II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 7 October 1986

accepting undertakings given in connection with the anti-dumping proceeding concerning imports of silicon carbide originating in the People's Republic of China, Norway, Poland and the USSR, and terminating the investigation regarding imports of that product originating in the People's Republic of China, Norway, Poland, Czechoslovakia, the USSR and Yugoslavia

(86/497/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 Articles 10 and 11 thereof,

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

Whereas :

A. Procedure

(1) In May 1984 the Commission received a complaint lodged by the European Council of Chemical Manufacturers' Federations (CEFIC) on behalf of all Community producers of silicon carbide.

(2) 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 silicon carbide falling within Common Customs Tariff subheading 28.56 A, corresponding to NIMEXE code 28.56-10, and originating in the People's Republic of China, Czechoslovakia, Norway, Poland, the USSR, Spain, and Yugoslavia, and commenced an investigation.

(3) The Commission officially so advised the exporters and importers known to be concerned, 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.

(4) All of the known producers and exporters, as well as most of the known importers, made their views known in writing or in the course of hearings, which were granted to all those who requested them.

(5) Submissions were made on behalf of users' associations and by users themselves.

(6) The Commission sought and verified all information it deemed to be necessary for the purposes of a preliminary determination from the following companies, where necessary carrying out investigations at their premises :

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

[2] OJ No C 202, 1. 8. 1984, p. 5.

EEC producers:

— Elektroschmelzwerk Kempten GmbH, München, Federal Republic of Germany,

— Lonza-Werke GmbH, Waldshut-Tiengen, Federal Republic of Germany,

— Pechiney Electrometallurgie (ex SOFREM), Paris, France,

— Samim Abrasivi SpA, San Michele all'Adige, Italy;

Non-EEC producers and exporters:

— Navarro SA Madrid, Spain,

— Arendal Smelteverk A/S, Eydehavn, Norway,

— Norton A/S, Lillesand, Norway,

— Orkla Exolon A/S & Co., Orkanger, Norway,

— Tovarna Dusika, Ruse, Yugoslavia,

— Representation of the China National Machinery and Equipment Import & Export Corporation, Köln, Federal Republic of Germany;

EEC importers:

— Internat SA, Liège, Belgium,

— SA Barascud Abrasifs-Chimie, 81102 Castres, France,

— Société Derognat et Cie, 21200 Comblanchien, France,

— DFG (Gremilliet) 88207 Remiremont, France,

— Mineralien-Werke Duisburg GmbH, Duisburg, Federal Republic of Germany,

— Mineralien-Werke Kuppenheim GmbH, Kuppenheim, Federal Republic of Germany,

— Alfred Hempel GmbH & Co., Düsseldorf, Federal Republic of Germany,

— Kerimpex Handelsgesellschaft GmbH, Selb, Federal Republic of Germany,

— Werner Kessl Gießereibedarf GmbH, Bärnwinkel, Federal Republic of Germany,

— Gesellschaft für Metallurgie Hafner und Polte GmbH, Düsseldorf, Federal Republic of Germany,

— Wilfried Post GmbH, Gut Junkerswald, Federal Republic of Germany,

— Thyssen Schulte Metallurgie GmbH, Dortmund, Federal Republic of Germany,

— Smyris Abrasivi srl, Pero (Mi), Italy,

— Veneta Mineraria SpA, Milano, Italy,

— Carborundum Abrasives GB Ltd, Manchester, United Kingdom,

— Union Carbide UK Limited, Glossop, United Kingdom,

— Tennant Metallurgical Ltd, Sheffield, United Kingdom.

(7) The investigation of dumping covered the period from 1 July 1983 to 30 June 1984.

(8) In view of Article 380 (3) of the Act of Accession of Spain and Portugal, the results of the investigation in respect of imports from Spain will be dealt with separately, under the terms of Council Regulation (EEC) No 812/86 of 14 March 1986 on protection against imports that are the subject of dumping between the Community of Ten and the new Member States, or between the new Member States, during the period throughout which the transitional measures, laid down by the Act of Accession of Spain and Portugal, apply (1).

B. Normal value

Yugoslavia

(9) In the case of Yugoslavia, the sole producer manufactures only two basic grades of black silicon carbide, all of which, according to the evidence presented, is exported in a semi-finished state. Since there were therefore no domestic sales prices on which to base normal value, it was decided in this case — as in the case of Norway (see points 15 to 17) — to use constructed values. The full production, selling, and overhead costs for the product during the investigation period were taken into account, as recorded in the cost accounts of the producer. To these costs was added a reasonable profit based on what this producer normally earns on his domestic market from sales of artificial corundum, an analogous products.

Non-market economy countries

(10) With the exception of Spain, referred to under point 8, and Norway, the remaining exports covered by the investigation originate in State trading countries. In order to establish whether the imports from these countries were dumped, the Commission had to take account of the fact that the People's Republic of China, Czechoslovakia, Poland, and the USSR do not have market economies, and determinations therefore had to be based on the normal value in a market-economy country. In this connection, the complainants had suggested the Yugoslav market.

(11) The Commission decided not to accept this suggestion, for the following reasons. The silicon carbide customs heading covers a wide range of product grades, with a similarly wide range of market prices, used primarily for applications in the abrasives, refractory and metallurgical fields. As already mentioned under point 9, the Yugoslav producer was found to manufacture only two product grades, these being exported in a semi-finished state. In view of these facts, and in particular the extremely restricted range of product grades, and the incomplete production process stated to be operated by

(1) OJ No L 78, 24. 3. 1986, p. 1.

this manufacturer, the Commission did not consider that the normal values established in Yugoslavia would be a technically satisfactory basis for the determination of normal value in respect of the non-market economy exporters concerned in the proceeding.

(12) The Spanish producer was found to possess a complete production process and reasonably wide range of product grades, sold as finished products, not only for export but mainly in the domestic market. Hwever, the Commission did not adopt this alternative basis for normal value in the non-market economy exporting countries, because of the comparatively protected nature of the Spanish market and the fact that there is only one producer on this market.

(13) The Commission concluded that it would be appropriate and not unreasonable to determine normal value for the non-market economy exporters on the basis of constructed value in Norway. The completeness of the range of product grades sold and of the production process operated by the Norewegian producers was an important factor in this conclusion. The fact that, as remarked below (point 15), the restricted nature of the Norwegian market rendered obligatory reference in the majority of cases to constructed values rather than domestic prices was not considered to be disadvantageous to non-market economy exporters, in view of the comparative advantage enjoyed by the Norwegian companies in this highly energy-intensive type of production.

(14) Several exporters and one importer raised objections to the use of Norway as an analogue country for the purpose of normal value, referring to differences in the physical characteristics of the products manufactured in some of the non-market economies as compared with those manufactured in Norway. The Commission's reply to these objections was that the wide variety of product grades for which normal values were established in Norway already permits a better comparison of each of these product grades with those that are sold by non-market economy exporters. In so far as differences in physical characteristics subsisted after such a comparison of appropriate product grades, these could be dealt with by allowances as explained in Section D, 'Comparison', below. While the exporters mentioned above did not make proposals as to alternative analogue countries, the importer mentioned, on the other hand, criticized the Commission's decision to discard the choice of Yugoslavia for this purpose, alleging that the reasons advanced for this decision in point 11 did not correspond with the real situation of the Yougoslav producer. However, no evidence for these allegations was produced, and none of the findings made by the Commission, while investigating the Yugoslav producer, support these allegations.

Norway

(15) In seeking to determine the normal value for the three Norwegian companies, the Commission had to take account of the relatively small quantities of the product which are normally sold on their domestic market. It was found, in fact, that during the reference period of the investigation some 96 % by value of these producers' turnover was for export sales, approximately half of total exports being to the Community.

In general, therefore, sales on the domestic market were too small to permit a valid comparison with export sales of the like product to the Community.

In the case of only one of these three companies — and for three of the product grades sold by it out of a total of nine taken into consideration — were domestic sales found which attained the threshold of 5 % by volume of the equivalent product grades exported to the Community market. The use of this threshold in such cases was established by the Commission in Regulation (EEC) No 3643/84 in the anti-dumping proceeding concerning imports of electronic typewriters from Japan [1]. Consequently, for the three product grades mentioned and for this one company, normal value was provisionally determined on the basis of the domestic prices.

(16) Given the lack of adequate quantities of domestic sales to permit a proper comparison in the case of all other product grades produced by the Norwegian companies, it was necessary to determine normal value for these grades on another basis. The companies themselves proposed the use of export prices to third countries for this purpose.

This suggestion was not accepted by the Commission as it was not in a position to confirm that export prices to markets other than the Community were not in fact dumped prices. In addition, the period covered by the investigation was one of major fluctuation for certain important world currencies, which would have added a further element of uncertainty to any choice of an appropriate third country export market on which to base normal value.

[1] OJ No L 335, 22. 12. 1984, p. 43.

(17) For the reasons set out above, normal value was provisionally determined on the basis of constructed values in Norway. Constructed values were established on the basis of costs, presented by the companies during the investigation, for each major product grade produced and sold by them. These product costs consisted of the actual expenses of producing the grade concerned, as reflected in the records of the companies for the period covered by the investigation. Where this cost of production did not already incorporate fixed costs, including selling, administrative and other general expenses, a percentage factor corresponding to that used by the company was added to take account of these expenses. This percentage factor appeared reasonable in the light of all the financial data verified during the investigation. A reasonable profit margin was then added to the above costs. In order to ensure that this profit margin reflected each company's performance over a representative period, it was decided to take for this purpose, from the audited sets of accounts presented by the companies, the average operating profit earned over the three most recent financial calendar years leading up to the investigation period.

In view of the extremely restricted proportion of domestic sales mentioned earlier, and since audited accounts did not apportion profits geographically, overall operating profits (and not specifically domestic profits) were taken to constitute the most reasonable basis for the determination of profit margin. It should be noted in this respect that all three companies produced and sold only silicon carbide material, and that the information provided by them indicates that in 1983/84 the profitability on Norwegian domestic sales — where these existed — was in general higher than, or at least equal to, overall profitability.

(18) There have been extensive contacts over a long period of time with Norwegian exporters, in the form of meetings and exchanges of correspondence, concerning provisional findings. At all stages, these producers have contested the Commission's findings of dumping and injury, and for analogous reasons in all three cases. Their objections to normal value findings are grouped under two main headings. In the first place, they object to constructed values bing used to determine normal value at all, as discussed under point 19, below. In the second place, they object to the way in which constructed values have been claculated, as discussed under points 20 to 23.

Norwegian producers' objection to use of constructed values as basis for normal value

(19) The argument has been advanced by the Norwegian producers that using constructed values, at least in the present case, is contrary to commercial logic in that it entails imputing a fixed and equal proportion of profit to each product grade, thus denying a producer with cost advantages the opportunity to compete freely, and to set selling prices, with profit margins which differ according to the product grade and to the competitive situation.

In the absence of any verifiable evidence which would have permitted the allocation of profit margins differing according to product grade, the Commission was obliged to allocate costs, as indicated by the companies during the investigation, and profits in a uniform manner on the basis of turnover, which ensured that they were completely absorbed by the sales of the same period.

Norwegian producers' objections to Commission's calculation of constructed values

(20) The Norwegian producers were informed, prior to the on-the-spot investigation by the Commission's services, that costs would be extensively examined. They collaborated, providing extensive cost and financial accounting data from the companies' internal records and independently audited annual accounts, as well as commercial and technical information. All companies were found to operate management accounting systems which took account of the differing variable costs of the main product categories. Selling and general administrative overheads were in general allocated over all product grades in conformity with each company's practice during the investigation period. As far as both variable and fixed costs are concerned therefore, no objections were raised at that stage by the companies to this form of constructing costs for individual product categories.

When the preliminary results of the investigation were discussed, showing dumping in varying degrees on several of each company's product grades, two main objections to the way constructed values had been calculated were voiced. Thes objections were put forward, in slightlty differing formulations, by all three companies.

(21) The first objection concerned the profit margins used in establishing the constructed values. The method of calculating these has already been described in point 17. The companies claim that 'a reasonable margin of profit', within the meaning of Article 2 (3) (b) (ii) of Regulation (EEC) No 2176/84, has not been used in determining constructed value.

The basis of this objection appears to be the size of the profit margins found. These were larger than the profit margins attributed to other Norwegian industries for which constructed values had been determined in anti-dumping proceedings in past years. These proceedings, however, involved industries and companies experiencing losses or very reduced profits at the time of the investigation concerned, and for which an accurate profit margin was not available on the basis of the industry's or company's own recent performance. This cannot be said of the present proceeding, however, since the profit margins used are the audited real profits of the companies involved. Moreover, in this case averages of several years' profits were calculated, in order to avoid a possibly unfair determination based on one exceptionally profitable year. Indeed, one of the companies had itself described one of the years included in its average as the worst year for profitability in its history since 1945. The real profits earned, where they exist and can be accurately determined, evidently constitute the most reasonable measure of profitability to use for this purpose — and the one least likely to be unfair or discriminatory.

(22) The second objection concerned the remaining components of the constructed values : the costs. In general, all three companies pointed out detailed corrections that were necessary to the findings provisionally presented to them and, where these corrections could be justified on the basis of the evidence collected during the investigation, the Commission has modified those findings. However, at the time of the first presentation of preliminary findings, each company also raised the same point : their methods of costing product grades, employed hitherto, were not adequately reflecting technical and commercial realities. They argued that this had been known to the companies for some time, but that the Commission's investigation had accelerated this realization. They requested the time and the opportunity to present new material to the Commission on the basis of revised criteria. The Commission had considerable doubts as to the correctness of such a procedure, but decided to accede to this request and to examine carefully the submissions on their individual merits, without prejudice however to the question of whether such information could validly be taken into consideration in its provisional findings, since it was presented after the conclusion of the on-the-spot investigation.

The new material presented differed in scope and completeness from company to company, but was similar in purpose in all cases. Apart from detailed points relating to the evidence already collected, which have already been mentioned, each Norwegian producer claimed that important changes were necessary in certain costing criteria — justified largely on technical grounds — and that these criteria should be used retroactively to modify the initial investigation findings. Some modifications proposed on this basis were wide ranging — one company claimed to have completely reorganized its costing system as a result — but, quantitatively, the most significant result in all cases was to diminish significantly the costs and therefore the normal values of metallurgical and wiresawing product grades, for which the highest levels of dumping had been preliminary determined. At a later stage in the proceeding one of the companies submitted arguments for the revision of overhead allocation criteria, which would have had in practice a similar result on certain product grades.

(23) The Commission considers that — despite the extensive arguments and technical explanations put forward — no new facts have been presented by the companies in this field to justify the virtually complete abandonment of the findings made during its investigation. On the other hand, where the supplementary submissions contained new evidence on points of detail which bore an objectively verifiable relationship to the data already checked during the investigation, this was taken into account and findings were appropriately corrected by the Commission. As already explained, the constructed values in Norway were based exclusively on information presented by the companies themselves and verified in relation to accounting and costing systems which had been in everyday use in those companies for a considerable time, and which were in use throughout the investigation period.

One of the companies, before the investigation, drew attention to the fact that, although many grades of silicon carbide are often sold by reference to quality specifications that are defined by agreement with the individual customer concerned, its costing system was designed to reflect actual costs only in terms of broad product categories, which are normally distinguished by differences in chemical composition, colour, grain size, and application. The latter was, however, exactly the basis on which the Commission collected evidence and conducted its investigation. At the same time, this company indicated that its cost reporting was fully integrated into its accounting and management procedures, and this was found to be true also of the remaining Norwegian companies. The importance of the accounting and costing systems in use by the companies at the time of investigation lies not only in the objectively verifiable character of the evidence which they provided but also in their use by management over a long period leading up

to and including that of the investigation. These systems therefore, in addition to recording the companies' results according to the criteria known to management at the time, have provided the framework within which management decisions, including pricing decisions, were taken. It is thus not possible to accept the claims that the Commission should adopt product costs estimated retroactively on the basis of radically revised criteria, in the place of those costs calculated by the normal management accounting procedures in force in the companies prior to, and during, the investigation period. Taking up a different position would imply that, in a case involving constructed values as a basis for normal value, the Commission would be departing from the figures used by the companies in the relevant period.

C. Export Prices

(24) Export prices were determined on the basis of the prices actually paid or payable for the products sold for export to the Community.

D. Comparison

(25) In comparing normal value with export prices, the Commission took account, where appropriate, of all differences affecting price comparability where claims of a direct relationship of these differences to the sales under consideration could be satisfactorily demonstrated. This was the case for differences in conditions and terms of sale, such as transport, credit terms, ancillary costs, packing, handling, and agents' commission. Also, where applicable, allowances claimed by interested parties were made for differences in physical characteristics.

All comparisons were made at ex works level.

(26) A Community importer of the product from the USSR criticized the making of comparisons at the ex works level, based on Article 2 (9) of Regulation (EEC) No 2176/84. The importer in question bought at a price which included the cost of transport over a long distance from the USSR to its premises. Such costs are important in the case of this material, which is of relatively low value in relation to its weight and volume. The Commission is obliged to exclude transport costs from the 'export price' at the Community frontier, if such costs are included in the price paid by the importer.

(27) The same importer has suggested that the requirement for 'like product', contained in Article 2 (12) of Regulation (EEC) No 2176/84, is not satisfied by the use of Norwegian constructed values as a basis for normal value.

The reasons for this choice have been explained above in points 10 to 14. Moreover, the granting of an allowance for a difference in physical characteristics of the imported product does not by itself demonstrate that a sufficiently similar product has not been chosen for comparison.

E. Dumping margin

(28) The above preliminary examination of the facts shows the existence of dumping in respect of the People's Republic of China, Norway, Poland and the USSR, the margins of dumping being equal to the amount by which the normal value as established exceeds the price for export to the Community, this dumping margin being expressed as a percentage of the total cif export price to the Community of the product investigated.

(29) These margins vary according to the importing Member State and the product grade of silicon carbide concerned. The weighted average margins (as defined below in point 30) are as follows for three of the exporting countries concerned :

	EEC overall margin
People's Republic of China	31,5 %
Poland	8,9 %
USSR	23,2 %

In general the above producers exported only one or at most two different product grades of black silicon carbide. The great majority of the quantities imported into the Community from these countries concerned macro grits or the lumps from which such grits can be manufactured, for use in the production of abrasive appliances or in refractory and wiresawing applications. All such imports, with the exception of a very small quantity of abrasive grits from Poland, were dumped.

(30) In the case of Norway the margins also vary, according to the exporter and to the grade of silicon carbide concerned. As already explained, the three Norwegian companies manufacture a complete range of grades of this material. Although a large number of the grades were undumped, when the dumping margins which had been found by the

Commission (mainly for grades sold in the largest quantities) were aggregated and weighted in relation to total exports to the Community of the grades investigated — without giving credit for the amount by which export prices exceeded normal value in the case of undumped grades — overall margins of dumping were found for each company as follows :

Exporter	EEC overall margin
Arendal Smelteverk A/S	5,1 %
Norton A/S	6,2 %
Orkla Exolon A/S & Co	1,7 %

The overall margins set out, however, do not illustrate what the Commission considers to be an important feature of these findings — namely the concentration of more significant levels of dumping in two particular categories which accounted for some 35 % of the total quantities exported to the EEC by Norway. The dumping margins found on first metallurgical grades (with a minimum SiC content of 85 %) were in fact 40,6 and 14,6 % for the two larger exporters, the smallest of the three exporters not being significantly concerned with exports of this product category during the investigation period ; for wiresawing grain mixes the range over all the three exporters was between 8,9 and 5,0 %.

In arriving at the above dumping margins, the Commission did not include in its calculations certain by-products and waste materials. It considers that the data used, relating to these companies' normal product sales and constructed values, provide a representative measure of the overall levels of dumping on exports to the Community.

(31) One of the Norwegian companies, which stated that it considered itself to be the exporter primarily targetted by the original complaint, claimed that the large disparity between the very high levels of dumping alleged in that complaint and the much more modest overall levels found in the investigation (which it nevertheless strongly contests, for the reasons set out in points 18 to 22), demonstrated the invalidity of the proceeding, which had been opened on the basis of a complaint motivated by commercial considerations and not backed by adequate evidence. The argument was particularly directed towards the indication of dumping contained in the complaint, which compared the domestic price in Norway of a relatively high quality abrasive grade with export prices of much lower level metallurgical material. The Commission could not accept this view : a proceeding is not invalidated simply because it results in showing certain data contained in the complaint to be incorrect. The investigation is designed precisely to show whether the allegations contained in a complaint are supported in fact. Furthermore, while overall dumping levels may have been found to be modest, this could not be said of certain specific levels.

(32) For imports originating in Czechoslovakia and Yugoslavia no dumping was found. Consequently, the proceeding in respect of these imports should be terminated.

F. Injury

(33) With regard to the injury caused by the dumped imports, the evidence available to the Commission shows that imports into the Community from the People's Republic of China, Norway, Poland and the USSR of silicon carbide increased from 36 966 tonnes in 1981 to 47 094 tonnes in 1984 (48 051 tonnes in 1985), which represents an increase of 27 % (30 % in 1985). At the same time, Community consumption of this material had returned to a level of 128 348 tonnes in 1984 as against 127 348 tonnes in 1981, having fallen back by 10 and 14 %, respectively, in 1982 and 1983.

(34) Consequently, the market share held by silicon carbide originating in the countries mentioned under the previous point progressed from 28,8 % in 1981 to 36,9 % in 1984. Over the same period, the market share of Community producers fell from 62,2 % in 1981 to 52,5 % in 1984 as a percentage of Community consumption. The impact of the dumped imports in the loss of sales by Community producers is demonstrated by the fact that, on the basis of consumption figures in the Community for 1981 and 1984, which are practically identical, the increase in the combined market share of the countries mentioned accounts for slightly less than the fall in market share of the Community producers.

(35) The effect of the lost market share mentioned under the previous point is not completely reflected in the production figures of Community industry. Approximately 100 000 tonnes of silicon carbide products were produced by the four Community producers in 1984, against 103 500 tonnes in 1981 — which already represented a depressed level in comparison with 1980 (115 000 tonnes). No Community producer significantly increased its production during this period while, in the case of the smallest producer, it fell by some 27 %. Capacity utilization also recovered in 1984, to 97 % of the levels of 1981 as a Community average, although remaining low by comparison with 1980, which was the last year of satisfactory — but not full — capacity working for the Commu-

nity industry. No producer in 1984 significantly improved his capacity utilization over the 1981 figure, and one producer remained seriously below it. During the intervening period, it should be noted, production fell to approximately 87 000 tonnes in both 1982 and 1983. While it can be seen that the above figures demonstrate a certain recovery in production in 1984, this appears, on the basis of the evidence available, to be largely related to increased exports from the Community, an ephemeral improvement since much of the additional export volume can be attributed to temporary exchange rate movements.

(36) Other economic indices referring to the Community producers demonstrate the pressure under which they were placed, largely as a result of dumped imports, during the period 1981 to 1983/84. The number of people permanently employed in the Community industry fell from 1 453 to 1 311 over the same period. Within these totals considerable numbers were involved in part-time working or technical lay-off : whereas in 1980 only 10 employees had been concerned, this total progressed to 528 in 1982 and was 387 in 1983.

In spite of these rationalization efforts, the overall profitability of sales of silicon carbide by the four Community producers diminished sharply. Whereas all these companies had been making profit or were near to break-even point in 1980, three of the companies made losses throughout the period from 1981 to 1983/84, and the profitability of the fourth company had descended to break-even at the end of the period.

While the general situation over all silicon carbide grades was one of diminished, or eliminated, profitability, evidence available concerning a more detailed analysis of certain individual companies' costs and profits, by main product grades, shows that the metallurgical sector of silicon carbide production and sales underwent a much more severe pressure than that indicated by the general figures.

The importance of this sector may be judged from the fact that metallurgical grades account for some 45 % of the total silicon carbide production volume of Community producers. The severity of the pressure is indicated by the fact that the major Community producers, accounting for two-thirds of Community production, experienced steadily growing losses in this area of activity between 1981 and 1983/84, so that by the end of this period their sales income from metallurgical silicon carbide covered only some 80 % of the total production, selling and administrative costs of this sector. This particular situation is referred to again in points 37 and 38 below.

(37) The Commission also examined whether the sale in the Community of silicon carbide from those exporters found to be dumping had been made at prices below the prices charged for equivalent qualities and product grades by the Community producers. Two factors concerning such a price comparison should be pointed out beforehand, however.

In the first place, the Commission found evidence that the level of prices in the Community had already undergone considerable depression before the opening of the investigation period. Over several years up to 1983, the selling prices of Community producers had either fallen or had risen much less quickly than their costs. While demand for silicon carbide in the Community stagnated over this period — or receded in certain years — the market share captured by imports from the exporters concerned nevertheless increased rapidly at the expense of the Community producers' share, as described in points 33 and 34. The inadequate levels of Community producers' selling prices were due to low-priced imports, rather than stagnant demand ; this is shown by 1. the loss of previously established long-term customers by the Community industry to the exporters, 2. the movements in market share mentioned immediately above, and 3. the other market and economic data summarized in points 35 to 42.

Second, in the case of some non-market economy exporters, the allowances granted for differences in physical characteristics (point 25) were incorporated into the price comparison for injury assessment purposes, so that the gross difference in price actually found on the market — which naturally did not take account of any such allowance — was much larger than the percentages shown below.

Comparing, on this basis, the weighted average resale prices of these imports during the investigation period with the equivalent prices of the Community producers gave the following results. In general, imports from the People's Republic of China were found to undercut local producers' prices by an average of 30 %, imports from Poland by 16 %, and imports from the USSR by 22 %. In the case of Norway, the situation is more complex, due partly to the much wider range of product grades and importing Member States involved, and partly to a particular situation regarding one important market sector. Over a wide range of standard product grades, which included wiresawing grain mixes, but excluded first metallurgical grades, a range of undercutting was found which varied between 0 and 24 %, with an average of 11 %.

In the case of first metallurgical grades, which concerned approximately one-fifth of all Norwegian imports of silicon carbide into the Community during the investigation period (but a much larger proportion of such imports into one of the Member States), undercutting was also found, of 18 % in the case of one Norwegian producer and of 21 to 33 % in the case of one other, in comparison with those Community producers' prices which were relatively unaffected by the price pressure from Norwegian imports ; these cases were, for example, where the clients of Community producers had maintained purchase agreements at the price levels of earlier periods, or undertaken purchases on the basis of standard offer prices. (It will be recalled from point 30 that only two of the three Norwegian producers were significantly involved in this partiular market sector.)

(38) One Norwegian producer has argued on price undercutting, with particular reference to this product sector and to the competitive action of one Community producer, that price cutting moves were not initiated by him but merely followed the prices adopted by the Community industry.

Such a claim would be difficult to verify conclusively. The available data shows that, in this product sector, the Community industry has frequently matched the prices of Norwegian imports. The exporter concerned has alleged that this provides proof that his own extensive price cutting has not caused material injury to the Community producers. However, as aleady described in point 37, price undercutting by this Norwegian exporter has been found to be practised in this sector, although not in such a generalized manner as in the case of other product grades. The Community producers most committed in this sector have in fact increasingly adapted their pricing levels to those of Norwegian imports in order to avoid being undercut and losing further sales. The injury inflicted in this sector on Community producers is not therefore to be evaluated only on the basis of the price undercutting which could still be observed in the investigation period, but also in relation to the pronounced sectoral losses of Community producers described in point 36. The extent of these losses contradicts the allegation of the Norwegian exporter, since they provide rather a clear measure of the damage suffered by Community industry in seeking to defend its market share against unfairly priced imports.

(39) A further argument advanced by certain of the Norwegian producers also concerns the profitability of Community producers, whereby it is claimed that an allegation of material injury is not supported by, and is indeed inconsistent with, the financial reports for 1984 of certain companies in the Community. An improvement in the performance of the Community industry in 1984 has already been mentioned in point 35, but neither the official company reports in question, which the Commission has examined, nor the other evidence available to the Commission sustain this argument. The reports are not particularly specific in their comments, and give hardly any quantified information regarding the silicon carbide activities of the companies concerned, which in fact possess significant activities outside this area. In addition, the fact that the reports refer with satisfaction to the evolution in silicon carbide activities in 1984 must be viewed in the light of the losses made by these activities in the immediately preceding years : there is no contradiction here with the remarks already made about profitability — and especially sectoral profitability within the silicon carbide product grades — in point 36. Similary, arguments put forward by Norwegian industry concerning an important capital investment undertaken by one of the Community producers do not appear to the Commission to cast doubt on claims of injury suffered by that producer, whose investment was made to replace outdated installations with more efficient equipment, rather than to enlarge capacity.

(40) In establishing the impact of the dumped imports on the Community industry the Commission has considered the effect of all dumped imports from all exporting countries and producers concerned. There were wide variations in the market shares of Community consumption held by exporters found to be dumping. Within the total share of 39,6 % mentioned in point 41 below, 30,3 % were held by Norway (24,7 % in 1981), while the remaining four countries accounted together for 9,3 % (5,1 % in 1981). Certain of the exporters argued that the impact of their own exports on the Community should be considered in isolation and judged not to have caused material injury in view of the low and/or decreasing level of their share in this market. In analysing whether cumulation was appropriate in such cases, the Commission took into account the comparability in terms of physical characteristics of the imported products with those produced in the Community, the volumes importd and the level of prices of the imported products compared with that of the competing grades produced in the Community. On the basis of this examination, it concluded that dumped imports from the exporters concerned should be considered as contributing to the material injury suffered by Community industry, and that these imports were made under such conditions that, should the Commission treat any one exporter in isolation, it would be acting in a discriminatory manner against the rest. Therefore, it was decided that dumped imports from all exporters should be cumulated in establishing the injury sustained.

(41) The Commission has examined the possibility of other factors, such as imports from other sources or a continuing downward trend in demand, causing the injury to Community industry. With regard to the former of these alternative or supplementary causes of injury, the information available concerning import volumes is completely at adds with such a possibility since, over the period from 1981 to 1984, while the combined market share of exports of silicon carbide to the Community originating in the People's Republic of China, Norway, Poland, Spain and the USSR progressed from 29,8 to 39,6 %, the share of all other exporters together remained practically constant at 8 %. Thus, the fall in the share of Community consumption held by Community industry may be directly attributed to the increase in imports from the countries named above, without any increase in imports from other exporters.

With regard to the trend of demand, it has already been mentioned in point 31 that overall Community consumption fell in 1982 and 1983, regaining in 1984 the level of 1981. However, it has been estblished that, in spite of this fall back in demand, imports of silicon carbide from exporters found to have been dumping increased by 27 %, while Community producers' sales fell by 13 000 tonnes, or 19 %, between 1981 and 1984.

(42) One exporter has cited the failure of the Commission to investigate the affiliate of a Community producer, situated in a third country, which exports significant quantities of silicon carbide to the Community, as a form of procedural discrimination.

The Commission does not share this view. The exporter concerned was not named in the complaint filed by the Community industry, and there was no obligation upon the related Community producer to introduce its affiliate into the proceeding in the absence of allegations of dumping and injury, nor was the Commission obliged to investigate the company concerned in the absence of a substantial complaint. In any case, the Commission normally takes into consideration the possibility that exporters not included in the proceeding may be responsible for injury to Community industry, as it has done in point 41 above. The examination mentioned there of other possible factors in the injury caused has not given any reason to suppose that this affiliate bears any such responsibility.

(43) As already explained in point 8, the findings made with regard to imports into the Community, as it was constituted on 31 December 1985, of silicon carbide from Spain will be dealt with separately. With regard to injury considerations, however, it is only necessary to underline at this stage that, when the effects of these imports are excluded, the injury to Community industry, resulting from the dumped imports from other exporters mentioned in the complaint, remains material.

(44) On the basis of the preceding analysis the Commission preliminarily determined that dumped imports of silicon carbide from the People's Republic of China, Norway, Poland and the USSR have caused material injury to the Community industry concerned. The extent of this injury is to be assessed primarily in terms of the price undercutting, and of the lost profitability, in certain sectors resulting from price depression, during the investigation period, as described in points 36 and 37.

G. Community interest

(45) The representatives of Community processing industries, and of individual companies, have argued that the introduction of protective measures would not be in the Community interest because it would make them less competitive with imports of final products originating in third countries. These arguments were strongly related to particular market sectors, especially those of foundry briquette manufacture and the lower-priced range of abrasive grinding tools. In the latter case, it was additionally argued that protective measures on silicon carbide abrasive grains would also render such grinding tools less competitive on third country markets, to which many of the companies concerned exported.

(46) As in the case of any raw material or component, such price increases can be expected to have a certain incidence on the costs of the processing industries, but the extent to which the industries would be harmed depends on how far these cost increases can be transferred to their customers through higher selling prices without loss of sales volume. This may be prevented, for example, by competitive pressure from imported processed products, or by a reduction in consumption on account of the price elasticity of demand in this market sector. However, only one company provided evidence to the Commission as to the specific effect of an increase in the price of silicon carbide on its production costs, and no evidence was given as to the likely effects of increased prices of the processors' products on their total sales. In these circumstances, any evaluation of the possible impact of increases in the price of silicon carbide on the processing industries must remain purely speculative. After carefully weighing the above arguments against the serious difficulties for Community industry which can be directly attributed to the dumping of this material, the Commission has concluded that the taking of action against such dumping is in the Community's interest.

H. Undertakings

(47) The representatives of the exporters of the People's Republic of China, Norway, Poland and the USSR were informed of the findings of the preliminary investigation and commented on them. Subsequently, they offered satisfactory undertakings, the effects of which are that the import prices to the Community of silicon carbide originating in these countries will eliminate the injury found in the course of the investigation for exports from the People's Republic of China and the USSR, where the margin of injury was lower than the dumping margins determined, and will eliminate the dumping found in respect of Polish exports. In the case of the Norwegian exporters, the undertakings given will eliminate the margins of dumping or injury, whichever is the lowest, in respect of those product grades for which the Commission's preliminary findings indicate both injury and significant dumping.

In view of the above, and considering that circumstances in the present case make the application of such measures appropriate, the undertakings offered by the exporters mentioned above are considered acceptable and the investigation may, therefore, be terminated without the imposition of anti-dumping duties on material imported from these four countries.

(48) No objections were raised in the Advisory Committee to accepting the undertakings offered by the People's Republic of China, Norway, Poland and the USSR,

HAS DECIDED AS FOLLOWS:

Article 1

The undertakings offered by the Representation of the China National Machinery and Equipment Import & Export Corporation in Köln, Federal Republic of Germany, by Arendal Smelteverk A/S, Eydehavn, Norway, by Norton A/S, Lillesand, Norway, by Orkla Exolon A/S & Co., Orkanger, Norway, by Inter-Vis, Warsaw, Poland, and by v/o Stankoimport, Moscow, USSR, in connection with the anti-dumping proceeding concerning imports of silicon carbide originating in the People's of China Norway, Poland and the USSR, and falling within subheading 28.56 A of the Common Customs Tariff corresponding to NIMEXE code 28.56-10, are hereby accepted.

Article 2

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

Article 3

The investigation in connection with the anti-dumping proceeding concerning imports of silicon carbide originating in Czechoslavakia and Yugoslavia is hereby terminated.

Done at Brussels, 7 October 1986.

For the Commission

Willy DE CLERCQ

Member of the Commission