COMMISSION DECISION

of 15 February 1983

accepting undertakings given in connection with the anti-dumping proceeding concerning imports of certain fibre building board originating in Brazil

(83/75/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 (1), as amended by Regulation (EEC) No 1580/82 (2), and in particular Article 10 thereof,

Whereas in March 1982 the Commission received a complaint lodged by the European Confederation of Woodworking Industries on behalf of Community manufacturers representing practically all the Community output of the products concerned, which provided evidence that dumping was being practised in respect of imports of hardboard from Brazil and that material injury was thus being caused to the Community industry in question ;

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), the initiation of a proceeding concerning imports of fibre building board originating in Brazil ;

Whereas the Commission officially so advised the exporters and importers known by it to be concerned as well as the representatives of the exporting country 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 determination of the existence of dumping and of injury, the Commission sought to obtain and verify all information which it deemed to be necessary and carried out inspections at the premises of the Brazilian producers, Duratex SA and Eucatex SA in São Paulo ; whereas the Commission also carried out on-the-spot investigations at the offices of the following importers : Svedex BV, Varsseveld, Netherlands and Groteloh GmbH, Bünde, Federal Republic of Germany ;

Whereas the Commission selected 1 May 1981 to 30 April 1982 as the investigation period for the examination of dumping ;

Whereas for its preliminary determination of dumping the Commission compared export prices to the Community with the normal values with regard to sales made during the investigation period ;

Whereas normal values for both exporting companies concerned were established on the basis of the prices paid or payable for like products on the Brazilian market ; whereas the Commission limited its examination to those types of unprocessed hardboard which corresponded to approximately 80 % of the total hardboard exports to the Community ; whereas for the purpose of a fair comparison between normal values and export prices the Commission adjusted the normal values of both companies for the cost of finance for 90 days credit to their domestic customers, for a punctuality discount granted to practically all customers, for 0,75 % PIS-tax and for ICM tax included in the domestic selling prices ; whereas the Commission also made adjustments, where appropriate, for selling expenses on the domestic market directly related to the sales in question and for differences in level of trade between domestic and export sales to the extent that claims in this area could be satisfactorily demonstrated ; whereas normal values were adjusted to ex-factory level, taking account of transport costs incurred by the companies on the domestic market ;

Whereas export prices were based on the prices paid or payable for products sold for export to the Community ; whereas the Commission, when establishing the ex-factory export prices, made adjustments, where

(1) OJ No L 339, 31. 12. 1979, p. 1.
(2) OJ No L 178, 22. 6. 1982, p. 9.
(3) OJ No C 113, 5. 5. 1982, p. 3.

appropriate, for internal and ocean transport costs, handling and port charges, export packaging, commissions paid to agents, costs for credit granted to overseas customers and 0,75 % PIS-tax included in the invoiced price ;

Whereas export prices and normal values were compared on a transaction by transaction basis at ex-factory level, taking into account the exact type of hardboard exported and using the average exchange rate of the month when the export shipment was made ;

Whereas the weighted average dumping margins thus established were 19,24 % for Duratex and 32,55 % for Eucatex ;

Whereas with regard to injury caused to the Community industry, the evidence available to the Commission shows that the imports of the products under consideration from Brazil into the Community have increased from 42 701 tonnes in 1978 to 54 044 tonnes in 1980 ; whereas the rise of imports has been particularly significant in respect of the Federal Republic of Germany, where imports of Brazilian hardboard increased from 8 123 tonnes in 1978 to 13 195 tonnes in 1980 and to 8 272 tonnes in the first five months of 1982, and in respect of France, where they increased from 383 tonnes in 1978 to 4 051 tonnes in the first five months of 1982 ; whereas the share of the Community hardboard market held by these imports from Brazil rose from 3,7 % in 1979 to 4,9 % in 1980 ; whereas during the same period their share of the German market increased from 2,4 % to 3,9 % ; whereas with regard to France their market share rose from almost zero in 1978 to 6 % in the first five months of 1982 ;

Whereas Brazilian hardboard, the quality of which is considered to be superior to that of European hardboard, has in general been sold at price levels at the upper end of the market ; whereas, however, during the investigation period the price of Brazilian board was still considerably lower than the costs of production, including overheads and a reasonable profit margin, of the Community producers of hardboard ; whereas this margin of undercutting with regard to 3,2 mm raw hardboard of standard or door size has ranged from approximately 10 to 18 % ;

Whereas the consequent impact on the Community industry, whose production has fallen from 638 000 tonnes in 1979 to 561 000 tonnes in 1981, has taken the form of pressure on 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 on their respective domestic markets have fallen by over 17 % between 1978 and 1981 and stocks have significantly increased in the same period ;

Whereas almost all Community producers have, therefore, been making considerable losses on their production of hardboard 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 between 1979 and 1981 low-priced imports from Scandinavia, Eastern Europe and Spain accounted for over two thirds of total hardboard imports and held a share of more than 30 % of the Community hardboard market ; whereas in 1981 in the Commission opened anti-dumping proceedings against these imports ; whereas the Commission subsequently determined that these imports were dumped and have been causing injury to a Community industry ; whereas during the same period imports from Brazil accounted for approximately 10 % of total hardboard imports into the Community ; whereas, in addition, hardboard imports from Brazil have increased their share of the Community market at a time when consumption was declining, and they were made at prices which, making due allowance for their superior quality, have followed the pattern of depressed prices on the European hardboard market ; whereas it is appropriate, therefore, to cumulate the injurious impact of all imports found to be dumped ; whereas, under these conditions, the Commission has determined that the dumped imports of hardboard from Brazil have caused material injury to the Community industry concerned ;

Whereas, after the initiation of the proceedings against imports from Brazil the Commission has taken protective measures against the dumped imports from Scandinavia, Eastern Europe and Spain which have led to a significant reduction of the quantity and a substantial increase of the prices of these imports ; whereas, under these circumstances, the Commission is of the view that the interests of the Community call for protective action against the dumped imports from Brazil in order to avoid the protective measures already in force being undermined by an increased quantity of low-priced Brazilian exports and to achieve a persistent stabilization of the Community's hardboard market ;

Whereas the Brazilian exporters were informed of the findings of the investigation and commented on them ; whereas they subsequently offered undertakings on their future pricing ;

Whereas these undertakings would increase prices of Brazilian hardboard to a level sufficient to eliminate the injury; whereas the Commission, after having obtained the unanimous agreement of the Advisory Committee, considers them acceptable, and the anti-dumping proceeding may, therefore, be terminated without imposition of anti-dumping duties,

HAS DECIDED AS FOLLOWS:

Article 1

The undertakings given by Duratex SA and Eucatex SA, São Paulo, Brazil in connection with the anti-dumping proceeding concerning imports of fibre building board weighing more than 0,8 g/cm³ (hard-board), falling within Common Customs Tariff heading No ex 44.11 and corresponding to NIMEXE code 44.11-10 and 20 originating in Brazil are hereby accepted.

Article 2

The anti-dumping proceeding concerning imports of fibre building board originating in Brazil is hereby terminated.

Done at Brussels, 15 February 1983.

For the Commission

Wilhelm HAFERKAMP

Vice-President