I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 1786/89

of 19 June 1989

terminating the proceeding in connection with a review of anti-dumping measures concerning imports of fibre building board (hardboard) originating in Czechoslovakia, Poland and the USSR, confirming the expiry of the definitive anti-dumping duties imposed on imports from Czechoslovakia and Poland, and repealing the definitive anti-dumping duty imposed on imports from the USSR

THE COUNCIL 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 Articles 14 and 15 thereof,

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

Wheresas :

A. Product

(1) The product concerned is fibre building board (hardboard) of a density exceeding 0,8 g/cm (3) falling within CN codes 4411 11 00 and 4411 19 00.

B. Procedure

(2) The Commission received two requests for a review of anti-dumping measures, lodged by the European Confederation of Wood-working Industries on behalf of Community producers representing the great majority of Community output of hardboard. One request was lodged under Article 15 of Council Regulation (EEC) No 2176/84 with regard to the undertakings accepted by the Commission on imports from Romania (2), Brazil (3) and certain Swedish exporters (4), and alleged that the expiry of the measures would lead again to injury or threat of injury. The other request, lodged under Article 14 of that Regulation, concerned the definitive anti-dumping duties imposed by the Council on imports from Czechoslovakia and Poland (5) and from the USSR (6) and the undertakings accepted by the Commission on imports from certain (i.e. three) other Swedish exporters (7), (8), and contained evidence of changed circumstances sufficient to justify the need for such review.

(3) The Commission, accordingly, announced by a notice published in the *Official Journal of the European Communities* (9), the initiation of a review of anti-dumping measures concerning imports into the Community of fibre building board (hardboard), originating in Czechoslovakia, the USSR, Poland, Romania, Sweden and Brazil, and commenced an investigation which covered the period from 1 July 1987 to 31 May 1988.

(4) 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. Most of the known exporters and some producers and importers requested and were granted hearings.

(1) OJ No L 209, 2. 8. 1988, p. 1.
(2) OJ No L 49, 22. 2. 1983, p. 6.
(3) OJ No L 47, 19. 2. 1983, p. 30.
(4) OJ No L 181, 25. 6. 1982, p. 19.
(5) OJ No L 361, 24. 12. 1983, p. 6.
(6) OJ No L 170, 29. 6. 1984, p. 68.
(7) OJ No L 46, 25. 2. 1986, p. 23.
(8) OJ No L 361, 24. 12. 1983, p. 47.
(9) OJ No C 165, 24. 6. 1988, p. 2.

(5) In December 1988 the Commission gave notice (1) that in accordance with Article 15 (4) of Council Regulation (EEC) No 2423/88, the anti-dumping measures concerning imports of hardboard from Czechoslovakia, Poland and two Swedish exporters (Swedeboard Vrena AB and Royal Board AB) will remain in force after the end of the relevant five-year period, pending the outcome of the review being carried out under Article 14 of that Regulation. The relevant five-year period has not expired regarding both the undertaking given by the third Swedish exporter, Karlit AB, and the anti-dumping duty on imports from the USSR.

(6) 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 companies :

(a) *Community producers*

— Isorel (Boulogne), France,

— ICL SpA (Mondovi), Italy,

— Legnochimica SpA (Mondovi), Italy,

— Tafisa (Madrid), Spain,

— Renitex GmbH (Losheim), Federal Republic of Germany,

— Atex Werke GmbH & Co. KG (Grafenau), Federal Republic of Germany,

— Tafina Ltd (Agent of Tafisa) (Maidenhead), United Kingdom ;

(b) *Importers*

— Portes Simon SA (Durtal), France,

— Ets Jean Huet et Fils SA (Challans), France,

— Sadepan SpA (Viadana), Italy,

— Homanit GmbH & Co. KG (Loehne), Federal Republic of Germany,

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

— Svedex BV (Varsseveld), Netherlands,

— Beyleveld BV (Rotterdam), Netherlands,

— Tribomij BV (Amsterdam), Netherlands.

C. Injury or threat of injury

(7) The protective measures under consideration were introduced by the Council and only concern imports from Czechoslovakia, Poland and the USSR. However, for the assessment of injury of threat of injury, it was considered appropriate to take into account also the imports from Romania, Sweden and Brazil, where the Commission accepted undertakings. The cumulation of the imports is in line with the institutions standard practice.

(8) With regard to the injury allegedly still being caused to the Community industry, the evidence available to the Commission shows that imports of hardboard originating in the six countries involved in the proceeding increased from 208 000 tonnes in 1985 to 263 000 tonnes in 1987 and reached 112 500 tonnes during the first five months of 1988. The development of these imports, assessed in the light of the increase of Community consumption of hardboard over the same period, leads to a combined market share held by imports from those exporting countries, which remained stable at about 21 %.

(9) In particular, imports from Sweden and Brazil taken together, showed a decline of their market share from 14,3 % in 1985 to 13 % during the first five months of 1988. In terms of volume these imports progressed by 15 % in that period, which is distinctly slower than the rise in Community consumption.

(10) Regarding imports originating in the State-trading countries concerned, they increased over the same period faster than Community consumption and, consequently, their combined market share rose from 6,1 % to 8,3 %. It was found, however, that at least one-third of the imports concerned refers to a specification of hardboard exclusively addressed to the packaging industry in the Netherlands. This specification is hardly produced by the Community industry, so that no competition for it exists. As for the remaining imports, they mainly consist of hardboard directed to low-priced segments of the market for which Community producers, under the present high rate of capacity utilization, produce only insignificant quantities. Accordingly, the impact of imports from those countries on the Community industry is limited by their reduced degree of competition.

(11) Regarding prices of the imports from the six countries concerned, their comparison during the period of investigation with prices of Community producers of like products, did not show, in the case of Sweden, margins of undercutting at all, and margins found for Brazil were not significant.

As for the prices of imports from the State-trading countries involved, it was found that, considering the application of the anti-dumping duties in force, as well as the adjustments justified by differences in quality and finish of the imported product, levels of undercutting were also not significant, for Czechoslovakia and Poland. Margins of undercutting found for USSR and Romania have not significantly affected the Community prices due to the very small market share held by imports from these two countries and their concentration in certain low-priced segments of the Community market.

(1) OJ No C 327, 20. 12. 1988, p. 8.

(12) 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) Total Community production of hardboard during the first five months of 1988, extrapolated on an annual basis, amounted to 789 000 tonnes against 651 000 tonnes in 1985, which represents an increase of 21 %. Over the same period, production capacity in tonnes of Community producers taken together, increased by 5 % and capacity utilization, consequently, also increased by nearly 16 %. These trends enabled the Community industry to achieve a rate of capacity utilization of 93 % on average.

(b) Stocks of Community producers at the end of May 1988 were nearly 9 % lower in tonnes than at the end of 1985.

(c) Sales by Community producers of hardboard in the Community were in line with the increase of production between 1985 and the first five months of 1988.

(d) The abovementioned development of production and sales of Community producers compared with that of Community consumption of hardboard, shows a market share held by Community producers, which remained stable at about 61 %. This reflects that the Community industry was able to take advantage of the increasing demand.

(e) With regard to profitability, the Community situation has improved considerably in the last three years. During this period the Community industry has been able to progressively reduce its losses and since the end of 1986 the majority of Community producers have achieved once again reasonable profit margins.

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

(14) In order to analyse whether the expiry of the anti-dumping measures in force would lead to a situation causing or threatening to cause material injury to the Community industry, the Commission took into consideration the probable development of volumes and prices of the imported product.

(15) As previously mentioned, imports from the six countries concerned did not progress in terms of volume, during the last four years, distinctly faster than Community consumption, and consequently the market share held by those countries remained stable over that period.

(16) With regard to the capacity installed, that of Sweden has been recently reduced after the closure of one of the main producers/exporters in that country. In respect of Brazil and the State-trading countries concerned, no clear indication exists of additional capacities being installed in the last years.

(17) As to the likelihood that the existing spare capacity will be used to increase exports to the Community, two factors should be considered. First, even if these countries were to increase production, the magnitude of such increase would be limited, at least for the near future, by the already relatively high estimated rate of capacity utilization. Secondly, given the distribution of traditional exports from those countries between the Community and other regions, it is doubtful that such increase in production would lead to significant increases in exports to the Community, in relation to the Community consumption.

(18) It follows that, after the expiry of the protective measures, the foreseeable development of the imports concerned is not likely to have a significant impact on the Community industry.

(19) Concerning prices of imports from Sweden and Brazil, it was found that the exporters have been seiling their products in the Community at prices similar to those of Community producers and that they have respected and, in many cases, even exceeded the minimum prices of the undertakings in force. This, jointly with the high quality of Swedish and Brazilian hardboard, leads the Commission to assume that there is no clear indication that prices for hardboard imported from these two countries would decline and undercut Community producers' prices to an extent likely to cause material injury, if the undertakings were allowed to lapse.

(20) With regard to prices of imports from the State-trading countries concerned, the expiry of the protective measures would give the exporters an opportunity to adjust their prices to the level prevailing in the Community market. Even if the exporters did not fully take advantage of such opportunity, whatever undercutting would remain, should have, under the present circumstances, a limited effect on the prices of Community producers. The reason for this is that, in addition to the fact that no sizeable increase in imports from these countries is expected, a major proportion of these imports does not directly compete with Community production.

(21) In view of the considerations above, it must be assumed that, following the expiry of the anti-dumping measures in force, a situation in which the imports concerned would cause or threaten to cause material injury to the Community industry is not, at present, clearly foreseeable.

D. Dumping

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

E. Termination of review proceeding

(23) In these circumstances, threfore, the review proceeding concerning imports of hardboard originating in Czechoslovakia, Poland and the USSR, should be terminated without the imposition of further protective measures. As for the anti-dumping measures concerning the USSR they should be repealed and those in respect of Czechoslovakia and Poland allowed to lapse.

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

(25) The complainants were informed of the considerations and main facts on the basis of which the Commission intended to terminate the proceeding.

(26) Termination of the review proceeding concerning imports of hardboard originating in Romania, Brazil and Sweden, is decided by Commission Decision (89/377/EEC) (1).

HAS ADOPTED THIS REGULATION :

Article 1

1. The review procedure 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 Czechoslovakia, Poland and the USSR, shall be terminated.

2. The definitive anti-dumping duties currently in force concerning imports of fibre building board (hardboard) originating in Czechoslovakia and Poland, shall lapse.

3. The definitive anti-dumping duty currently in force concerning imports of fibre building board (hardboard) originating in the USSR shall be repealed.

Article 2

This Regulation shall enter into force on the day following 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, 19 June 1989.

For the Council

The President

C. SOLCHAGA CATALAN

(1) See page 51 of this Official Journal.