by low-capacity utilization, reduced profits and high import penetration. Consequently, the production of hardboard by the Community industry declined from 555 400 tonnes in 1981 to 465 500 tonnes in 1984, while sales of the Community industry in the Community decreased from 503 400 tonnes to 442 400 tonnes over the same period.

17. At the same time, the consumption of hardboard within the Community declined from 960 600 tonnes in 1981 to 891 900 in 1984 so that the market share held by Community producers within the Community decreased from 52,4 % to 49,6 % over the same period. This marks a contrast to the considerable increase of imports of hardboard from Argentina, Switzerland and Yugoslavia. This increase also has to be seen in the light of the import figures for other third countries concerned by the abovementioned anti-dumping measures already in force, which declined from 1982. Furthermore, since 1982, three Community producers of hardboard have been forced to cease production, resulting in a further loss of employment, and almost all of the remaining Community producers incurred losses on their hardboard operations during the investigation period.

18. The Commission has also considered whether injury was caused by other factors. The Swiss exporter claimed that the difficulties which the Community hardboard industry was facing during the investigation period were only due to the substitution of hardboard by thin particle board. The Commission investigated this claim and found that thin particle board has been marketed in the Community since the early 1970s and that, because of its distinct technological and physical differences, it can only replace hard-

board for certain specific uses. Furthermore, the information available to the Commission shows that the substitution process had come to an end by the beginning of the 1980s. The market study submitted by the Swiss exporter dates from 1982 and does not contain any information as to whether any further substitution has occurred since then.

19. Furthermore, the Commission has considered whether injury was caused by the decline in consumption in the Community. It has, however, been established above that this decline affected the Community producers, while the imports in question rose in absolute terms as well as in market share.

20. Consequently, the substantial increase in dumped imports of hardboard originating in Argentina, Switzerland and Yugoslavia and the prices at which they are offered for sale in the Community led the Commission to determine that the effects of the dumped imports, taken in isolation, have to be considered as constituting material injury to the Community industry concerned.

#### G. Community interest

21. The Commission took into account the serious difficulties set out above, which are still facing the Community industry, and the anti-dumping measures in force against other third countries, the effectiveness of which would be endangered if no measures were taken in the present case. As no observations were received from any user of hardboard covered by the above dumping findings, the Commission has come to the conclusion that it is in the Community's interest that action be taken.

#### H. Undertakings

22. The exporters concerned were informed of the main findings of the investigation and commented on them. All exporters concerned subsequently committed themselves to increasing their export prices of hardboard to the Community.

23. These price increases are sufficient to eliminate injury to the Community industry and in no case exceed the dumping margins found. Moreover, it appears that correct operation of these undertakings can be effectively monitored. In these circumstances, the undertakings offered are considered acceptable and the investigation may, therefore, be terminated without the imposition of anti-dumping duties.

24. No objection to this course was raised in the Advisory Committee,

HAS DECIDED AS FOLLOWS:

*Article 1*

The undertakings offered by Fiplasto SA, Buenos Aires, Pavatex SA, Cham/Zürich, Lesonit/Slovenijales, Illirska Bistrica/Ljubljana, Šik 'Kopaonik', Kuršumlja and Šipad Timber Export, Sarajevo, in connection with the anti-dumping proceeding concerning imports of fibre building board of wood weighing more than 0,80 g/cm<sup>3</sup> (hard-board) falling within Common Customs Tariff heading No ex 44.11, corresponding to NIMEXE code 44.11-10 and 20, and originating in Argentina, Switzerland and Yugoslavia are hereby accepted.

*Article 2*

The investigation in connection with the anti-dumping proceeding referred to in Article 1 is hereby terminated.

Done at Brussels, 9 June 1986.

*For the Commission*

Willy DE CLERCQ

*Member of the Commission*

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