COUNCIL REGULATION (EEC) No 551/83

of 8 March 1983

imposing a definitive anti-dumping duty on kraftliner paper and board originating in the United States of America and accepting undertakings given in connection with the review of the anti-dumping proceeding on kraftliner paper and board originating in Austria, Canada, Finland, Portugal, the Soviet Union and Sweden

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to the proposal submitted by the Commission after consultation with the Advisory Committee set up by the said Regulation,

Whereas Regulation (EEC) No 2133/78 (3) imposed a definitive anti-dumping duty on imports of kraftliner paper and board originating in the United States of America;

Whereas that Regulation was amended by Regulation (EEC) No 572/79 (4) and (EEC) No 1283/81 (5) in order to take account of certain changes in the NIMEXE codes covered by the duty;

Whereas the amount of the duty corresponded to the difference between the normal value (the 'fair market price') on the USA market as set out in Article 2 (2) of Regulation (EEC) No 2133/78 and the free-at-frontier Community price, duty-unpaid, per tonne net to the first purchaser in the customs territory of the Community;

Whereas the Commission accepted undertakings given in connection with the anti-dumping proceedings concerning imports of kraftliner paper and board originating in Austria, Canada, Finland, Portugal, the Soviet Union and Sweden (6);

Whereas on 30 July 1982 the Commission received a request from the European Association of Papermakers for Corrugating Boxes on behalf of all Community producers of kraftliner paper and board and testliner for a review of the duty imposed on kraftliner paper and board originating in the United States of America and for a review of the undertakings given in connection with the anti-dumping proceedings concerning imports of kraftliner paper and board originating in Austria, Canada, Finland, Portugal, the Soviet Union and Sweden, together with evidence that dumping was again being practised in respect of these imports and that Community industry was suffering from renewed material injury;

Whereas, since the said information provided sufficient evidence to justify re-opening the proceedings, the Commission announced, by a notice published in the *Official Journal of the European Communities* (7), a review of the definitive anti-dumping duty on imports of kraftliner paper and board originating in the United States of America and of the acceptance of undertakings given in connection with the anti-dumping proceedings on imports of kraftliner paper and board liner paper and board originating in Austria, Canada, Finland, Portugal, the Soviet Union and Sweden; whereas the Commission, furthermore, started an investigation of the matter at Community level;

Whereas the Commission officially so advised the exporters and importers known by it to be concerned as well as the representatives of the exporting countries and the complainants;

Whereas the Commission has given the parties directly concerned the opportunity to make known their views in writing and to be heard orally;

Whereas most of the exporters, some importers and several consumers known to be concerned took this opportunity to present written and oral observations; whereas, however, Exportles, the exporting agency in the Soviet Union, failed to respond to the Commission's invitation to make known its views, as did several brokers and dealers; whereas the largest Canadian exporter also failed to respond to the Commission's invitation to cooperate in the on-the-spot investigation of the facts;

(1) OJ No L 339, 31. 12. 1979, p. 1.
(2) OJ No L 178, 22. 6. 1982, p. 9.
(3) OJ No L 247, 9. 9. 1978, p. 22.
(4) OJ No L 77, 29. 3. 1979, p. 1.
(5) OJ No L 129, 15. 5. 1981, p. 4.
(6) OJ No C 61, 10. 3. 1978, p. 2, OJ No C 69, 18. 3. 1978, p. 2 and OJ No C 174, 21. 7. 1978, p. 2.
(7) OJ No C 217, 21. 8. 1982, p. 2.

Whereas the Commission sought and verified the formation it deemed to be necessary for the purposes of the review proceeding and carried out investigations at the premises of the following :

EEC producer :

Cellulose du Pin, Facture, France

Exporters :

in the United States of America :

Great Southern Paper, Dothan, Alabama
International Paper Co., New York, NY
St Joe Paper Co., Port St Joe, Florida
St Regis Paper Co., New York, NY
Stone Container Corporation, Chicago, Illinois
Union Camp Corporation, Wayne, New Jersey
Westvaco Corporation, New York, NY
Weyerhaeuser Company, Tacoma, Washington

in Canada :

MacMillan Bloedel Ltd, Vancouver (BC), on behalf of their US subsidiary at Pinehill, Alabama

in Finland :

Kemi Oy, Kemi

in Portugal :

Portucel, Lisbon

in Sweden :

ASSI, Stockholm

Svenska Cellulosa Aktiebolaget SCA, Piteå ;

Whereas information concerning Obbola Linerboard AB, Obbola, Sweden, was provided by the company's owners, Svenska Cellulosa Aktiebolaget SCA, Sweden, and St Regis Paper Company, USA ; whereas the Austrian exporter, Nettingsdorfer Papierfabrik, Nettingsdorf, submitted information at the Commission's offices in Brussels ; whereas information concerning exports from the Soviet Union was submitted by the principal importers in the European Community ;

Whereas the Commission selected the last quarter of 1981 and the first three quarters of 1982 as the relevant investigation period ;

Whereas for exporters from Austria, Canada, Finland, Portugal, Sweden and the United States, normal value was determined on the basis of the price actually paid in the ordinary course of trade for the like product intended for consumption in their respective domestic markets ; whereas, in those cases where these prices varied, the normal values were established by reference to weighted average and/or prevailing prices ; whereas, for the Soviet Union, which is a non-market economy country, the normal value was determined on the basis of the price at which the like product was sold in the United States of America with adjustments to take account of certain differences in roll widths ; whereas this method of determining the normal value was not disputed by the Soviet exporter or by the Community importers ;

Whereas, in establishing the profitability of domestic sales, it was noted that most American producers were unable to demonstrate that their most recent sales prices were at levels sufficient to cover all costs ; whereas these sales were therefore considered as not having been made in the ordinary course of trade and were consequently excluded from the calculation of normal value ;

Whereas export prices were determined on the basis of the prices actually paid or payable for products exported to the Community during the period of investigation ;

Whereas, in comparing normal value with export prices, the Commission took account, where appropriate, of differences affecting price comparability, such as differences in transport, insurance, handling, loading and ancillary costs ; whereas all comparisons were made at an ex-works level ;

Whereas the above examination of the facts showed that dumping had generally commenced in the second quarter of 1982 and had continued throughout the year, the margins being equal to the amount by which the normal value as established exceeded the price for export to the Community ;

Whereas these margins vary according to the exporter ; whereas the weighted average margin from the time that dumping had commenced for each of the exporters cooperating in the investigation was as follows :

	%
Great Southern Paper	8,2
International Paper Co.	5,9
St Joe Paper Co.	10,0
St Regis Paper Co.	9,7
Union Camp Corporation	4,3
Westvaco Corporation	11,3
Weyerhaeuser Company	11,5
Macmillan Bloedel Ltd	6,5
Kemi Oy	25,9
Portucel	12,0
ASSI	9,5
Obbola Linerboard	24,5
SCA	10,0
Nettingsdorfer Papierfabrik	2,5 ;

Whereas the Stone Container Corporation did not have direct export sales to the European Community but sold domestically to a dealer for onward export ; whereas, using these sales as the basis of comparison, the dumping margin was calculated as 15,5 % ;

whereas those companies who also exported but in less significant amounts than those subject to on-the-spot investigation were informed of the results of the Commission's investigation and of its intention to act, and did not dispute them ;

Whereas, for those exporters who neither replied to the Commission's questionnaire nor made themselves known otherwise in the course of the review investigation, the dumping margin was determined on the basis of the facts available ; whereas the Commission considers that the results of its investigation provided an accurate basis for determination of the level of dumping and that it would constitute a bonus for non-cooperation to assume that the dumping margin for these exporters was any lower than the highest dumping margin of 25,9 % determined with regard to an exporter who had cooperated in the investigation ; whereas for these reasons it is considered appropriate to use this latter dumping margin for this group of exporters ;

Whereas, with regard to injury caused by the dumped imports, the request for review submitted by the European Association of Papermakers for Corrugating Boxes alleged that injury was being suffered by Community producers of both kraftliner paper and board and testliner ; whereas the Commission has confined its re-examination of injury to production in the Community of the like product, i.e. kraftliner paper and board ;

Whereas the evidence available to the Commission shows that imports into the Community from the countries concerned have maintained a fairly constant market share of approximately 80 % since 1979 ;

Whereas selling prices to the Community from the countries concerned have been declining throughout 1982 with a consequent depressing effect ; whereas this price deterioration has been particularly marked in two Community markets, viz. the Federal Republic of Germany and Italy ; whereas the Federal Republic of Germany and Italy account for approximately 90 % of the Community producer's sales outside the French market ; whereas, in order to maintain sales in these areas, it has been necessary for the EEC producer to meet the prices of the dumped imports ; whereas there is clear evidence that the decline in prices is continuing ;

Whereas the consequent impact on this Community industry has been an inability to cover costs on sales to the Federal Republic of Germany and Italy ; whereas in France there is also price deterioration which has reduced the Community producer's profit to a level near break-even and which, if allowed to continue, would result in losses for the producer ;

Whereas the Commission has considered whether injury has been caused by other factors such as the volume and prices of undumped imports and stagnation of demand ; whereas imports from countries other than those concerned in this review have considerably declined ; whereas consumption in the Community has not significantly changed from 1981 to 1982 ; whereas the prices at which the dumped imports are offered for sale in the Community have led the Commission to determine that the effects of the dumped imports of kraftliner paper and board originating in Austria, Canada, Finland, Portugal, the Soviet Union, Sweden and the United States of America taken in isolation have to be considered as causing renewed material injury to the Community industry ; whereas this injury is likely to increase if no action is taken ;

Whereas Community consumers in the Netherlands, Italy, the United Kingdom and the Federal Republic of Germany have argued that the introduction of higher minimum prices for kraftliner paper and board would not be in the Community's interest because it would have disruptive effects on their processing industries ; whereas, however, the Fédération Nationale des Transformateurs de Papiers and the Union Syndicale Française de Carton Ondulé, France, specifically asked that the fact that they did not wish to express any opinion on this matter should be brought to the attention of the Commission ; whereas, if the Community producers were to disappear from the market, the Community would become dependent upon external suppliers of this product ; whereas it seems to be in the interest of the users to have access to both sources of supply ; whereas, in view of this and the particularly serious difficulties facing the Community industry, the Commission has nevertheless come to the conclusion that it is in the Community's interests that action be taken ;

Whereas the exporters concerned were informed of the main findings of the review and commented on them ; whereas revised undertakings were subsequently offered covering all relevant exports from Austria, Canada, Finland, Portugal, the Soviet Union and Sweden of kraftliner paper and board to the Community ; whereas the effect of the said undertakings will be to increase export prices to the level which the Commission, having examined the Community producer's weighted average prices and costs, taking account of their profit situation, considers necessary to eliminate injury ; whereas these increases in no case exceed the dumping margin ;

Whereas the Commission has, therefore, determined that it is not now necessary to take protective action in respect of imports of kraftliner paper and board originating in Austria, Canada, Finland, Portugal, the Soviet Union and Sweden ; whereas, in these circumstances,

the undertakings offered are considered acceptable and the review may, therefore, be terminated without imposition of anti-dumping duties on kraftliner paper and board from Austria, Canada, Finland, Portugal, the Soviet Union and Sweden ;

Whereas, as regards exports of kraftliner paper and board from the United States of America, the Commission has received no new evidence to alter its view that the continued application of a duty is necessary for the elimination of injury and the prevention of its recurrence ; whereas the definitive anti-dumping duty imposed by Regulation (EEC) No 2133/78 should now be replaced by a new duty based on floor prices derived from the normal value in the United States of America ; whereas, for these reasons, the said Regulation should be replaced,

HAS ADOPTED THIS REGULATION :

Article 1

A definitive anti-dumping duty is hereby imposed on unbleached kraftliner paper and board falling within Common Customs Tariff subheading ex 48.01 C II and corresponding to NIMEXE codes 48.01-30, 32 and ex 34, originating in the United States of America.

The provisions in force for the application of customs duties shall apply in respect of this duty.

Article 2

1. The amount of the duty shall correspond to the difference between the normal value in the United States of America as set out in paragraph 2 and the free-at-frontier Community price, duty-unpaid, per tonne net to the first purchaser in the customs territory of the Community.

2. For the purpose of this Regulation, the normal values on the United States market, brought up to a cif Community frontier basis, duty-unpaid, are as follows :

	(US$ per tonne)
Nominal weight 175 grams or more but less than 337 grams per square metre :	333
Nominal weight 150 grams or more but less than 175 grams per square metre :	353
Nominal weight less than 150 grams per square metre :	368

These prices :

— shall be reduced by 1 % if payment is made immediately on receipt of the goods by the first purchaser in the customs territory of the Community,

— shall be net if payment is made within 30 days of the receipt of the goods by the first purchaser in the customs territory of the Community,

— shall be increased by 1 % for each subsequent 30-day period of credit.

Where prices are invoiced by reference to area, the normal value per 100 square metres shall be calculated in accordance with the following formula :

$$\frac{\text{normal value price in US\$ per tonne} \times \text{nominal gram weight per square metre}}{10\,000}$$

The actual gram weight may vary by ± 5 % from the nominal gram weight.

3. The duty shall not apply where the importer proves to the satisfaction of the competent national authorities that the price differential referred to in paragraph 1 is due to the goods being damaged.

Article 3

The undertakings given by Nettingsdorfer Papierfabrik, Austria ; Eurocan Pulp and Paper Co., Consolidated Bathurst Paper Sales Ltd and Domtar Inc., Canada ; Kemi Oy, Finland ; Portucel, Portugal ; ASSI Obbola Linerboard AB and Svenska Cellulosa Aktiebolaget SCA, Sweden ; John Bett Associates Ltd and Churchills and Caspars Ltd, UK ; Rufin Pierard Forest Products Agencies, Belgium ; Conrad Jacobson GmbH and Jacob Jürgensen, Federal Republic of Germany ; Eduard Van Leer, Netherlands ; and Induspap, France, in connection with the anti-dumping proceeding concerning kraftliner paper and board originating in Austria, Canada, Finland, Portugal, the Soviet Union and Sweden are hereby accepted.

Article 4

The anti-dumping proceeding concerning imports of kraftliner paper and board originating in Austria, Canada, Finland, Portugal, the Soviet Union, and Sweden is hereby terminated.

Article 5

Regulation (EEC) No 2133/78 is hereby repealed.

Article 6

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

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

Done at Brussels, 8 March 1983.

For the Council

The President

J. ERTL