II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 26 February 1986

accepting undertakings entered into in connection with the anti-dumping proceeding concerning imports into Greece of certain categories of glass originating in Turkey, Yugoslavia, Romania, Bulgaria, Hungary and Czechoslovakia and terminating the investigation

(86/36/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,

Following consultations within the Advisory Committee as provided for by that Regulation,

Whereas :

A. Procedure

1. In January 1985 a complaint was lodged with the Commission that certain categories of glass originating in Turkey were being imported at dumped prices, thus causing injury to a Community industry. The complaint was from the Comité Permanent des Industries de Verre de la Communauté Économique Européenne (CPIV) and by the Greek Glass Federation, on behalf of the Greek manufacturer accounting for all national production of such products, the Hellenic Chemical and Fertilizers Company Ltd, Athens.

2. The complaint included evidence of dumping and of major damage resulting for the industry in Greece. This evidence was considered sufficient to justify the initiation of a proceeding and the Commission therefore announced, by a notice in the *Official Journal of the European Communities* [2], the initiation of an anti-dumping proceeding concerning imports into Greece of certain categories of glass originating in Turkey. The Commission began its investigation.

   The products concerned are a type of unworked drawn or blown glass (including flashed glass), in rectangles, of a thickness of 2,5 mm or more but not more than 5,5 mm, falling within Common Customs Tariff heading No ex 70.05 corresponding to NIMEXE codes ex 70.05-61, 70.05-63, 70.05-65 and ex 70.05-69, and a type of 'float glass', cast, or rolled, and drawn or blown glass (including flashed or wired glass), in rectangles, surface ground or polished, but not further worked, of a thickness of 2,5 mm or more but not more than 5,5 mm falling within Common Customs Tariff heading No ex 70.06 corresponding to NIMEXE codes ex 70.06-61, 70.06-65, 70.06-71 and 70.06-75.

3. The Commission officially informed the exporter and importer known to be concerned, the representatives of the exporting country and the complainant of the initiation of the proceeding and gave the parties directly concerned the opportunity of making their views known in writing and of being heard orally.

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

[2] OJ No C 66, 14. 3. 1985, p. 13.

The Turkish exporter known to be concerned, the company Cam Pazarlama AS, and the importer concerned, the company Makedoniki, and the complainant took the opportunity to make their views known in writing and to be heard orally. Certain arguments were also put to the Commission by processors of these products.

4. In June 1985 the CPIV and the Greek Glass Federation, on behalf of the Greek manufacturer, lodged a further complaint with the Commission requesting extension of the proceeding to imports of such products originating in Yugoslavia, Romania, Bulgaria, Hungary and Czechoslovakia.

5. This further complaint contained evidence of the existence of dumping and of consequent major injury for the Greek industry. This evidence was considered sufficient to justify the initiation of a proceeding and the Commission consequently announced, by a notice in the *Official Journal of the European Communities* [1], the extension of the anti-dumping proceeding to imports of the products concerned originating in Yugoslavia, Romania, Bulgaria, Hungary and Czechoslovakia.

6. The Commission officially brought the extension of the proceeding to the notice of the exporters and the importers known to be concerned, the representatives of the exporting country and the complainant, and gave the parties directly concerned the opportunity to make known their views in writing and to be heard orally.

The exporters known to be concerned, viz :

— Jugoslovenska, Industrija Ravnog Stakla, Yugoslavia ;

— Romsnit, Bucharest, Romania ;

— Industrialimport, Sofia, Bulgaria ;

— Ferunion, Budapest, Hungary ;

— Glassexport, Prague, Czechoslovakia,

and most of the Greek importers concerned, in particular :

— Athanassopoulos, Athens ;

— Aslanidis, Athens ;

— Hellas Glass, Karditsa ;

— Garifallou, Kavala,

and the complainant took the opportunity to make their views known in writing and to be heard orally.

7. The Commission gathered and checked all the information it deemed necessary to determine the existence of dumping and injury and carried out inspections at the premises of the complaint producer, the Turkish exporter, the Yugoslav exporter, and the following Greek importers :

— Makedoniki, Thessaloniki ;

— Athanassopoulos, Athens ;

— Aslanidis, Athens ;

— Hellas Glass, Karditsa ;

— Garifallou, Kavala.

The Commission asked for and obtained detailed written information from the complainant concerning the injury and its causes, and from all the exporters and most of the importers concerned. The information thus gathered was checked by the Commission to the extent necessary.

8. The period decided upon by the Commission for investigating the existence of any dumping was 1 January 1984 to 28 February 1985.

B. Definition of the Product

9. The products alleged to have been dumped are :

— transparent drawn glass, in rectangles, of a thickness of 2,5 mm or more but not more than 5,5 mm,

— transparent cast glass obtained by the float method, in rectangles, of a thickness of 2,5 mm or more but not more than 5,5 mm.

According to the complaint these products constitute 'like products' within the meaning of the anti-dumping rules.

The results of the investigation show this not to be so. It is true that both products, although manufactured by different processes, use the same raw materials and that their chemical composition is basically the same. They are of the same shape and are generally pre-cut into standard sizes with a thickness of 2,5 to 5,5 mm. When looked at straight on, they seem fairly similar.

However, the very process of manufacturing drawn glass leads to optical defects which are evident if it is regarded at an angle. In addition, the float process makes it possible to obtain larger rectangles, which are essential for certain purposes. Thus, most modern

[1] OJ No C 200, 8. 8. 1985, p. 3.

industrial outlets are closed to drawn glass, only float glass being usable for such purposes as double glazing, mirrors, motor vehicle glass, technical glass, etc.

Thus, as regards both optical characteristics and trade outlets, float glass and drawn glass are not like products within the meaning of Article 2 (12) of Regulation (EEC) No 2176/84.

10. The investigation also revealed that, within the thickness range covered by the proceeding, the products concerned are normally distributed in commercial thicknesses of 3 mm, 4 mm and 5 mm.

C. Community production

11. The Greek producer, Hellenic Chemical and Fertilizers Company Ltd, has no facilities for the float glass process and thus produces only drawn glass.

The question whether the Greek industry represents a Community industry within the meaning of Article 4 (5) second indent, of Regulation (EEC) No 2176/84 therefore arises only in the case of drawn glass. The investigation showed the Greek producer to sell nearly all its production on the Greek market, where demand for drawn glass was not met to any substantial degree by drawn glass producers established elsewhere in the Community. The share of the regional drawn glass market supplied through intra-Community imports has never, since 1981, exceeded 0,7 %.

It is consequently, considered that the complainant producer constitutes a Community industry for the drawn glass products concerned.

D. Normal Value

12. As regards imports from Turkey, the normal value was established on the basis of the comparable prices actually paid or payable in the ordinary course of trade for the like product intended for consumption in Turkey. It was calculated on the basis of a weighted average.

13. As regards imports from Yugoslavia, the normal value was established, for 3 mm, 4 mm and 4,5 mm glass on the comparable prices actually paid or payable in the ordinary course of trade for the like products intended for consumption in Yugoslavia. It was established on the basis of a weighted average. As regards 5,5 mm drawn glass, in which there is no trade on the Yugoslav market, the normal value established took account of the difference in physical characteristics (additional thickness) of the product compared with those of the products marketed in Yugoslavia, on the basis of prices paid or payable on the domestic market.

14. In order to establish whether the imports from Romania, Bulgaria, Hungary and Czechoslovakia were being dumped, the Commission had to make allowance for the fact that these countries do not have a market economy, and it thus had to proceed on the basis of the normal value in a country with such a market economy. The complainant had proposed that the Turkish domestic market be taken as a reference, and this led the Bulgarian and Czechoslovak exporters to raise objections on the grounds of that market's monopolistic structure and very high level of customs protection. The Commission took the view, and this was not contested by any of the parties, that prices on the Yugoslav domestic market offered an appropriate and not unreasonale basis for comparison.

E. Export price

15. As regards both the exports from Turkey and Yugoslavia and those from Romania, Bulgaria, Hungary and Czechoslovakia, the Commission took as the export price the price actually paid or payable on exports to Greece.

F. Comparison

16. For the purpose of comparing the normal value with export prices at the ex-factory stage for each of the like products, the Commission made allowances for differences affecting the comparability of the prices and made appropriate adjustments when the interested parties produced evidence that a request for this was justified (transport and packaging costs and payment conditions). All the comparisons were made at the ex-factory stage.

17. As regards imports from Turkey, the Commission, on the basis of the information in its possession, found no difference between the characteristics of drawn glass sold in Turkey and that exported to Greece such as significantly to affect the comparability of prices. A request for an adjustment to make allowance for the difference in the commission paid by Cam Pazarama AS to its parent company Turkish Glassworks Inc., as between domestic sales and exports, was refused as

not being supported by conclusive evidence. Another adjustment requested by the Turkish exporter to allow for differing stock levels needing to be maintained for domestic sales and export sales which was claimed to lead to higher financial burdens for domestic sales, was refused: the discrepancies concerned were in fact the result of differences in production costs.

G. Margins

18. Examination of the facts showed that all the transactions concerned involved dumping. The dumping margins calculated, equal to the difference between the normal values established and average prices on exports to Greece, showed there was substantial dumping in exports by Cam Pazarlama AS (Turkey), Jugoslovenska Industrija Ravnog Stakla (Yugoslavia), Romsit (Romania), Industrialimport (Bulgaria), Ferunion (Hungary) and Glassexport (Czechoslovakia).

19. The degree of dumping varied with the thickness of the drawn glass concerned, and from one exporter to another. The weighted average dumping margins amounted to the following percentages of the cif price free at the Greek frontier, not cleared through customs:

— Cam Pazarlama AS: more than 100 % on all thicknesses;

— Jugoslovenska Industrija Ravnog Stakla: from 33,5 % to 81 %;

— Romsit: from 43,2 % to more than 100 %;

— Industrialimport: from 73,9 % to more than 100 %;

— Ferunion: from 16,6 % to 66,9 %;

— Glassexport: from 75,8 % to more than 100 %.

H. Injury

20. As regards the injury to the Greek industry from the dumped imports, the enquiries made by the Commission show that the total volume of dumped imports into Greece of the drawn glass concerned rose from 1 199 tonnes in 1981 to 2 318 tonnes in 1983 and 15 183 tonnes in 1984.

At the same time these imports' share of the Greek market increased considerably from 2,8 % in 1981 to 7,3 % in 1983 and 55 % in 1984.

It should be noted here that the degree of market penetration by drawn glass imports from the countries concerned in the proceeding is very much lower in the rest of the Community (something like 25 % in 1984).

21. A thorough examination of the export prices of the drawn glass in question originating in Turkey, Yugoslavia, Romania, Bulgaria, Hungary and Czechoslovakia showed permanent undercutting, as against the Greek producer's prices, as fixed by the national administration, throughout the period of the investigation. Average undercutting varied according to the thickness of the glass and from one exporter to another, as follows:

(in %)

Cam Pazarlama AS	from 16,4 to 29,7
Jugoslovenska Industrija Ravnog Stakla	from 24,6 to 56,7
Romsit	from 16,1 to 30,8
Industrialimport	from 39,5 to 40,2
Ferunion	from 11,2 to 21,2
Glassexport	from 28,3 to 34,0

22. As regards the impact on the Greek industry, the Commission took into account the effect of all the imports recognized as having been dumped. Information which the Commission was able to verify showed production of drawn glass by the Greek producer to have fallen from 43 706 tonnes in 1981 to 14 280 tonnes in 1984, a reduction of 67,3 %, far greater than the fall in consumption in Greece over the same period (42 862 tonnes in 1981, 27 743 tonnes in 1984, a reduction of 35,3 %). The utilization rate of production capacities thus fell from 54,6 % in 1981 to 15,5 % in 1984. The worsening situation obliged the Greek producer to close down his main furnace at the end of 1983.

At the same time as sales fell so sharply (41 372 tonnes in 1981, 12 373 in 1984, a fall of 70 %), the Greek producer's stocks began to pile up greatly (3 033 tonnes at the end of 1981, 8 220 at the end of 1984). Its market share fell from 96,5 % in 1981 to 44,6 % in 1984.

Because of this fall in activity the Greek producer also had to reduce his workforce from 577 persons in 1981 to 260 in 1984.

Consequently, the Greek industry saw a considerable part of its profitability eroded, with very substantial losses being recorded in 1984.

23. The Commission examined the other factors which, individually or together, might also have damaged the interests of the Greek producer.

It examined the effect of imports into Greece where no dumping was alleged, the level of consumption of

drawn glass in Greece and the matter of its progressive replacement by float glass, together with the effect on the industry's profitability of the Government's price control mechanism.

— Imports from countries against which no allegations of dumping were made were practically nil in 1981, 1982, 1983 and only 80 tonnes in 1984. The fact that the Greek market's intra-Community imports were also negligible (107 tonnes in 1984) means that almost all Greek imports of drawn glass came from the countries concerned by the proceeding and were therefore dumped.

— In addition, the very appreciable fall in consumption of drawn glass in Greece, resulting both from a slowdown in the building sector and the progressive replacement of drawn glass by float glass for certain purposes, did indisputedly affect sales by the complainant producer; nonetheless, the fall in its sales on the Greek market between 1981 and 1984 (70 % down) was much greater than the fall in demand (35,3 %).

— In assessing the impact of causes of injury other than imports shown to be dumped, the Commission took into account the fact that since 1983 the sale prices of the Greek producer have been subject to a system of price control by the Greek authorities. To the extent that the Greek producer's costs have been substantially higher than the prices it has been obliged to charge, the resultant losses should not be attributed to dumped imports. Thus, for the purpose of analysing the degree of injury caused by the imports concerned as regards prices, the Commission looked only at the differences between the Greek producers' prices as fixed by its national authorities and the market prices of the dumped imports.

Examination of the differences as thus defined shows a degree of undercutting varying between 11,2 % and 56,7 %. Thus, independently of the injury caused by the price control system, the prices of the imports shown to be dumped were distinctly lower than those of the Greek producer, and this contributed to the sharp fall in its activites, and consequently to an increase in its costs.

24. The results of the investigation thus show that the Greek producer is faced with serious difficulties, which existed in part before the considerable increase in imports in 1984. The causes of injury other than dumped imports include the distinct fall in consumption of drawn glass in Greece, the progressive replacement of drawn glass by float glass — not produced by the Greek industry — and the price control system.

Nonetheless, in view of all the injury factors examined in points 22 and 23 above, and in particular the fact that the degree of market penetration of dumped imports increased considerably in 1984, the Commission is persuaded, on the basis of the evidence before it, that the injury caused during the period under investigation by the dumped imports must, seen in isolation, be considered as a major factor, having considerably magnified the Greek producers' difficulties.

I. Community interest

25. In these circumstances, and as the producer concerned is Greece's only independent source of supply of drawn glass, the Community interest requires that a measure of protection be adopted against imports shown to be dumped.

J. Undertakings

26. The exporters concerned and the complainant have been informed of the main results of the investigation and have been offered the possibility of making any comments. In addition, as the case involves a regional element, the Commission gave exporters, in accordance with Article 13 (6) of Regulation (EEC) No 2176/84, an opportunity to offer undertakings for the market concerned. Price undertakings have been given by all the exporters concerned as regards their exports to the Greek market.

The aim of the undertakings is to eliminate the differences between import prices and prices fixed by the Greek Government and so to remove the injury caused by the dumped imports. It emerges also that it will be possible for the fulfilment of these undertakings to be controlled effectively.

This being so, the price undertakings given are judged acceptable and the investigation may therefore be terminated without anti-dumping duties being imposed.

No objection has been raised to this course within the Advisory Committee.

HAS DECIDED AS FOLLOWS:

Article 1

The price undertakings entered into by Cam Pazarlama AS (Turkey), Jugoslovenska Industrija Ravnog Stakla (Yugoslavia), Romsit (Romania), Industrialimport (Bulgaria), Ferunion (Hungary) and Glassexport (Czechoslovakia) during the anti-dumping investigation concerning imports into Greece of certain categories of unworked drawn glass, in rectangles, falling within Common Customs Tariff heading No ex 70.05, corresponding to Nimexe codes ex 70.05-61, 70.05-63, 70.05-65 and ex 70.05-69, originating in Turkey, Yugoslavia, Romania, Bulgaria, Hungary and Czechoslovakia are hereby accepted.

Article 2

The investigation referred to in Article 1 is hereby terminated.

Done at Brussels, 26 February 1986.

For the Commission

Willy DE CLERCQ

Member of the Commission