COMMISSION REGULATION (EC) No 1742/98

of 5 August 1998

imposing a provisional anti-dumping duty on imports of hardboard originating in Brazil, Bulgaria, Estonia, Latvia, Lithuania, Poland and Russia and accepting undertakings offered from certain exporters in connection with those exports

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1], as last amended by Regulation (EC) No 905/98 [2], and in particular Articles 7 and 8 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

(1) On 7 November 1997, the Commission announced, by a notice (hereinafter referred to as 'Notice of Initiation') published in the *Official Journal of the European Communities* [3], the initiation of an anti-dumping proceeding with regard to imports into the Community of hardboard originating in Brazil, Bulgaria, Estonia, Latvia, Lithuania, Poland and Russia.

The proceeding was initiated as a result of a complaint lodged by the following Community producers: Atex Werke GmbH & Co., Funder Industrie GmbH, Hornitex Werk GmbH, Isoroy SA, Silva Srl, Suomen Kuitulevy OY, Swanboard AB and Techboard Ltd. These producers represented a major proportion of the Community production of hardboard. The complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient, after consultation, to justify the initiation of a proceeding.

(2) The Commission officially advised the complainant Community producers, exporting producers and importers known to be concerned, the representatives of the exporting countries as well as Community users and suppliers of the initiation of the proceeding. The parties directly concerned were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the Notice of Initiation.

(3) A number of exporting producers in the countries concerned, as well as complainant Community producers, Community users and importers made their views known in writing. All parties who so requested within the above time limit and indicated that there were particular reasons why they should be heard, were granted a hearing.

(4) The Commission sent questionnaires to all parties known to be concerned and received replies from five complaining Community producers, two companies in Brazil, an importer which was related to one of the Brazilian companies, two companies in Bulgaria, one company in Estonia, one company in Latvia as well as a related company located in Latvia, one company in Lithuania, six companies in Poland, and one company in Russia. The Commission also received meaningful and complete replies from six unrelated importers in the Community.

(5) The Commission sought and verified all the information it deemed necessary for the purpose of a preliminary determination of dumping, resulting injury and Community interest, and carried out verifications at the premises of the following companies:

(a) *Complainant Community producers*

Germany:

— ATEX Werke GmbH & Co., Grafenau;

France:

— Tarnaise des Panneaux SA (Groupe Isoroy SA), Castres,

— Saborec SA (Groupe Isoroy SA), Strasbourg;

Italy:

— Silva Srl, S. Michele Mondovi;

Finland:

— Suomen Kuitulevy OY (Finnish Fibreboard Ltd), Heinola;

United Kingdom:

— Techboard Ltd, Ebbw Vale.

(b) *Exporting producers*

Brazil:

— Duratex SA, São Paulo,

— Eucatex SA, São Paulo;

[1] OJ L 56, 6. 3. 1996, p. 1.
[2] OJ L 128, 30. 4. 1998, p. 18.
[3] OJ C 336, 7. 11. 1997, p. 2.

Bulgaria:

— Fazerles AD, Silistra,

— Lessoplast AD, Trojan;

Estonia:

— AS Repo Vabrikud, Püssi;

Latvia:

— AS 'Bolderâja', Riga,

— AS 'Grîva-B', Riga (company related to AS Bolderâja);

Lithuania:

— JSC Grigiskes, Grigiskes;

Poland:

— Alpex-Karlino SA, Karlino,

— Zaklady Plyt Pilsniowych w Czarnej Wodjie, Czarna Woda,

— Ekoplyta SA, Czarnkow,

— Zaklady Plyt Pilsniowych SA w Przemyslu, Przemys,

— Koniecpolskie Zaklady Plyt Pilsniowych SA, Koniecpol,

— Zaklady Plyt Pilsniowych SA w Krosnie Odrzanskim, Krosno Odrzanskie.

(c) *Importers*

— Duratex Europe GmbH (related to Duratex SA),

— Lord Forest Products Ltd, United Kingdom.

(6) The investigation of dumping covered the period 1 October 1996 to 30 September 1997 (hereinafter referred to as 'the investigation period' or 'IP'). The examination of injury covered the period 1 January 1993 up to the end of the investigation period.

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

1. Product under consideration

(7) The product under consideration in this anti-dumping proceeding is hardboard. Hardboard is defined as fibreboard of wood or other ligneous materials, whether or not bonded with resins or other organic substances and with a density exceeding 0,8 g/cm^3, currently classifiable under CN codes ex 4411 11 00 and ex 4411 19 00.

(8) Hardboard is exclusively obtained from a 'wet production process' (as opposed to the dry-process fibreboards described below). Due to the wet production process, one characteristic of hardboard is that in its unworked state the underside of it will have an impression of the woven mesh on which the wood-fibre mattress lay upon entry into the press. In a worked state, this rough surface may be removed in further sanding or finishing processes. The upper surface will correspond to the surface of the press-plate, and is typically smooth.

Hardboard normally has a density of 0,85 to 1,05 g/cm^3 and is made in thicknesses between 1,8 to 6,0 mm.

Hardboard is typically used for furniture, in the construction and automotive industries, for door-skins and for packaging, especially fruit and vegetable packaging.

(9) A number of importers and users requested that the product scope of the proceeding should be extended to dry-process fibreboards such as medium and high density fibreboard (MDF/HDF), chipboard and plywood because, according to them, hardboard and these other products together form a single product. It was therefore alleged that the scope of the analysis of dumping, resultant injury and Community interest should also include all these products. In this respect, the following findings were made.

(a) *Medium and high density fibrebaord (hereinafter referred to as 'MDF/HDF')*

(10) The request for inclusion of MDF/HDF in the scope of the proceeding was based on the grounds that these products can also be made with densities exceeding 0,8 g/cm^3, and that they appear to be similar to hardboard due to their general physical characteristics and uses.

However, the Commission found that there are important differences between hardboard and MDF/HDF:

(i) Production process and resulting physical and chemical characteristics, uses

(11) MDF/HDF is obtained from a 'dry production process' as opposed to the 'wet production process' used in the production of hardboard. Although the production process as such is not a determinant factor in the establishment of the scope of the investigation, the different production processes above result in different physical characteristics as in the dry production process both surfaces of the MDF/HDF fibreboard emerge from the presses with the appearance of the pressing plates used; typically both surfaces will be smooth.

(12) Furthermore, the different production process of MDF/HDF, as compared with that of hardboard, results in different physical and mechanical properties of MDF/HDF as compared with hardboard. The most important chemical difference stems from the requirements to add resins to the dry production process.

In the dry-process, additional thermal-hardening resins have to be added to the dried wood fibres in order to assist the bonding process in the press. By contrast, resins tend not to be added to the wet-process wood fibres in order to make hardboard since they would wash away with the water in the press. The maximum amount of resins that can be retained in wet-process hardboard does not exceed one-tenth of the typical resin content of a standard MDF fibreboard, which consists of roughly 13 % resins. It is clear therefore, that there are important chemical differences between hardboard and fibreboard.

(13) Also, hardboard typically has a density of 0,85 to 1,05 g/cm^3 whereas most MDF/HDF is less than 0,80 g/cm^3 even if the HDF variant of the fibreboard family has, like hardboard, a density exceeding 0,80 g/cm^3. Despite this similarity between hardboard and HDF, the latter is quite distinct from hardboard, not only for the chemical reasons common to all dry-process fibreboards as explained above, but also due to differences in physical characteristics, such as the average thickness of HDF panels, which affect the end-uses to which it is put, as explained below.

Hardboard is made in thicknesses between 1,8 to 6,0 mm, while the vast majority of HDF/MDF fibreboard has a thickness exceeding 7 to 8 mm, although it is technically possible to make MDF/HDF with thicknesses down to 1,8 mm.

(14) The nature of the production processes means that raw hardboard will have one smooth surface and one rough surface with a mesh pattern, while raw MDF/HDF will have two smooth surfaces in their unworked states. These differences have certain implications for the end use to which the boards can be put. For example, the fruit-packing trade favours the use of hardboard not only because the rough surface enables easier stacking of fruit boxes without the stacks slipping around while in transit, but also because most thin MDF boards emit formaldehyde at levels which are not considered appropriate for the packaging of foodstuffs.

Furthermore, dry-process fibreboards tend to be more brittle than hardboards of similar thickness. The extra suppleness of hardboard is an important factor in those uses where the board needs to be moulded into the correct shape, such as in the automobile and caravan industry.

Dry-process fibreboard is therefore only in part interchangeable with hardboard, and only for the thin type, i.e. with a thickness lower than 6 mm. The main uses of hardboard are in door-skins, furniture (such as cupboard backs, drawer bottoms and divan frames), picture frames, fruit and vegetable containers and in the automobile industry. As far as the uses of thin MDF are concerned, there is some overlap with those of hardboard, i.e. mainly in the area of backs of furniture and drawer bottoms and picture frames. However, hardboard is not used for the main application of HDF, i.e. as a base for finished boards for floor underlaying (parquet).

(ii) Development of consumption

(15) The lack of interchangeability between hardboard on the one hand and MDF/HDF of the other hand is demonstrated by the fact that despite the strong growth of the dry-process MDF/HDF in recent years, this has not occurred at the expense of the hardboard sector. Consumption of hardboard increased by 20 % since 1993.

(iii) Conclusion

(16) On the basis of the above, it is concluded that hardboard and MDF/HDF are not considered to be a single product for the purpose of this investigation.

(b) *Plywood*

(17) Like MDF/HDF, plywood belongs to the family of wood-based panels, and is made of wood-based plies which are bonded together. It is situated at the top of the market in terms of both quality and price. In view of the fact that plywood consists of wood-based plies which are bonded together, this is not a fibre-based board, and its physical characteristics differ strongly from hardboard. Although it may be employed in some of the end-uses where hardboard is also used and is interchangeable in those cases, it cannot, in view of the different physical characteristics, be considered to be a single product together with hardboard and therefore was not included in the investigation.

(c) *Chipboard*

(18) Like MDF/HDF, chipboard belongs to the family of wood-based panels. It is made from wood-chips bonded together with a synthetic thermal-hardening resin under a press. The wood chips are only chopped, not defibrated, and the resulting boards are not as supple nor do they have the bending strength of hardboard. Their surface quality is not comparable with hardboard either.

Although some limited end-uses of chipboard may coincide with those of hardboard, such as backing boards in some furniture, hardboard and chipboard do not form a single product in view of their different physical characteristics.

2. **Like product**

(19) The Commission found that there were no differences in the basic characteristics and uses of the hardboard imported into the Community from the countries concerned and the hardboard produced by the Community industry and sold on the Community market. The same is true with regard to hardboard produced and sold on the domestic markets of Brazil, Bulgaria, Estonia, Latvia, Lithuania and Poland (the latter served also as an analogue country for imports from Russia). It was therefore concluded that both the hardboard produced and sold by the Community industry on the Community market and the hardboard produced and sold on the domestic markets of Brazil, Bulgaria, Estonia, Latvia, Lithuania and Poland were, within the meaning of Article 1(4) of Regulation (EC) No 384/96 (hereafter referred to as the 'Basic Regulation'), alike to the hardboard imported into the Community from the six countries subject to investigation.

(20) The Brazilian exporters, as well as a number of users of hardboard, in particular manufacturers of door-skins, claimed that Brazilian hardboard, which is exclusively made with eucalyptus wood, a type of hardwood, is not a like product with the product produced by the Community industry and should be excluded from the scope of the investigation.

Among the exporting producers concerned by this investigation, only the Brazilian exporters supply hardboard made from eucalyptus to the Community. As far as Community production is concerned, there are two producers of eucalyptus hardboard in the Community, both situated on the Iberian peninsula, although neither of them participated in the complaint which led to the initiation of this proceeding.

(21) The Commission's analysis showed that hardboard can be made of softwood or hardwood species of wood, or of a mixture of both. Hardwood species tend to give rise to tougher boards. The investigation found that hardboard made from eucalyptus wood has a number of particularities as compared to other hardboards. First, its especially short fibres give the finished hardboard a very regular appearance, high density and stronger tensile properties than non-eucalyptus hardboard. The eucalyptus tree has hardly any bark, a factor which ensures that blemished in the pressed board are kept a minimum.

These characteristics make eucalyptus hardboard well suited to end-uses requiring a smooth, regular and blemish-free surface aspect. The main use is as door-skins for high-quality, finished doors. It is recognised in the wood-panels industry that eucalyptus hardboard has the characteristics appropriate for the production of these higher-quality lacquered door-skins. For unfinished doors, which pre-painted in white but which require finishing by the final customer, door-skins made with different types of wood are used.

Moreover, during the investigation period, eucalyptus hardboard was used to a minor extent for certain applications in the automobile industry and, as far as off-cuts of hardboard sheets corresponding to the full size of the press plate are concerned, for fruit and vegetable containers.

(22) Although eucalyptus hardboard is currently used in the production of lacquered door-skins, its properties do not technically rule out its use in any areas in which other hardboards are also used as the basic chemical and physical characteristics of hardboard made from eucalyptus are similar to those of hardboard made of other types of wood; indeed, information available to the Commission (see recital 107) shows that two-thirds of imports into the Community of eucalyptus hardboard from Brazil compete with sectors other than lacquered door-skins.

(23) It follows from the above that the hardboard produced by the Community industry and the eucalyptus hardboard produced and exported by Brazilian exporting producers, to a significant extent, share the same basic physical characteristics and uses and are therefore alike within the meaning of Article 1(4) of the Basic Regulation.

C. DUMPING

1. General methodology

(24) This section explains the general methodology used to establish whether the imports into the Community of the product under investigation have been dumped. Specific issues raised by the investigation for each country concerned are described in Section 2.

(a) *Normal value*

(25) Normal value has been estabilised for every exporting producer following the methodology described in this section, with the exception of Russia for which, according to Article 2(7) of the Basic Regulation, normal value had to be established by reference to a market economy third country. The methodology used in the case of Russia is described in recital 71.

(i) Representativeness

(26) In accordance with Article 2(2) of the Basic Regulation, the Commission first examined whether the domestic sales of hardboard by each exporting producer were representative. This was the case when the total volume of such sales was equal to or higher than 5 % of the total volume of the respective export sales to the Community.

(ii) Type comparability

(27) Due to the different types of the product in question, hardboard produced in the countries concerned was classified according to the following characteristics:

— whether the hardboard was unworked (i.e. standard raw hardboard or hardboard with different basic treatments like sanded, perforated etc.) or worked (i.e. hardboard that has been lacquered, painted, printed, etc.),

— thickness, and

— measures, i.e. standard or cut-to-size.

Hardboard types were considered as being directly comparable if they shared all the above characteristics.

Where it was found that a hardboard type as available in different qualities, only hardboards shareing the above characteristicas and having the same quality were considered directly comparable.

(iii) Type specific representativeness

(28) Domestic sales of a particular type were considered as sufficiently representative when the volume of hardboard of that type sold on the domestic market during the IP represented 5 % or more of the volume of hardboard of the comparable type sold for export to the Community.

(iv) Ordinary course of trade test

(29) The Commission subsequently examined whether the domestic sales of each type exported could be considered as being made in the ordinary course of trade, by establishing the proportion of profitable domestic sales of the comparable type:

(a) In cases where the volume in m^2 of a type of hardboard sold at a net sales price equal to or above the calculated cost of production represented more than 80 % of the total sales volume in m^2, normal value of this type of hardboard was based on the actual domestic price, calculated as a weighted average of the prices of all domestic sales transactions during the investigation period, whether profitable or not.

(b) In cases where the volume in m^2 of a type of hardboard sold at a net sales price equal to, or above, the calculated cost or production represented 80 %, or less, but equal to, or more, than 10 % of the total sales volume in m^2, normal value of this type of hardboard was based on the weighted average price of profitable domestic sales only.

(c) In cases where the volume in m^2 of a type of hardboard sold at a net sales price equal to or above the calculated cost of production represented less than 10 % of the total sales volume in m^2, it was considered that the type of hardboard was not sold in the ordinary course of trade and that the domestic sales price did not provide an appropriate basis for the normal value.

(v) Normal value based on actual domestic price

(30) When the requirements set out in recitals 26, 27, 28 and 29(a) and (b) above were met, normal value was established for the type in question on the basis of the prices paid or payable, in the ordinary course of trade, by independent customers in the domestic market of the exporting country as set out in Article 2(1) of the Basic Regulation.

(vi) Normal value based on constructed value

(31) In all other cases normal value was constructed. In this respect it should be noted that the normal value could not be established on the basis of prices of other sellers or producers, as an alternative to constructed normal value. This is due to the fact that in practically all cases, the other cooperating exporting producers did not sell at all the corresponding product types or not in representative quantities or not in the ordinary course of trade.

The constructed normal value was determined by adding to the manufacturing costs of the exported types, a reasonable percentage for selling, general and administrative (hereafter referred as 'SG&A') expenses and a reasonable margin for profit.

For this purpose, the Commission examined whether the SG&A expenses incurred and the profit realised by each of the exporting producers concerned on the domestic market could be used. With regard to every exporting producer, it was found that SG&A and profit could be based on its own data concerning domestic sales of the like product, pursuant to Article 2(6) of the Basic Regulation.

(b) *Export price*

(32) In all cases where exports of the product concerned were made to independent customers in the Community, the export price was established in accordance with Article 2(8) of the Basic Regulation, i.e. on the basis of export prices actually paid or payable.

In those cases in which the export price was considered to be unreliable because the sale was made to a related party, an export price was constructed pursuant to Article 2(9) of the Basic Regulation, i.e. on the basis of the price at which the imported products were first resold to an independent buyer in the Community. In such cases, adjustments were made for all costs incurred between importation and resale and for profits accruing, in order to establish a reliable export price at the Community frontier level.

(c) *Comparison*

(33) For the purpose or ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting price comparability in accordance with Article 2(10) of the basic Regulation. Accordingly, allowances for differences in transport, insurance, handling, loading and ancillary charges, import charges and indirect taxes, packing costs, credit, commissions, discounts and rebates, after sales costs and currency conversion have been granted where applicable and justified.

The comparison between normal value and export price was made on an ex-factory basis and at the same level of trade.

(d) *Dumping margins with regard to market economy countries subject to investigation*

(i) Dumping margin for companies investigated

(34) According to Article 2(11) of the Basic Regulation, for establishing the dumping margin the weighted average normal value by type, as determined in accordance with recitals 25 to 31, was compared with the weighted average export price, as determined in accordance with recital 32. Since the dumping margins per type varied, a weighted average dumping margin was established.

(ii) Dumping margin for non-cooperating companies

(35) For those exporting producers which neither replied to the Commission's questionnaire nor otherwise made themselves known, the dumping margin was established on the basis of the facts available, in accordance with Article 18(1) of the Basic Regulation.

For each country subject to investigation, a comparison of the total exports of the country according to Eurostat with the volume of exports to the Community reported by the cooperating exporting producers was made in order to establish the overall level of cooperation. With regard to all countries subject to investigation, except for Russia, it was found that the overall level of cooperation was high. Therefore, it was considered appropriate to set the dumping margin for the non-cooperating companies in the countries with high cooperation at the level of the highest or the sole dumping margin established for a cooperating company in the country in question. Indeed, there is no reason to believe that a non-cooperating exporting producer in any exporting country concerned had dumped at a lower level than a cooperating exporting producer in the same country. The above approach was also considered necessary in order to avoid creating a bonus for non-cooperation and an opportunity for circumvention.

(e) *Dumping margins with regard to Russia*

(36) In line with the provisions of Article 9(5) of the Basic Regulation, a single country-wide dumping margin was established for this country.

2. Specific issues raised by the investigation with regard to the establishment of dumping for each of the countries concerned

(a) *Brazil*

(i) Normal value

(37) Normal value was established according to the general methodology outlined in recitals 25 to 31. For both exporting producers, depending on the product types, normal values based on domestic sales prices and constructed values have been determined.

(ii) Export price

(38) For exports made to unrelated importers the export prices were established according to the general methodology outlined in recital 32, i.e. on the basis of the prices actually paid or payable. The exports by one of the Brazilian companies were partially made to a related importer in the Community and therefore the corresponding export price was constructed pursuant to Article 2(9) of the Basic Regulation, as set out also in recital 32.

(iii) Comparison

(39) According to the general methodology outlined in recital 33, allowances for differences in import charges and indirect taxes, rebates, transport, insurance, handling, loading and ancillary costs, credit costs, after sales costs and commissions have been granted where applicable and justified.

Allowance for currency conversion

(40) In view of the revaluation of the Brazilian Real as compared to some of the currencies in which export sales were invoiced, one Brazilian exporting producer requested an allowance for currency conversion. The requested allowance was based on the claim that the date of sale should not be the date of invoice but the date of contract. However, the Brazilian exporting producer was not able to demonstrate that the date of contract more appropriately established the material terms of sale. In particular, it should be noted in this respect that:

— in some instances no evidence of the existence of a contract concluded prior to the delivery was furnished,

— the contracts submitted were only framework contracts; in particular the quantities to be delivered and the dates of delivery were not determined in these contracts in a definitive manner.

However, the Commission found for several currencies in which the exports were invoiced that a sustained movement in exchange rates occurred during the investigation period. Therefore the Commission made an allowance for currency conversion for both Brazilian exporting producers in accordance with Article 2(10)(j) of the Basic Regulation by granting the exporters 60 days to reflect such movement.

Allowance for financial income resulting from export credits

(41) One Brazilian exporting producer claimed an allowance based on a credit scheme of the Brazilian Government under which a Brazilian bank buys in advance the value of an export transaction made in foreign currencies in order to pre-finance the purchase of raw materials and the production costs of the goods to be sold abroad. Through this scheme, the company was able to obtain an advance in local currency at an advantageous interest rate. As the Brazilian company maintains sufficient liquidity to finance its production costs, it placed the amount advanced at higher interest rates on the domestic capital market. The company claims that the financial gains of this operation should be added to the ex-works value of the export transactions. However, these benefits resulted from a financial operation under the export credit scheme and are not taken into account in the determination of the prices charged. Therefore, the scheme does not affect price comparability. The claim should, consequently, be rejected.

Allowance for financing expenses related to stockholding for sales on the domestic market

(42) One Brazilian exporting producer claimed an adjustment to its normal value on the basis that its domestic sales are made from stock, therefore incurring expenses to finance this stock, whereas for the export market it produces to order. Financial expenses of the type described above do not qualify for an adjustment pursuant to Article 2(10) of the Basic Regulation. This is in particular true

for adjustments pursuant to Article 2(10)(k) since the company did not demonstrate that this difference affects price comparability: in particular, it has not been shown that customers pay consistently different prices on the domestic market because of this factor.

Allowance for commissions for sales on the domestic market

(43) One Brazilian exporting producer claimed an adjustment for commissions paid in relation to its domestic sales. The commissions in question constitute a variable part of the salary of the sales force of the company in charge of the domestic market and have the function of an incentive.

Such payments do not qualify for an adjustment pursuant to Article 2(10) of the Basic Regulation since the system of remuneration of the sales force of the company does in principle not affect price comparability; in particular, the company has not shown that customers consistently pay different prices on the domestic market because of this factor.

(iv) Dumping margin

(44) The dumping margins expressed as a percentage of the cif import price at the Community border duty unpaid are the following:

Duratex SA:	29,1 %
Eucatex SA:	77,8 %
Non cooperating exporters:	77,8 %.

(b) *Bulgaria*

(45) In view of the high inflation prevailing in Bulgaria during the investigation period, the ordinary course of trade test was carried out on a monthly basis and normal values were also established on a monthly basis. The same is true with regard to the comparison between the normal value and the export price.

(i) Normal value

(46) Domestic sales of each exporting producer were, on an overall basis, representative. Normal value was established on a monthly basis according to the general methodology outlined in recitals 25 to 31. Consequently, for those exported product types, which were sold on the domestic market in representative quantities and in the ordinary course of trade, monthly normal values were calculated on the basis of the corresponding domestic prices. In those cases where normal value had to be constructed, monthly cost of production and monthly domestic profit margins were used.

(ii) Export price

(47) All sales of the product concerned made by the two Bulgarian exporting producers to the Community market were made to independent customers. Export price was established according the general methodology outlined in recital 32, i.e. on the basis of the prices actually paid or payable.

(iii) Comparison

(48) According to the general methodology outlined in recital 33, allowances for differences in transport, insurance, handling, loading and ancillary expenses, packing costs, credit costs and commissions have been granted where applicable and justified.

One of two cooperating Bulgarian exporting producers did not provide sufficient evidence concerning differences affecting price comparability as far as some adjustments to express export sales on an ex-factory basis were concerned. In this respect, it was considered that the information submitted by the other Bulgarian company would constitute the most reasonable basis for making the necessary adjustments.

(iv) Dumping margin

(49) The dumping margins expressed as a percentage of the cif import price at the Community border duty unpaid are the following:

Fazerles AD:	7,1 %
Lessoplast AD:	7,2 %
Non cooperating exporters:	7,2 %.

(c) *Estonia*

(i) Normal value

(50) The Estonian exporting producer only exported one hardboard type to the Community. Normal value was established on the basis of the actual price for all domestic sales of this hardboard type according to the general methodology outlined in recitals 25 to 31.

(ii) Export price

(51) All sales of the product concerned made by the Estonian exporting producer to the Community were made to independent customers. The export price was established, therefore, according to the general methodology outlined in recital 32, i.e. on the basis of the prices actually paid or payable.

(iii) Comparison

(52) According to the general methodology outlined in recital 33, allowances for differences in transport, insurance, handling, loading and ancillary expenses, credit costs and packing have been granted where applicable and justified.

The Estonian exporting producer claimed an adjustment to normal value for differences in levels of trade. However, the investigation revealed that there was neither a difference in functions performed by the company nor a consistent and distinct difference in prices for the alleged different levels of trade in the domestic market of the exporting country. Therefore, the requested adjustment was not granted.

(iv) Dumping margin

(53) The dumping margins expressed as a percentage of the cif import price at the Community border duty unpaid are the following:

AS Repo Vabrikud:	6,0 %
Non cooperating exporters:	6,0 %.

(d) *Latvia*

(i) Normal value

(54) The Latvian exporting producer investigated had a significant shareholding in another domestic hardboard producer. This other domestic producer undertook the finishing of certain hardboard types exported to the Community. Therefore, for such product types, in order to establish normal value, the representativeness test and the ordinary course of trade tests were carried out on the basis of the joint domestic sales volumes and the aggregated cost of production of both companies, for each of the product types manufactured by the two companies.

In all other aspects, normal value was established according to the general methodology outlined in recitals 25 to 31.

Where applicable, the normal value was constructed by adding to the cost of manufacture of the exported types of both companies, a reasonable amount for SG&A and a reasonable amount for profit. Since the global domestic sales were representative, the weighted average domestic SG&A incurred by the exporting producer and the related domestic producer were used. The profit margin used was the weighted average profit margin achieved by the exporting producer and the related domestic producer on domestic sales of the product concerned made in the ordinary course of trade, in accordance with Article 2(6) of the Basic Regulation.

(ii) Export price

(55) Part of the Latvian producer's export sales were made to a customer in the Community which had a small shareholding in the Latvian producer (significantly less than 5 %). Since a comparison of the terms of these export sales with those of other export sales to independent customers showed that the former have been made on an arm's length basis, it was decided to establish the export price for all export transactions by reference to the prices actually paid or payable, in accordance with Article 2(8) of the Basic Regulation as outlined in recital 32.

(iii) Comparison

(56) According to the general methodology outlined in recital 33, allowances for differences in transport, insurance, handling, loading and ancillary expenses as well as credit costs have been granted where applicable and justified.

Allowance for currency conversion

(57) In view of the revaluation of the Latvian Lat as compared to some of the currencies in which export sales were invoiced, the Latvian exporting producer requested an allowance for currency conversion. The requested allowance was based on a comparison of the amount in Lats the company would have obtained using the exchange rate applicable at the time of the conclusions of the contract and the amount actually obtained. However, it was found that the contracts submitted by the Latvian exporting producer did not properly reflect the material terms of sale and that the date of invoice more appropriately established these terms. In particular, the terms of the contracts have been changed during their period of validity. Consequently, it was found that the date of sale should be the date of invoice. Moreover, as the conditions for making an adjustment for a sustained movement in exchange rates were not met, the claim has been rejected.

(iv) Dumping margin

(58) The comparison showed the existence of dumping. The dumping margins expressed as a percentage of the cif import price at the Community border duty unpaid are the following:

AS 'Bolderâja':	5,8 %
Non cooperating exporters:	5,8 %.

(e) *Lithuania*

(i) Normal value

(59) Normal value for the Lithuanian exporting producer investigated was established according to the general methodology outlined in recitals 25 to 31. On this basis, normal value was established by reference to domestic sales prices for two product types, while for a third type, normal value had to be constructed.

(ii) Export price

(60) All sales of the product concerned made by the Lithuanian exporting producer to the Community were made to independent customers. The export price was established, therefore, according to the general methodology outlined in recital 32, i.e. on the basis of the prices actually paid or payable.

(iii) Comparison

(61) According to the general methodology outlined in recital 33, allowances for differences in transport, handling, loading and ancillary expenses, credit costs, packing, commissions and currency conversions have been granted where applicable and justified.

Allowance for level of trade

(62) The Lithuanian exporting producer requested an adjustment to normal value for differences in levels of trade by claiming that export sales in the Community were made to distributors and wholesalers, who bought large quantities, while sales on the domestic market were made to distributors, retailers, processors and final users. However, the company could neither demonstrate that there was a difference in functions performed by it or that there was a consistent and distinct difference in prices for the different levels of trade in the domestic market of the exporting country. Therefore, the adjustment requested could not be granted.

Allowance for currency conversion

(63) In view of the revaluation of the Lithuanian Lita as compared to some of the currencies in which export sales were invoiced, the Lithuanian exporting producer requested an allowance for currency conversion. The requested allowance was based on a comparison of the amount in Litas the company would have obtained using the exchange rate applicable at the time of the conclusion of the contract and the amount actually obtained (i.e. using the exchange rate applicable on the date of payment). However, it was found that the contracts submitted by the Lithuanian exporting producer did not properly reflect the material terms of sale and that the invoice more appropriately established these terms.

However, the Commission found that a sustained movement in exchange rates occurred during the investigation period for several currencies in which the exports were invoiced and made an allowance for currency conversion in accordance with Article 2(10)(j) of the Basic Regulation by granting the exporter 60 days to reflect such movement.

(iv) Dumping margin

(64) The comparison showed the existence of dumping. The dumping margins expressed as a percentage of the cif import price at the Community border duty unpaid are the following:

JSC Grigiskes:	11,4 %
Non cooperating exporters:	11,4 %.

(f) *Poland*

(i) Normal value

(65) Normal value was established according to the general methodology outlined in recitals 25 to 31. For all six Polish exporting producers, depending on the product types, normal values based on domestic sales prices and constructed values have been determined.

One of the Polish exporting producers requested an adjustment to its normal value for start-up operations concerning the production of worked hardboard. The adjustment claimed was equivalent to the reduction in the unit cost of production of worked hardboard that would have been obtained with a capacity utilisation of 70 %. However, on the basis of the information submitted by the company, it was found that any reasonable length of the start-up phase expired before the investigation period. Furthermore, there was no subsequent increase in the capacity utilisation which, during the investigation period, remained at the level of 20 %. Under these circumstances no start-up cost adjustment could be granted.

(ii) Export price

(66) All sales of the product concerned made by the six Polish exporting producers to the Community market were made to independent customers. The export prices for the six companies were established, therefore, according to the general methodology outlined in recital 32, i.e. on the basis of the prices actually paid or payable.

(iii) Comparison

(67) According to the general methodology outlined in recital 33, allowances for differences in physical characteristics, import charges, transport, handling, loading and ancillary expenses, discounts, ancillary cost, credit costs, packing, commissions and currency conversions have been granted where applicable and justified.

(iv) Dumping margin

(68) The comparison showed the existence of dumping. The dumping margins expressed as a percentage of the cif import price at the Community border duty unpaid are the following:

Alpex-Karlino SA:	22,4 %
Zaklady Plyt Pilsniowych w Czarnej Wodjie:	37,8 %
Ekoplyta SA:	18,6 %
Zaklady Plyt Pilsniowych SA w Przemyslu:	9,1 %
Koniecpolskie Zaklady Plyt Pilsniowych SA:	11,4 %
Zaklady Plyt Pilsniowych SA w Krosnie Odrzanskim:	11,8 %
Non cooperating exporters:	37,8 %.

(g) *Russia*

(i) Analogue country

(69) Since Russia falls under the provision of Article 2(7) of the Basic Regulation, it was necessary to establish normal value by reference to a market economy third country, i.e. an analogue country. The United States of America, Chile and Argentina were proposed by the complainants as possible analogue countries. However, no cooperation could be obtained from producers of hardboard located in any of these countries. Under these circumstances it was decided to have recourse to a country subject to the investigation.

In this respect, the Russian authorities proposed a central and eastern European country (CEEC), in particular Bulgaria, as a more appropriate choice.

The Russian authorities were requested to explain the reasons which gave rise to propose Bulgaria and to submit specific information on the appropriateness of this country. However, so far, no reply has been received.

Of the CEECs subject to the investigation, Poland was considered the most adequate analogue country. First, the domestic Polish market is the biggest in size and it is characterised by a significant number of local competing producers. The volume of Polish domestic sales is more than three times that of other CEECs subject to investigation, and it is representative when compared to imports from Russia into the Community. Second, the Polish market is also open to imports of hardboard from other countries. In this respect, it should be noted that the conventional import duty applicable to hardboard in Poland is 9 %. Imports of hardboard from the Community and from EFTA countries are subject to a duty of 1,8 %, and imports of hardboard from developing countries and certain CEECs (like the Czech Republic, Hungary, Slovakia, Latvia, etc.) are duty free. Under these circumstances, Poland was considered as an appropriate market economy third country for the purpose of establishing normal value for Russia, in accordance with Article 2(7) of the Basic Regulation.

(ii) Level of cooperation

(70) Only one Russian producer exporting to the Community during the investigation period responded to the questionnaire. On the basis of the import volumes reported by Eurostat, this company represented significantly less than 10 % of the total imports of Russian hardboard into the Community during the investigation period. Furthermore, the Russian company exported only one category of hardboard, i.e. unworked hardboard, whereas Eurostat reported imports of the two categories of the product concerned, unworked and worked hardboard.

In the light of this lack of cooperation and in accordance with Article 18 of the Basic Regulation, the findings with regard to the remaining imports from Russia were made on the basis of the facts available.

(iii) Normal value

(71) Normal value for Russia was calculated on the basis of the weighted average of the normal values established for the cooperating Polish companies, as described in recital 65. The normal value for the product type exported by the cooperating Russian company was calculated on the basis of the weighted average normal value of the identical product type of the cooperating Polish exporting producers. The normal value for the remaining unworked hardboard originating in Russia was calculated on the basis of the weighted average normal value of all unworked product types of the cooperating Polish companies exported to the Community. The normal value for worked hardboard originating in Russia was calculated on the basis of the weighted normal value of all worked product types of the cooperating Polish companies exported to the Community.

(iv) Export price

(72) Russian exports to the Community, for which information in reasonable detail was submitted in the course of the investigation, were made directly to independent importers in the Community. Consequently, the export price of those transactions was established by reference to the prices actually paid or payable by independent importers to the sole known Russian exporter for the hardboard sold.

For all other imports from Russia, which represent more than 90 % of the total import volume from Russia, it was provisionally concluded that the export prices should be based on Eurostat. In this respect, however, it should be noted that there are some doubts as to the appropriateness of Eurostat data (*inter alia* because Eurostat does not distinguish between the various hardboard product types and the product concerned does not cover a full CN code). This is why the matter will be examined further in the course of the investigation.

(v) Comparison

(73) The comparison of normal value and export price was made on the basis 'fob Polish border' and 'fob Russian border' respectively. With regard to normal value, all allowances granted to the Polish exporting producers were also used for the establishment of normal value for Russia. Subsequently, the necessary adjustments have been made in order to bring the normal values to a level 'fob Polish border'.

With regard to the export price, adjustments have been made in order to take account of transport and insurance costs. These costs have been calculated on the basis of the information submitted by a cooperating independent importer.

(vi) Dumping margin for Russia

(74) The comparison, as described above, showed the existence of dumping in respect of imports of hardboard from Russia. A single dumping margin has been calculated for Russia: 31,1 %.

D. INJURY

1. Preliminary remark

(75) Import-related injury indicators concerning the entire period under examination have mostly been given on a per tonne basis because information for the years preceding the investigation period has mainly been taken from Eurostat which provides such data in tonnes only. For the sake of accuracy, injury indicators relating to the development of the Community industry's sales volumes and sales prices as well as non-complainant Community producers' prices have been given in square metres since this is the measurement used by the entire industry (including the exporting producers). In any event, had the figures expressed below in square metres been converted into tonnes, the assessment and the conclusions on injury would not have been different. It should finally be noted that figures concerning undercutting and injury margins are based on data which were obtained on a per square metre basis.

2. Definition of the Community industry

(76) Five of the eight complaining Community producers responded to the Commission's questionnaire within the deadline set. The remaining producers did not cooperate in the investigation. The five cooperating producers represented 43 % of the total Community production of the product concerned in the investigation period; of the non-complaining producers only one, representing around 5 % of the Community production, opposed the complaint as regards imports from Brazil. The cooperating Community producers therefore represent a major proportion of the Community production and thus the Community industry in accordance with Articles 4(1) and 5(4) of the Basic Regulation. Hereafter, the expression 'Community industry' will refer only to these cooperating five producers.

3. Consumption

(77) Total Community production of the product concerned, including cooperating and non cooperating producers, developed from 668 900 tonnes in 1993 to 777 000 tonnes in the investigation period.

(78) On the basis of Community production as determined above plus total Community imports minus total Community exports, Community apparent consumption was determined. It increased by 20 % from 989 497 tonnes in 1993 to 1 188 557 tonnes by the end of the investigation period.

4. Imports from the countries concerned

(a) *Cumulation*

(79) It was examined whether the effect of imports of hardboard originating in the countries concerned should be assessed cumulatively, in accordance to Article 3(4) of the Basic Regulation.

The cooperating Brazilian exporters argued that imports into the Community from Brazil should not be cumulated with imports from the other countries concerned in the proceeding, as the conditions of competition between Brazilian hardboard and that from these other countries and Community-produced hardboard were different. They argued that hardboard produced in Brazil and exported to the Community is different in physical characteristics and quality from the hardboard produced in the other countries subject to the present investigation, and is sold therefore on different markets at different prices and through different sales channels. Moreover, they argued that the volume and market share of these imports show, during the period under examination, a divergent trend from that of the other countries concerned.

In this respect, it should be noted that the margins of dumping established for the Brazilian exporters concerned are well above the *de minimus* level set in Article 9(3) of the Basic Regulation; further, the share of the Community market represented by these imports, it not negligible in the sense of Article 5(7) of the Basic Regulation. The same is true with regard to imports from other countries concerned. Finally, with regard to the conditions of competition between Brazilian hardboard and that of the other countries and Community-produced hardboard, it has been established above in the discussion of like product issues, that hardboard of Brazilian origin competes with hardboard imported into the Community from the other countries subject to investigation and with Community production. It has also been established that the imports from all the countries concerned, including Brazil, undercut the Community industry prices (see recital 82). The conditions of Article 3(4) of the Basic Regulation for the cumulative assessment of the impact of imports of the product concerned from Brazil with those from the other countries concerned are fulfilled.

(b) *Development of volumes, values and market shares*

(80) The volume of imports from the countries concerned increased by 18 % over the period examined, from 234 083 tonnes in 1993 to 276 992 tonnes in the investigation period. The corresponding value developed from ECU 46 824 000 to ECU 64 828 000, with an increase of 38 % in percentage terms.

The market share of those imports rose from 23,7 % in 1993 to 27,7 % in 1995, to return to about its previous level in the investigation period, when it was 23,3 %.

(c) *Development of prices*

(81) Company data on the export sales prices of individual product types are not available for the periods prior to the investigation period. To identify the trend of the development of prices for the period since 1993, recourse was had to Eurostat information on unit values.

The information available showed that the average unit values of imports from the countries concerned rose steadily throughout the period, from ECU 200 to ECU 234 per tonne. In index terms, they rose from 100 in 1993 to 117 at the end of the investigation period. However, in the investigation period imports from all the countries concerned were still undercutting the Community industry's prices, as explained below.

(d) *Price comparison, price undercutting*

(82) Price undercutting was established on the basis of a comparison of the prices of the Community producers and the cif export prices, Community frontier duty paid, at the same level of trade, for the imports from the countries concerned.

Throughout the comparison, to the greatest extent possible, the prices of similar product types were compared. The export transactions used for the comparison represent a share of at least 21 % of the total exports of each exporting producer concerned, and at least 78 % of total exports for each country concerned.

The levels of price undercutting were found to be as follows:

Summary of the price undercutting margins

Country	Weighted average undercutting on a direct product type-to-type comparison (%)
Brazil	5,24
Bulgaria	39,57
Estonia	64,90
Latvia	8,64

Country	Weighted average undercutting on a direct product type-to-type comparison (%)
Lithuania	5,72
Poland	15,09
Russia	27,04

5. **Situation of the Community industry**

(a) *General*

(83) The information below does not include one of the cooperating complainant Community producers, the British producer Techboard Ltd. This company started the production of hardboard in December 1995. During the investigation period, the company was not only far from full capacity utilisation, but was also unable to match even its variable costs with its sales prices. Techboard's performance was therefore not considered as sufficiently representative to be aggregated with that of the other Community producers, and its figures, particularly its significant financial losses, would distort the picture of the situation of the Community industry. Data relating to this company have not, therefore, been taken into consideration for assessing injury.

(b) *Production and capacity utilisation*

(84) Production showed a 2 % decline, from 308 259 tonnes in 1993 to 302 653 in the investigation period. Production capacity remained stable at 412 083 tonnes, while the level of utilisation decreased slightly from 75 to 73 %.

(c) *Sales in the Community: volume and market share*

(85) Sales volumes in the Community in m^2 increased by 13 % over the period examined, from about 91,6 million in 1993 to 103,6 million in the investigation period. The Community industry's market share decreased from 28% in 1993, to 25,3 % in 1995, then picked up to 26,9 % in 1996, decreasing again to 26,4 % in the investigation period.

(d) *Sales in the Community: turnover and prices*

(86) Sales turnover decreased by 5 %, from ECU 101,7 million 1993 to ECU 96,3 million in the investigation period. Average unit prices fell by 16 % from ECU 1,11 per m^2 to ECU 0,93 per m^2 over the same period.

(e) *Production cost*

(87) Average production cost increased from ECU 379 per tonne in 1993 to ECU 400 per tonne in 1995, falling back to ECU 380 per tonne in the investigation period. These developments in unit costs did not depend on raw material price variations, but reflected the productivity of the industry, which decreased between 1993 and 1995, then recovered thanks to an effort from the industry to improve its efficiency.

(f) *Profitability*

(88) The Community industry was never profitable in the period under examination, with losses increasing from 8,1 % of turnover in 1993 to 12,7 % in 1994. After improving slightly in 1995, when they made losses of 10,9 %, the Community industry's losses worsened to 12,6 % in 1996, finally reaching 13 % in the investigation period. This negative development was a result of a price decline in excess of the fall in unit production costs which the Community industry achieved from 1995 onward.

(g) *Employment*

(89) Employment relating to the product concerned fell steadily by 13 % over the period examined, from 1 054 employees in 1993 to 912 in the investigation period.

(h) *Investment*

(90) Investment was substantially reduced from ECU 4,3 million in 1993 to ECU 2,9 million in the investigation period, a fall of 33 % over the period.

6. **Conclusion on injury**

(91) In the light of the above findings, it is concluded that the Community industry has suffered material injury. Although production and market share fell only slightly, and sales volumes increased over the period analysed, this was achieved at the cost of a substantial deterioration of sales prices, which caused increasing financial losses and cash flow insufficient for investment in plant renewal and

maintenance. Indeed, the Community industry made an effort, between 1995 and the investigation period, to improve its efficiency, maintaining the same output levels with significant reductions in production costs and employment, succeeding in bringing unit costs back to their 1993 level. However, this effort had little impact on a worsening financial situation.

E. CAUSATION

1. Effect of the imports from the countries concerned

(92) The volume of imports from the countries concerned increased by 18 % between 1993 and the investigation period. Although their prices increased, on average, by 17 % during the same period, they still undercut substantially the prices of the Community industry in the investigation period. The latter prices declined in index terms from 100 to 84 over the period examined. This clearly indicated the presence of a strong downward pressure on the prices charged by the Community industry. The downward pressure on sales prices in the Community is confirmed looking at the development of the average prices at which the Community industry was selling to third countries. These prices were, in the investigation period, substantially higher than the prices in the Community, having increased by 17 % over the period examined.

The Community industry broadly managed to maintain its level of production and capacity utilisation, and even increased its sales volumes. It should be noted that, given the high fixed costs of this industry, full and steady capacity utilisation is crucial to keeping production costs under control at a reasonable level. Its falling sales prices, however, meant that the Community producers' sales turnover declined by 5 % over the period considered.

The Community industry's market share partly recovered by the investigation period (26,4 %) after dipping to 25 % in 1995, but did not regain its 1994 level (28 %). While this was happening, its losses worsened. By the investigation period, these were 13 % on turnover.

All these factors indicate that the Community industry was forced to adopt a strategy of matching the price of the dumped imports so as to be able to maintain their sales volumes. The result was the deterioration in their already loss-making situation.

2. Other factors

(a) *Imports from other third countries*

(93) A number of exporting producers contended that the injury to the Community industry was caused by imports from other countries not subject to this investigation. They point to the fact that the market share of the countries subject to investigation declined since 1995 from 28 to 23 %, while the market shares of other third countries and the Community industry both increased over the same period.

The following table, based on Eurostat data, shows that there was indeed a significant increase in the volumes of the imports from third countries which was coupled with a rise in their market share of 3,6 percentage points from 1993 to the investigation period, reaching 15,5 % by the end of the investigation period.

Other third countries

Description	1993	1994	1995	1996	Investigation period
Quantity (raw and worked)	117 586,60	177 255,90	161 488,40	158 794,90	183 742,60
Indexed	100	151	137	135	156
Value (raw and worked)	51 101,68	69 714,28	72 935,01	78 851,63	98 398,38
Indexed	100	136	143	154	193
Market share (%)	11,9	15,6	13,9	14,0	15,5
Indexed	100	131	117	118	130
Price per tonne (ECU)	435	393	452	497	536
Indexed	100	90	104	114	123

Eurostat statistics on unit values show two things. First, the price per tonne of other third countries exports to the Community increased by 23 % over the period from 1993 to the investigation period. Secondly, throughout this period, the price per tonne of third country exports was always significantly higher than the unit values for the countries concerned, and was over twice that of the countries concerned by the end of the investigation period. This value was also above that of the Community industry throughout the period.

As, therefore, the information available indicates that the prices of third country exports did not undercut or depress those of the Community industry, an injurious price-and-profitability impact on the Community industry from these exports is, if any, unlikely to be of a major nature.

(b) *Competition from non-cooperating producers in the Community*

(94) The Commission investigated whether the Community industry suffered injury as a result of the competition from other producers in the Community which are not party to the present complaint. As was shown above, total Community production of the like product rose 16 % between 1993 and the investigation period, whereas the production of the Community industry declined slightly by 2 % over the same period. The difference was made up by an increase in production among the non-complainant Community producers.

To analyse the situation, the Commission made use of production and sales volume and value data submitted by some of the non-cooperating Community producers. The data available show that, on a weighted average basis, unit prices per m^2 of the non-complaining Community producers were as follows:

Non-complainant Community producers' unit prices	1993	1994	1995	1996	Investigation period
Weighted average unit price in ECU per m^2	1,02	1,00	0,98	0,99	0,98
Indexed	100	98	95	97	96
Pro memo: The Community industry's unit price per m^2	1,11	1,08	1,05	0,96	0,93

As can be seen from the above table, the non-complainants' unit prices were lower than those of the Community industry only up to 1995. Since then, the Community industry's unit prices have been lower than those of the non-complainant Community producers. It is unlikely, therefore, that the non-complaining Community producers were a source of injury to the Community industry, in particular since the unit prices of both complainants and non-complainants were undercut by the prices of imports from the countries concerned.

(c) *Competition from medium and high density fibreboards*

(95) It was argued by various exporting producers that the injury suffered by the Community industry was not caused by the dumped imports, but by the competition from MDF/HDF. MDF/HDF is alleged to be a high-quality and price-competitive product which has been experiencing high rates of growth in consumption in recent years. It is, according to the exporting producers concerned, progressively replacing hardboard in most uses.

The Commission has considered the role of MDF/HDF in the development of the injury suffered by the Community industry.

The analysis shows that, as pointed out in the 'Product under consideration' section above, despite the strong growth in the MDF/HDF market in recent years, this has not occurred at the expense of the hardboard market. Indeed, consumption of hardboard has increased since 1993. The investigation has also established that only thin MDF, representing in 1997 about 14 % of the Community production of MDF, competes with hardboard and only in some market segments; interchangeability would therefore only be possible to a limited extent.

In this context, it should be noted that data do not indicate that an interchange occurred, as the Community industry's sales volumes were maintained, albeit at depressed prices, due to the strong downward pressure on prices exerted by the dumped imports. Since no evidence was found that

MDF/HDF is undercutting the Community industry's hardboard prices, no link between the injury in terms of price depression and the growth of MDF/HDF has been established.

(d) *Hardboard as a declining product*

(96) Various interested parties contended that the hardboard industry is a sunset industry, producing a product at the end of its product life-cycle. It was implied that this alleged maturity is the main reason for the difficulties of the Community industry.

The Commission does not share this view. As was shown above, apparent consumption of the product concerned increased by 20 % over the period from 1993 to the end of the investigation period. Increasing demand is not a feature of a declining market. This is all the more valid since this growth in hardboard consumption took place at the same time at which the thin MDF market was expanding significantly.

3. **Conclusion on causation**

(97) The above examination shows that the Community industry had to match the prices of the dumped imports in order to maintain production volumes, sales and capacity utilisation in an attempt to keep unit production costs at a low level. In doing so, the Community industry's losses worsened considerably. Although competition from imports from other third countries and non-complainant Community producers, as well as the rise of substitute products such as thin MDF may also have contributed to the injury suffered by the Community industry, these effects were not such as to break the causal link between the dumped imports from the countries concerned and the material injury to the Community industry.

F. **COMMUNITY INTEREST**

1. **General considerations**

(98) Pursuant to Article 21 of the Basic Regulation, the Commission examined, on the basis of the evidence submitted:

— first, the likely positive and negative effects of taking and of not taking measures, and

— second, whether it could be clearly concluded that it is not in the overall interest of the Community to apply measures in this particular case.

(99) On initiation, the Commission advised the relevant industrial associations representing user industries and suppliers to the Community industry; 35 associations were contacted. Subsequently, the Commission advised all interested parties which had made themselves known within the required deadline to submit substantiated information on issues relating to the Community interest. In order to simplify this process, the Commission invited the interested parties to complete questionnaires which had been especially drawn up for each type of economic operator potentially affected. Questionnaires were thus sent to supplier firms operating upstream in the production chain from the Community industry as well as to user industries of hardboard. The questionnaire sent to unrelated importers in the Community also contained a section relating to Community interest.

2. **Impact on the Community industry**

(a) *Nature of the industry*

(100) The Community industry is a well-established industry producing hardboard for over four decades. The companies concerned are typically of medium size, and are usually involved in the production of a range of wood-based panel products such that their hardboard production forms only part of their range of products.

Over the years the Community industry has had to invest heavily in order to meet Community criteria on the protection of the environment. In general, this has involved installing water filtration and purification plants for the wet production process without which continued production would not be permitted by law.

The Community industry has developed into an industrial sector servicing a steady demand for a product which continues to find applications in many varied fields, from the automotive industry to interior decoration, do-it-yourself and fruit packaging. Throughout its history, the Community industry has invested in new technologies and manufacturing techniques which have increased its productive efficiency. The high quality of its output, produced efficiently even under strict Community environmental legislation, ensures its viability and competitiveness in the future.

(101) The main problem being faced by the Community industry, as discussed in the injury section, is the fact that it had to drop prices in order to match those of the dumped imports to try to maintain market share and volume of output. As a result of this strategy, profitability declined, so that weighted average losses on turnover worsened to 13 % by the end of the investigation period, despite the efforts to improve the efficiency level. Under these circumstances, it is considered that if prices were to rise again following the removal of the trade-distorting effects of the dumped imports, the Community industry would be able to reduce its losses and be equipped to address the other challenges it faces on the wood-based panels market.

(b) *Competition from rival products*

(102) One of the importers argued that the imposition of anti-dumping measures would not help the Community industry since the current price level of thin MDF allegedly acts as a ceiling to the development of hardboard prices. It was argued that the two products have roughly equivalent price levels. Therefore, if there is any attempt to raise the price of Community-made hardboard, this will merely result in an increase in the quantity demanded of thin MDF, at the expense of demand for hardboard produced by the Community producers.

This argument is based on an assumption that thin MDF is entirely interchangeable with hardboard. As was discussed in the 'Like product' section above, however, this is not the case, as end-use applications where there is no interchangeability between the two products remain. The data available on prices of MDF/HDF indicate that only recently have prices of thin MDF panels begun to fall to reach the levels of Community-produced hardboard of equivalent thickness. However, even if this trend were to continue in the near future, it is not clear, given the fact that the two producers are not fully interchangeable, that an attempt to raise the price of hardboard would merely result in a rise in the demand for thin MDF.

3. **Impact on upstream industries**

(103) Contacts with national associations of supplier industries revealed a certain lack of interest in this proceeding.

The European Sawmills Organisation, having presented itself as an interested party within the deadline set, submitted no further arguments.

The Commission also sent questionnaires to five companies which, it was claimed, were interested in cooperating in its investigation. However, no questionnaire responses were returned within the deadline set. In the absence of any information from the suppliers to the hardboard producers, the Commission has not been able to take them into account in drawing its provisional conclusions.

(104) Three manufacturers of machinery used by the hardboard industry also made themselves known. However, at this stage, the information available does not allow the Commission to draw firm conclusions on the impact of measures on this sector.

4. **Impact on importers-traders**

(105) The Commission sent questionnaires to 38 importers in the Community. Six usable questionnaire responses were returned within the deadline set.

In general, the opinion in the responses received was that the competition between the rival products, hardboard and thin MDF, would be the primary determinant of the impact of any anti-dumping measures on importers, as explained above in recital 102. The alleged substitution of hardboard with thin MDF would harm importers-traders, even possibly forcing them to closure.

However, as stated above, the data available at this stage confirm that the price of thin MDF has been declining steadily in recent years and its approaching the levels of hardboard of equivalent thickness produced by the Community industry. It is however, still well above the average price of the dumped imports from the countries concerned. The imposition of anti-dumping measures is therefore unlikely to produce any substitution effect between imported hardboard and thin MDF.

Moreover, even if a partial substitution of hardboard with MDF/HDF or other products occurs, its potential effect on importers is unclear. Given that hardboard does not represent a major proportion of the turnover of the importers which provided information, it is likely that, should the demand for alternative products increase, these importers could easily switch trade towards these other products.

5. **Impact on users**

(106) Of the 43 questionnaires sent to user firms, the Commission received 10 usable responses. These were exclusively from door producers which use hardboard as door-skins for their door production. The respondents' purchases of hardboard accounted for 3 % of Community consumption of hardboard during the investigation period.

These 10 companies employed 1 389 employees in 1997, represented a combined turnover of ECU 100 million and produced over 4,2 million doors in that year.

(107) The door producers' submissions exclusively concern the exports from Brazil. The 10 respondents purchased in 1997 around 34 % of the export volume from Brazil (41 % in value terms). All Brazil's hardboard exports to the Community are eucalyptus-based hardboards. The Community door producers point out that there are no eucalyptus hardboard manufacturers among the complainant Community producers. They therefore claim that it cannot be in the Community interest to impose anti-dumping measures on imports of a product which is not even produced by the Community industry.

The door manufacturers also confirmed the claim already mentioned in the 'Like product' section above, that eucalyptus hardboards have certain natural advantages which make those boards particularly well-suited to the production of high-quality lacquered doors. Although there is production of eucalyptus hardboard among the hardboard producers which are not party to the complaint leading to the initiation of the present proceeding, their volume of output is said to be not sufficient to satisfy Community demand for eucalyptus hardboard.

The lacquered door manufacturers further claimed that the Community industry does not produce hardboard of the quality necessary for their lacquered-door manufacturing requirements. Their stringent quality controls entail a certain rate of rejection of their door-skin production. This rejection rate reaches 20 % if they use Community-produced hardboards made with alternative hardwood species for their lacquered door-skin production. If they use eucalyptus hardboard for their door-skin production, this rejection rate drops to 2 %. At 20 %, the rejection rate for door-skin output made from non-eucalyptus hardboards adds what are claimed to be unacceptable costs to the door-production process.

The Commission has examined these arguments.

(108) As stated above in the 'Like product' section, the Commission has concluded that Brazilian hardboard is a like product with Community-produced hardboard. Furthermore, the Community interest investigation revealed that the proportion accounted for by hardboard in the door manufacturers' costs of production, was 9 % on a weighted average basis. The hardboard raw material therefore does not account for a major proportion of the door manufacturers' costs. These proportions indicate that an average duty rate of approximately 30 % in respect of Brazil may have a maximum impact of a 3 % increase in the cost of production of Community door producers. It should also be borne in mind that the investigation showed that in value terms 54 % of these users' hardboard purchases were from Brazil. The final impact on the sales prices of lacquered doors therefore is expected to be less than 3 %, even assuming that any increase in cost caused by the duty is fully passed on, which is possible given the information on the profitability of Community lacquered doors manufacturers available to the Commission at this stage.

Any cost and price increase, however, is not expected to be disproportionate to the benefits expected to accrue to the Community industry from the removal of the injury caused by dumping. It should also be added that, while the door manufacturers claim that the use of Community-produced hardboard is too costly to be an economic alternative, the Community industry asserts that, although it does not produce eucalyptus hardboard, it does produce other types of hardboard that could compete in the manufacture of lacquered doors at prices undistorted by dumping.

6. **Effect of non-imposition of measures against imports from Brazil**

(109) As mentioned at recital 107, only around 34 % of the export volume from Brazil (41 % in value terms) was purchased by the 10 producers of lacquered doors who responded to the users' questionnaire. Since these producers claim to represent around 90 % of the lacquered-doors market, it has

to be concluded that about two-thirds of the Brazilian exports are destined for other sectors than the lacquered-door market. In these sectors, dumped eucalyptus hardboard competes even more strongly with hardboard produced by the Community industry.

The Brazilian exports to these sectors include offcuts which are sometimes sold at very low prices, substantially undercutting the Community production of the same type, with a strong destabilising effect on the low end of the market. At the same time, with the dumping of high-quality products, they are exerting a downward pressure on the prices at the high end of the market.

Thus, if no measures are imposed on Brazil, the majority of their exports will continue to undermine the prices of the Community industry, which will not be able to benefit fully from the price increase induced by the measures imposed on the other countries concerned.

At the same time, the Brazilian exporting producers would however benefit from the price increase of imports subject to measures, since users would be able to buy a better quality board from Brazil at about the same price as hardboard from one of the other exporting countries of average quality subject to anti-dumping measures, and therefore partly divert demand towards Brazil. The overall effectiveness of the measures would in this way be seriously weakened.

The non-imposition of measures could thus lead to a claim by the other exporting countries of discriminatory treatment in favour of Brazil. Indeed, imports from Brazil have been found to be dumped and to have caused injury, as has also been established for the other countries subject to investigation.

7. **Trade distorting effects**

(110) Considering the fact that the Community industry had a market share of 26 % during the investigation period, and that imports from other countries not subject to investigation had a 16 % share, the imposition of provisional anti-dumping measures is not expected to lead to the creation of a dominant position of the Community industry on the Community market. Alternative sources of supply to the Community, either from Community hardboard producers not participating in the proceeding, or from third countries, represent half the Community market and will continue unaffected by the measures.

8. **Conclusion on Community interest**

(111) The dumped imports from the countries concerned were found to have caused injury to the Community industry, and the Commission finds that, for the foregoing reasons, it is in the overall interest of the Community to impose provisional anti-dumping measures.

The above conclusion also applies to imports of eucalyptus hardboard from Brazil. In particular, the non-imposition of measures against Brazil would risk substantially undermining the benefits for the Community industry expected from the imposition of measures against the other countries concerned.

G. **PROVISIONAL MEASURES**

(112) On the basis of the conclusions on dumping and injury set out above, the Commission considered the level of the provisional measures to be adopted. For this purpose, account has been taken of the dumping margins found and of the amount of the duty necessary to eliminate the injury sustained by the Community industry.

1. **Injury elimination level**

(113) In order to prevent further injury being caused by the dumped imports, the Commission considers it necessary to adopt provisional anti-dumping measures. For the purpose of determining the level of these measures, the Commission took account of the fact that the weighted average Community producers' price on the Community market declined significantly over the period 1993 to 1997, in order to meet the price levels of the dumped imports and that, consequently, the prices of the dumped imports should be increased to a non-injurious level.

The necessary price increase was determined on the basis of a comparison of the weighted average import price, on a type-by-type basis, a cif Community frontier duty-paid level, with the Community industry's weighted average cost of production per unit on an ex-works basis plus a 7 % profit margin. The investigation established that a profit margin of 7 % should be regarded as representing an appropriate minimum, taking into account the need for long-term investment in what is a capital-intensive industry, and the amount which the Community industry could reasonably be expected to make in the absence of injurious dumping.

The resulting amount necessary to remove the injury, or injury margin, was established for each of the exporting producers concerned as a result of this comparison and was expressed as a percentage of the cif value of their exports to the Community.

2. **Provisional duties**

(114) According to Article 7(2) of the Basic Regulation, the level of the provisional duty should be equal to the margin of dumping or the amount necessary to remove the injury, whichever is lower.

For all companies investigated in Bulgaria, Estonia, Latvia, Lithuania, Poland and Russia the injury margin was in all instances higher than the dumping margin found. Consequently, the provisional duties for the companies investigated in the above mentioned countries should be based on the dumping margin found.

For the two Brazilian companies investigated the injury margins were lower than the dumping margin found. Therefore, the provisional duties for the Brazilian companies investigated should be based on the injury margins.

3. **Undertakings**

(115) Some producers in Brazil, Bulgaria, Estonia, Latvia, Lithuania and Poland have offered price undertakings in accordance with Article 8(1) of the Basic Regulation. The Commission considers that the undertakings offered by the exporting producers concerned could be accepted provided that they cover a reduced number of product types and only up to a certain quantity threshold. Indeed, without these two conditions effective monitoring would not be practicable and companies would be encouraged to circumvent the undertaking by declaring as covered by the undertaking product types outside its scope. The undertakings offered by some companies correspond to the above conditions and can therefore be accepted.

To ensure that the quantity of imports of the hardboard types exempted from the *ad valorem* duty does not exceed the quantity in respect of which the undertaking has been accepted, the exemption should be conditional on the presentation to Member States' customs services of a valid 'Undertaking invoice' clearly identifying the producer and containing the information listed in the Annex.

(116) The Commission points out that in the event of a breach or withdrawal of the undertaking an anti-dumping duty may be imposed, pursuant to Article 8(9) and (10) of the Basic Regulation.

(117) Furthermore, it should be noted that, in accordance with Article 8(6) of the Basic Regulation, the investigation of dumping, injury and Community interest will be completed, notwithstanding the acceptance of undertakings during the course of the investigation.

H. **FINAL PROVISIONS**

(118) In the interests of sound administration, a period should be fixed in which the parties concerned may make their views known in writing and request a hearing. Furthermore, it should be stated that all findings made for the purpose of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive measures which the Commission may propose,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is imposed on imports of hardboard, defined as wet-processed fibreboard of wood or other ligneous materials, whether or not bonded with resins or other organic substances and with a density exceeding 0,8 g/cm^3, currently classifiable under CN codes ex 4411 11 00 and ex 4411 19 00 (TARIC codes 4411 11 00*10 and 411 19 00*10) originating in Brazil, Bulgaria, Estonia, Latvia, Lithuania, Poland and Russia.

2. The rate of the provisional duty to the net free-at-Community-frontier prices before duty for the product concerned manufactured by the companies listed below shall be as follows:

Country	Company	Rate of duty (%)	TARIC additional code
Brazil	Duratex SA	23,1	8460
	Others	28,2	8900
Bulgaria	Fazerles AD	7,1	8461
	Others	7,2	8900
Estonia	AS Repo Vabrikud	6,0	8462
	Others	6,0	8900
Latvia	AS 'Bolderâja'	5,8	8477
	Others	5,8	8900
Lithuania	JSC Grigiskes	11,4	8478
	Others	11,4	8900
Poland	Alpex-Karlino SA	22,4	8479
	Ekoplyta SA	18,6	8480
	Zaklady Plyt Pilsniowych SA w Przemyslu	9,1	8481
	Koniecpolskie Zaklady Plyt Pilsniowych SA	11,4	8494
	Zaklady Plyt Pilsiniowych SA w Krosnie Odrzanskim	11,8	8495
	Others	37,8	8900
Russia		31,1	

3. Unless otherwise specified, the provision in force concerning customs duties shall apply.

4. The release of the products referred to in paragraph 1 for free circulation in the Community shall be subject to the provision of a security, equivalent to the amount of the provisional duty.

Article 2

1. Notwithstanding Article 1, the provisional duty shall not apply to imports of hardboard produced and directly exported and invoiced to an importing company in the Community by the companies listed in paragraph 3, in respect of which the price undertakings offered are hereby accepted, and provided that the conditions of paragraph 2 are met.

2. When the declaration for release for free circulation is presented, exemption from the duty shall be conditional upon presentation to the competent Member State's customs services of a valid 'Undertaking invoice' issued by one of the companies listed in paragraph 3. The Undertaking invoice, the essential elements of which are listed in the Annex, shall conform to the requirements for such invoices set out in the undertaking accepted by the Commission.

3. Imports accompanied by an Undertaking invoice shall be declared under the following TARIC additional codes:

Country	Company	TARIC additional code
Brazil	Duratex SA	8842
	Eucatex SA	8844
Bulgaria	Fazerles AD	8496
	Lessoplast AD	8497
Estonia	AS Repo Vabrikud	8498
Latvia	AS 'Bolderâja'	8499
Lithuania	JSC Grigiskes	8510
Poland	Alpex-Karlino SA	8511
	Zaklady Plyt Pilsniowych w Czarnej Wojdie	8512
	Ekoplyta SA	8513
	Zaklady Plyt Pilsniowych SA w Przemyslu	8545
	Koniecpolskie Zaklady Plyt Pilsniowych SA	8546
	Zaklady Plyt Pilsniowych SA w Krosnie Odrzanskim	8547

Article 3

1. Pursuant to Article 20(1) of Regulation (EC) No 384/96 and without prejudice to Article 20(2) and (3) of that Regulation the interested parties which made themselves known within the time limit specified in the notice of initiation may make their views known in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

2. Pursuant to Article 21(4) of Regulation (EC) No 384/96, the parties concerned may comment on the application of this Regulation within one month of the date of its entry into force.

Article 4

Member States' reports to the Commission pursuant to Article 14(6) of Regulation (EC) No 384/96, shall indicate for each release for free circulation, the year and month of import, the CN, TARIC and TARIC additional codes, the type of measure, the country of origin, the quantity, the value, the amount of the anti-dumping duty, if any, and the Member State of import.

Article 5

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

Article 1 of this Regulation shall apply for a period of six months.

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

Done at Brussels, 5 August 1998.

For the Commission

Leon BRITTAN

Vice-President

ANNEX

Elements to be indicated in the Undertaking invoice referred to in Article 2(2)

1. The 'Product Reporting Code' (as established in the undertaking offered by the producing exporter in question);
2. The exact description of the goods, including:
   - the 'Company Product Code' (CPC); whether the hardboard is unworked or worked; the thickness and the precise measures of the panel, indicating in brackets whether it has standard measures (STA) or cut-to-size ones (CTS),
   - CN code,
   - the TARIC additional code under which the goods on the invoice may be customs cleared at Community borders (as specified in the Regulation),
   - quantity (to be given in m^2);
3. The description of the terms of the sale, including:
   - price per square meter [1],
   - the applicable payment terms,
   - the applicable delivery terms,
   - total discounts and rebates;
4. Name of the importer to which the invoice is issued directly by the company;
5. The name of the official of the company that has issued the Undertaking invoice and the following signed declaration:

   'I, the undersigned, certify that the sale for direct export to the European Community of the goods covered by this invoice is being made within the scope and under the terms of the undertaking offered by ... [company], and accepted by the European Commission through Regulation (EC) No 1742/98. I declare that the information provided in this invoice is complete and correct.'

[1] For Undertaking invoices issued by the Latvian exporting producer AS 'Bolderâja', in case of sales via sales agents established in the Community the price per m^2 may appear on an additional invoice issued by the agent instead of on the Undertaking invoice issued by AS 'Bolderâja'. If that is the case, the Undertaking invoice should also mention the name of the agent.