COUNCIL REGULATION (EEC) No 1825/84

of 28 June 1984

imposing a definitive anti-dumping duty on imports of hardboard originating in the Soviet Union

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3017/79 of 20 December 1979 on protection against dumped or subsidized imports from countries not members of the European Economic Community (1), as amended by Regulation (EEC) No 1580/82 (2), and in particular Article 12 thereof,

Having regard to the proposal submitted by the Commission after consultations within the Advisory Committee as provided for under the above Regulation,

Whereas :

A. Provisional action

(1) After having established that the Soviet exporter of hardboard, V/O Exportles, during the period October 1982 to October 1983 had exported significant quantities of hardboard to the Community in violation of the undertaking previously offered to the Commission and accepted by Regulation (EEC) No 1633/82 (3), the Commission, by Regulation (EEC) No 558/84 (4), withdrew its acceptance of the undertaking, re-opened the anti-dumping proceeding and imposed a provisional anti-dumping duty on imports of hardboard originating in the Soviet Union.

B. Subsequent procedure

(2) Following the imposition of the provisional anti-dumping duty and within the time limit set by the Regulation imposing the duty, V/O Exportles and one importer requested, and were granted, hearings. In these hearings the companies did not present any information which would have justified the Commission in changing its preliminary conclusions.

(3) The investigation of dumping covered the period 1 January to 30 September 1983.

C. Dumping

(4) In order definitively to determine the margin of dumping, the Commission compared the export prices of the Soviet exporter with the normal value during the investigation period.

(5) As the Soviet Union is a non-market economy country, the Commission had to base its calculations on the normal value in a market economy country. In the preceding investigation which had led to the acceptance of an undertaking offered by V/O Exportles, normal value was established by reference to the constructed value of dark-pine hardboard, the lowest quality hardboard, produced in Spain. The reasons which led to the use of this Spanish normal value in the preceding investigation and which are set out in Regulation (EEC) No 1633/82 are still valid. The Commission considered, therefore, that it was appropriate to use Spanish normal value again in the present case. For the purpose of establishing this normal value for the investigation period of 1 January to 30 September 1983, the Commission departments concerned carried out inspections at the premises of the sole Spanish producer of the products in question, Tafisa SA.

(6) Export prices were based on the prices paid or payable for the products sold for export to the Community during the period under consideration, for which sufficient documentary evidence had been submitted by the Soviet exporter in September and October 1983.

(7) The comparison was made at fob level. Furthermore, in comparing normal value with export prices the Commission took account, where appropriate, of differences affecting price comparability and, in particular, of commissions paid to agents in the Community.

(8) These comparisons show a weighted average dumping margin of 27,9 %.

(1) OJ No L 339, 31. 12. 1979, p. 1.
(2) OJ No L 178, 22. 6. 1982, p. 9.
(3) OJ No L 181, 25. 6. 1982, p. 19.
(4) OJ No L 61, 2. 3. 1984, p. 21.

D. Injury and Community interest

(9) In 1982, after having carried out anti-dumping investigations concerning imports of hardboard from various countries, the Commission established that dumped imports of hardboard, including imports from the Soviet Union, had caused material injury to the Community industry concerned and that protective measures were necessary. Consequently, it accepted the undertakings eliminating the dumping margins which were offered by or on behalf of all exporters involved. While these undertakings have improved the position of the Community hardboard industry and imports of hardboard into the Community from the countries concerned have decreased, there has been no fundamental change in the situation of the Community industry. It is still characterized by low-capacity utilization, reduced profits or even losses and high import penetration. In addition, the industry is exposed to substantial price pressure because the undertaking prices, although eliminating the dumping margins, are still considerably lower than the industry's break-even point. There is no indication, therefore, that in the absence of protective measures, dumped imports of hardboard would not again cause material injury to the Community industry.

(10) In addition, it is essential to ensure that dumped imports from the Soviet Union do not undermine the stability of the pricing structure established by the totality of undertakings accepted in the hardboard sector. Furthermore, it is necessary to avoid a situation where an exporter who has violated his undertaking is placed in a more favourable position than those exporters who have fully respected their obligations. Protection of Community interests, therefore, calls for the imposition of a definitive anti-dumping duty, the rate of which should be equal to the dumping margin found and for the definitive collection of the amounts secured by way of provisional duty,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of fibre building board weighing more than 0,8 g/cm^3 (hardboard), falling within heading No ex 44.11 of the Common Customs Tariff, corresponding to NIMEXE codes 44.11-10 and 20, originating in the Soviet Union.

2. The rate of the duty shall be based on the customs value determined in accordance with Council Regulation (EEC) No 1224/80 of 28 May 1980 on the valuation of goods for customs purposes (1) and shall be 27,9 %.

3. The provisions in force concerning customs duties shall apply.

Article 2

The amounts secured by way of a provisional anti-dumping duty pursuant to Regulation (EEC) No 558/84 shall be definitively collected.

Article 3

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities.*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Luxembourg, 28 June 1984.

For the Council

The President

H. BOUCHARDEAU

(1) OJ No L 134, 31. 5. 1980, p. 1.