II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 22 May 1990

terminating the proceeding in connection with a review of anti-dumping measures regarding imports of fibre building-board (hardboard) originating in Finland, Argentina, Switzerland and Yugoslavia and repealing Decisions 86/35/EEC and 86/232/EEC accepting the undertakings given by the exporters concerned

(90/240/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community [1], and in particular Article 14 thereof,

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

Whereas :

A. PRODUCT

(1) The product concerned is fibreboard of a density exceeding 0,8 g/cm³ falling within CN codes 4411 11 00 and 4411 19 00.

B. PROCEDURE

(2) In June 1988 [2] following requests lodged by the European Confederation of Woodworking Industries, the Commission initiated, under Articles 14 and 15 of Regulation (EEC) No 2423/88, a review proceeding of the anti-dumping measures concerning imports of hardboard originating in Czechoslovakia, Poland, USSR, Romania, Brazil and Sweden. In June 1989 [3], this proceeding was terminated and the anti-dumping measures were either allowed to expire or were repealed. The changed circumstances observed during the investigation carried out in connection with that proceeding led the Commission to consider that a review should also be carried out in respect of the rest of the countries, i.e. Finland, Argentina, Switzerland and Yugoslavia, for which anti-dumping measures concerning imports of hardboard into the Community were in force. This was done in order to ensure non-discrimination with regard to these countries.

(3) The Commission accordingly announced by a notice in the *Official Journal of the European Communities* [4] the initiation of a review of anti-dumping measures concerning imports into the Community of fibre building-board (hardboard) originating in Finland, Argentina, Switzerland and Yugoslavia, and commenced an investigation which covered, in respect of dumping, the period from 1 July 1988 to 31 May 1989.

(4) The Commission officially so advised the exporters and importers known to be concerned, the representatives of the exporting countries and the Community producers, and gave the parties directly concerned the opportunity to answer the questionnaires addressed to them, to make known their views in writing and to request hearings.

[1] OJ No L 209, 2. 8. 1988, p. 1.
[2] OJ No C 165, 24. 6. 1988, p. 2.
[3] OJ No L 176, 23. 6. 1989, pp. 1 and 51.
[4] OJ No C 150, 17. 6. 1989, p. 3.

(5) Most of the Community producers, exporters in Finland, Switzerland and Argentina, one exporter in Yugoslavia and some importers returned the duly completed questionnaires to the Commission. The other two exporters in Yugoslavia respectively answered the questionnaire in part and failed to supply any information at all. The Commission therefore based its determinations on facts available in accordance with Article 7 (7) (b) of Regulation (EEC) No 2423/88.

Some exporters and one importer made their views known in writing, and requested and were granted a hearing.

(6) The Commission sought and verified all information it deemed necessasry for the purposes of a preliminary determination and carried out investigations at the premises of the following importing companies in the Community:

— Ernst Zürn (Munich), Federal Republic of Germany,

— Johann Scharf GmbH (Bremen), Federal Republic of Germany,

— Steinbrügge and Berninghausen GmbH & Co (Bremen), Federal Republic of Germany,

— Resim SRL (Trieste), Italy.

The Commission considered it unnecessary to check on the spot the information received from Community producers as most of them had already been visited in connection with the review proceeding concerning imports of hardboard originating in Czechoslovakia, Poland, USSR, Romania, Brazil and Sweden. The results of these visits showed that the information submitted was highly accurate. In addition, since the end of 1988 there have been no indications of major changes in the economic situation of the Community's producers of hardboard.

C. INJURY OR THREAT OF INJURY

(i) Present situation

(7) The evidence available to the Commission shows that imports of hardboard originating in the four countries involved in the proceeding increased from 82 700 tonnes in 1986 to 89 900 tonnes in 1988 and reached 44 000 tonnes in the first five months of 1989. The development of these imports assessed in the light of the increase in Community consumption of hardboard over the same period was such that the combined market share held by imports from those exporting countries remained stable at about 7,5 %.

(8) In particular, imports from Finland, Switzerland and Yugoslavia taken together showed a decline of their market share from 7,6 % in 1986 to 7 % during the first five months of 1989. In terms of volume these imports increased by 16,8 % during that period which is distinctly slower than the rise in Community consumption.

(9) Imports originating in Argentina increased over the same period faster than Community consumption. It was found, however, that the impact of these imports on the Community industry is limited by their reduced market share which has remained below one per cent since 1986.

(10) Regarding prices of the imports from Finland, Switzerland and Yugoslavia, their comparison during the period under investigation with Community producers' prices of like products either did not show any margins of undercutting at all, or showed such margins to be negligible. As for the prices of imports from Argentina, margins of undercutting found did not significantly affect the Community industry due to the very small market share held by those imports.

(11) As far as the possible impact of the imports on the situation of the Community producers is concerned, account had to be taken of the following factors:

(a) Community production of hardboard during the first five months of 1989, extrapolated on an annual basis, increased by 22 % when compared to that in 1986. In the same period the overall Community production capacity increased by 25 % and capacity utilization by 18 %. These trends enabled the Community industry to achieve a rate of capacity utilization of 97 % on average during the first five months of 1989;

(b) the Community producers' closing stocks to production ratio was found to have been 11 % lower at the end of May 1989 than that at the end of December 1986;

(c) sales by Community producers of hardboard in the Community were in line with the increase of production between 1986 and the first five months of 1989;

(d) the development of production and sales of Community producers compared to that of Community consumption of hardboard shows a Community producers' market share which remained stable at about 61 % during the last three years, and increased to 62,7 % during the first five months of 1989. This indicates that the Community industry was able to take advantage of the increasing demand;

(e) with regard to profitability the Community situation had improved considerably since the end of 1986 and the majority of Community producers had achieved once again reasonable profit margins.

(12) In the light of the trends of the relevant economic factors referred to above, it would appear that the situation of the Community industry had substantially improved. This is especially demonstrated by the good financial results and the high level of capacity utilization reached by most Community producers. Under these circumstances, it is concluded that the Community industry is presently not suffering material injury as a result of the imports concerned.

(ii) Possible injurious effects of a termination of measures in force

(13) In order to analyse whether terminating the undertakings in force would lead to a situation causing or threatening to cause material injury to the Community industry, the probable development of volumes and prices of the imported product was considered.

(14) As previously mentioned, imports from the four countries concerned progressed in terms of volume from the beginning of 1986 to the end of May 1989 no faster than Community consumption and, consequently, the Community market share held by those countries remained stable over that period.

(15) With regard to the production capacities in those exporting countries, no indications were found of additional capacities either having been installed in recent years or planned to be installed in the near future.

(16) Neither was there any indication that spare capacities, which might exist in those countries, will be used to increase exports to the Community. Moreover, given the traditional distribution of exports from those countries between the Community and other regions, it is doubtful if such a potential increase in production would lead to significant increases in exports to the Community in relation to the Community consumption.

(17) It follows that, when the protective measures are repealed, the foreseeable development of the volume of the imports concerned will not be likely to have a significant impact on the Community industry.

(18) Concerning prices of imports from Finland, Switzerland and two Yugoslav exporters, it was found that the imported product was sold in the Community at a level similar to that of Community producers and that the minimum prices set out in the undertakings in force were respected and, in many cases, even exceeded. This leads to the assumption that, when the undertakings are repealed, prices for these imports will not be likely to decline and undercut Community producers' prices to an extent which could cause material injury.

(19) With regard to prices of imports from Argentina and the third Yugoslav exporter, whatever undercutting would remain following the repeal of the protective measures should have, under the present circumstances, a limited effect on the prices of Community producers. This is because, in addition to the fact that no sizeable increase of these imports is expected, the Community market share held by imports originating in Argentina remained below one per cent during the last four years, and a major proportion of imports from Yugoslavia consisted of hardboard with specifications which were hardly produced in the Community and which did not therefore directly compete with the Community production.

(20) In view of the above considerations it must be assumed that, following the repeal of Commission Decisions 86/35/EEC [1] and 86/232/EEC [2] accepting the undertakings in force, a situation in which the imports from the four contries concerned would cause or threaten to cause material injury to the Community industry is not at present clearly foreseeable.

D. DUMPING

(21) Given the above findings with respect to injury and threat of injury, the Commission has considered it unnecessary further to investigate the question of dumping with regard to the imports concerned.

E. TERMINATION OF REVIEW PROCEEDING

(22) In these circumstances, therefore, the review proceeding concerning imports of hardboard originating in Finland, Argentina, Switzerland and Yugoslavia should be terminated without the imposition of further measures. Decisions 86/35/EEC and 86/232/EEC accepting the undertakings currently in force and offered by the exporters concerned should be repealed.

(23) No objections to this course of action were raised in the Advisory Committee.

(24) The European Confederation of Wood Working Industries was informed of the considerations and main facts on the basis of which the Commission intended to terminate the proceeding,

[1] OJ No L 46, 25. 2. 1986, p. 23.
[2] OJ No L 157, 12. 6. 1986, p. 61.

HAS DECIDED AS FOLLOWS:

Sole Article

1. The review proceeding of the anti-dumping measures concerning imports of fibre building-board (hardboard) falling within CN codes 4411 11 00 and 4411 19 00, originating in Finland, Argentina, Switzerland and Yugoslavia, is hereby terminated.

2. Decisions 86/35/EEC and 86/232/EEC are hereby repealed with effect from the day following the publication of this Decision in the *Official Journal of the European Communities.*

Done at Brussels, 22 May 1990.

For the Commission

Frans ANDRIESSEN

Vice-President