II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 26 September 1984

accepting undertakings given in connection with the anti-dumping proceeding concerning imports of asbestos-cement corrugated sheets originating in Czechoslovakia and the German Democratic Republic and terminating that proceeding

(84/465/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 [1], and in particular Article 10 thereof,

After consultation within the Advisory Committee as provided for under the abovementioned Regulation,

Whereas :

A. Procedure

(1) In January 1984 the Commission received a complaint lodged by the 'Union professionnelle des usines belges d'asbeste ciment' on behalf of producers representing the majority of Community production of asbestos-cement corrugated sheets. 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* [2], the initiation of an anti-dumping proceeding concerning imports into the Community of asbestos-cement corrugated sheets falling within subheading ex 68.12 A of the Common Customs Tariff, corresponding to NIMEXE code ex 68.12-11, originating in Czechoslovakia and the German Democratic Republic and commenced an investigation.

(2) The Commission officially so advised the exporters and importers known to be concerned and the representatives of the exporting countries and the complainants and gave the parties directly concerned the opportunity to make known their views in writing and to request a hearing.

(3) The known exporter and importers of the product concerned originating in Czechoslovakia requested and were granted a hearing.

(4) The exporter and importers of the product concerned originating in Czechoslovakia requested and were granted the opportunity to meet the complainants for the purpose of presenting their opposing views.

(5) The Commission sought and verified all information it deemed to be necessary for the purposes of a preliminary determination and carried out investigations at the premises of the following :

[1] OJ No L 201, 30. 7. 1984, p. 1.

[2] OJ No C 55, 28. 2. 1984, p. 4.

(i) *EEC producers*

(a) Belgium

— Eternit NV, Kapelle-op-den-Bos,

— S. A. Fabrecim, Harmignies,

— J. M. Balmatt NV, Mol,

— NV Scheerders van Kerhove's Ver. Fabrieken, St. Niklaas ;

(b) The Netherlands

— Eternit BV, Amsterdam ;

(c) France

— Eternit Industries SA, Vernouillet,

— Everitube SA, Paris ;

(d) Federal Republic of Germany

Eternit AG, Berlin ;

(ii) *Producer in Finland*

(for the purpose of determining the normal value) :

Oy Partek AB, Muijala ;

(iii) *Importers*

(a) Belgium

Ets. D. Van Riet, Temse, for the product originating in the German Democratic Republic ;

(b) The Netherlands

— A. de Boo Delft BV, Delft (assisted by a representative of P. N. M. Hooge-Chemicaliën BV, Vught, acting as the agent of the exporter of the German Democratic Republic),

— Austria BV, Lisse, for the product originating in Czechoslovakia.

(6) The investigation of dumping covered the period 1 January to 31 December 1983.

B. **Normal value**

(7) In order to establish whether the imports from Czechoslovakia and the German Democratic Republic were dumped, the Commission had to take account of the fact that these countries do not have market economies. The Commission therefore based its determination of the normal value in a market-economy country.

(8) In this connection, the complainants had suggested the Finnish market. However, most of the exporters and importers contested the use of Finnish domestic prices, mainly because these parties considered that these prices do not result from a normal supply and demand situation. Therefore, it was suggested by these parties to use Spanish prices for sales on the domestic market or for export to the EEC.

(9) Although the arguments presented by the exporters and importers were not considered by the Commission to constitute by themselves sufficient reasons for rejecting Finland as the market-economy third country for the determination of the normal value, the Commission, nevertheless, examined the possibility of establishing normal value on the basis of the prices of the Spanish product. However, the Commission was informed that its representatives could not be received at the premises of the individual producers in Spain, but that an investigation could take place at the office of the Spanish association of asbestos-cement producers. This proposal was not considered acceptable by the Commission, since there were not sufficient guarantees offered that would enable the Commission's representatives to carry out a thorough investigation covering all information necessary to determine the normal value in accordance with the provisions of Article 3 of Council Regulation (EEC) No 2176/84, particularly concerning the profitability relating to the sales made by each of the Spanish producers of the product concerned.

(10) Taking into account the fact that no other alternatives had been put forward by the interested parties, except for Austria, with regard to which no evidence or arguments had been submitted, and in order to avoid further delays at this stage of the proceeding, it was provisionally decided that the constructed value calculated for the manufacturer of the product concerned in Finland is to be considered as the most appropriate and reasonable basis for the determination of the normal value, since by taking the constructed value as the basis for this calculation, the main objection raised by the exporters and importers (see point 8) does not apply. The constructed value was computed by taking the company's total cost of materials and manufacture, including overheads and a modest profit margin, considered reasonable in this case.

C. **Export price**

(11) Export prices were determined on the basis of the prices actually paid for the product sold for export to the Community.

D. **Comparison**

(12) In comparing normal value with export prices, the Commission took account, where appropriate, of differences affecting price comparability. This was the case for differences in conditions and terms of sale in so far as a direct relationship

could be satisfactorily demonstrated. These differences concerned in particular credit terms, transport, insurance, handling, loading and ancillary costs. All comparisons were made at ex-works level.

E. **Margins**

(13) The above preliminary examination of the facts shows the existence of dumping in respect of all the exporters concerned, the margin of dumping being equal to the amount by which the normal value as established exceeds the prices for export to the Community.

(14) These margins vary according to the exporter concerned and the importing Member State, the weighted average dumping margin with regard to each of the exporting countries being as follows :

— Czechoslovakia : 82 %

— the German Democratic Republic : 77 %

F. **Injury**

(15) With regard to the injury caused by the dumped imports the evidence available to the Commission shows that imports into the Community from Czechoslovakia and the German Democratic Republic of asbestos-cement corrugated sheets increased from 26 780 tonnes in 1980 to 30 947 tonnes in 1983, which represents an increase of 15,5 %. In the Benelux countries these imports increased from 9 188 tonnes in 1980 to 21 161 tonnes in 1983, which represents an increase of 130 %.

(16) With regard to the combined market share held by the dumped imports the evidence available to the Commission shows that it increased from 1,4 % in 1980 to 2,3 % in 1983 in the Community, which represents an increase of 64 %. Furthermore, in the Benelux countries, where these imports were concentrated, this market share increased from 5,8 to 20,4 % between 1980 and 1983, which represents an increase of 250 %.

(17) The resale prices of these imports undercut the prices of the Community producers concerned in this proceeding during the investigation period by 15 %.

(18) These imports have been a main cause of the increasing difficulties encountered in a declining market by the Community producers concerned in this proceeding. As such, these dumped imports contributed to the reduction of their production, which dropped by 21,4 % between 1980 and 1983, to the reduction of their capacity utilization, which dropped from 72 % in 1980 to 64 % in 1983 despite the lowering of their capacity by 12 % during the same period, and to the reduction of their sales, which dropped by 15,5 % between 1980 and 1983.

(19) With regard to the development of the profitability of the Community producers concerned in this proceeding, it has been established that between 1980 and 1983 profits either dropped significantly or considerable losses were made.

(20) Between 1980 and 1983 the number of employees of these Community producers was significantly reduced.

(21) It has been argued by some exporters and importers that injury has been caused not by the dumped imports, but by sales of the product concerned originating in Italy. Although it appears on the basis of the evidence available to the Commission that sales of the product concerned originating in Italy increased significantly between 1980 and 1983, the prices at which this product was sold were, on average, 15 % above the prices of the dumped products. The substantial increase of the dumped products, particularly in the Benelux countries, and the prices at which they are offered for sale in these Member States, led the Commission to determine that the effects of the dumped imports of asbestos-cement corrugated sheets originating both in Czechoslovakia and in the German Democratic Republic taken in isolation, have to be considered as constituting material injury to the Community producers concerned in this proceeding.

G. **Community interest**

(22) In view of the particularly serious difficulties facing the Community producers concerned in this proceeding and particularly the negative development of their profitability, the Commission has come to the conclusion that it is in the Community's interest that action be taken.

H. **Undertakings**

(23) The exporters concerned were informed of the main findings of the preliminary investigation and commented on them. Undertakings were subsequently offered by the exporters established in Czechoslovakia and the German Democratic Republic concerning their exports of asbestos-cement corrugated sheets to the Community.

(24) The effect of the said undertakings will be to increase their export prices to the Community to the level which the Commission, having taken into account, on the one hand, the selling price necessary to provide an adequate return to Community producers and, on the other hand, the purchase price of the Community importers and their costs and profit margin, considered necessary to eliminate injury. These increases in no case exceed the dumping margins found in the investigation.

(25) In these circumstances, the undertakings offered are considered acceptable and the proceeding may, therefore, be terminated without imposition of anti-dumping duties.

(26) No objection to this course was raised in the Advisory Committee,

HAS DECIDED AS FOLLOWS:

Article 1

The undertakings given by the following companies:

— Czechoslovak Ceramics Foreign Trade Corporation, Prague (Czechoslovakia),

— Limex GmbH, Bau-Export-Import, Berlin (German Democratic Republic),

in connection with the anti-dumping proceeding concerning imports of asbestos-cement corrugated sheets falling within subheading ex 68.12 A of the Common Customs Tariff, corresponding to NIMEXE code ex 68.12-11, originating in Czechoslovakia and the German Democratic Republic, are hereby accepted.

Article 2

The anti-dumping proceeding referred to in Article 1 is hereby terminated.

Done at Brussels, 26 September 1984.

For the Commission

Étienne DAVIGNON

Vice-President