

## II

*(Acts whose publication is not obligatory)*

## COMMISSION

## COMMISSION DECISION

of 19 December 1983

accepting undertakings in connection with the anti-dumping procedure in respect of certain imports of hardboard originating in Sweden and terminating that procedure

(83/649/EEC)

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<sup>(1)</sup>, as amended by Regulation (EEC) No 1580/82<sup>(2)</sup>, and in particular Article 10 thereof,

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

Whereas :

**Provisional action**

- (1) After having established that Swedeboard Vrena AB and AB Statens Skogsindustrier (ASSI), two Swedish producers and exporters of hardboard, had exported significant quantities of hardboard to the Community in violation of the provisions of the undertakings previously offered to and accepted by the Commission, the Commission, by Regulation (EEC) No 2444/83<sup>(3)</sup>, withdrew its acceptance of the price undertakings, re-opened the anti-dumping proceedings and imposed a provisional anti-dumping duty on imports of hardboard originating in Sweden and exported by the two companies concerned.

**Subsequent procedures**

- (2) Following the imposition of the provisional anti-dumping duty, one importer made known his views in writing and Swedeboard Vrena AB requested and was 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) For the purpose of establishing the definitive dumping margin the Commission based itself on detailed documentation submitted by both companies in, and subsequent to, their April 1983 reports and on the results of an on-the-spot investigation carried out at the premises of Swedeboard Vrena AB in July 1983.
- (5) Normal value for both exporters 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 the 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.

<sup>(1)</sup> OJ No L 339, 31. 12. 1979, p. 1.

<sup>(2)</sup> OJ No L 178, 22. 6. 1982, p. 9.

<sup>(3)</sup> OJ No L 241, 31. 8. 1983, p. 9.

- (6) Export prices for both companies concerned were based on the prices paid or payable for the products sold for export to the Community during the period under consideration.
- (7) 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 Community. All comparisons were made at ex-factory level.
- (8) These comparisons show weighted average dumping margins for ASSI of 6,13 % and for Swedeboard Vrena AB of 3,05 %.

#### Injury and Community interest

- (9) 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, 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 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.
- (10) In addition, it is essential to ensure that dumped imports from Sweden 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. The interests of the Community therefore call for protective action.

#### Undertakings

- (11) After having been informed of the results of the examination, Swedeboard Vrena AB has again

offered an undertaking not to export hardboard to the Community below prices which eliminate any dumping margins.

While in principle the Commission does not accept a second undertaking offered by a company which has been found to be violating an undertaking, it considers this undertaking acceptable in the light of special circumstances relating to the Swedish market, of the steps taken by the Swedish Government to ensure compliance with another undertaking offered by Swedeboard, and of the monitoring possibilities available in Sweden.

- (12) ASSI has ceased producing hardboard and has sold its hardboard mills to a newly formed company, Royal Board AB, including all rights and obligations. Royal Board AB, which is itself a subsidiary of another Swedish hardboard producer has now offered an undertaking which the Commission considers acceptable.
- (13) In these circumstances the proceeding concerning certain imports of hardboard from Sweden may be terminated without imposition of definitive anti-dumping duties. No objection to this course of action was raised in the Advisory Committee,

HAS DECIDED AS FOLLOWS :

#### *Article 1*

The Commission hereby accepts the undertakings given by Swedeboard Vrena AB and Royal Board AB in connection with the anti-dumping proceedings concerning imports of fibre building board weighing more than 0,8 g/cm<sup>3</sup> (hardboard), falling within heading No ex 44.11 of the Common Customs Tariff, corresponding to NIMEXE codes 44.11-10 and 20 and originating in Sweden.

#### *Article 2*

The anti-dumping proceeding concerning certain imports of hardboard originating in Sweden is hereby terminated.

Done at Brussels, 19 December 1983.

*For the Commission*  
 Wilhelm HAFERKAMP  
 Vice-President