II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 19 June 1980

accepting undertakings in connection with the anti-dumping proceeding concerning imports of standardized electric multi-phase motors having an output of more than 0·75 kW but not more than 75 kW, originating in the USSR and terminating that proceeding

(80/599/EEC)

THE COMMISSION 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 Community [1],

After consultations within the Advisory Committee set up under that Regulation,

Whereas in March 1979 the Commission received a complaint lodged by the Coordinating Committee for the Common Market Association of Manufacturing of Rotating Electrical Machinery (COMEL) on behalf of the great majority of Community manufacturers of low voltage electric motors; whereas the complaint contained evidence of the existence of dumping in respect of like products originating in Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania or the USSR, and of substantial injury resulting therefrom;

Whereas the said evidence was sufficient to justify initiating an investigation;

Whereas the Commission accordingly announced, by a notice published in the *Official Journal of the European Communities* [2], the initiation of a proceeding concerning imports of standardized electric multi-phase motors having an output of more than 0·75 kW but not more than 75 kW originating in Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania or the USSR, and commenced an investigation of the matter at Community level;

Whereas the Commission officially so advised the exporters and importers known to be concerned;

Whereas the Commission has given the parties directly concerned the opportunity to make known their views in writing and to be heard orally, and to meet so that opposing views might be presented and rebuttal arguments put forward;

Whereas the majority of the parties concerned with the exception, notably, of the Soviet exporter have taken this opportunity;

Whereas, in order to arrive at a preliminary assessment of the dumping margin and injury, the Commission carried out inspections at the premises of the great majority of exporters' agents and importers, including: in Belgium, Industrial Electric PVBA (Kortrijk) and Symkens SPRL (Liège); in Denmark, R. Frimodt Pedersen A.S. (Daugård), Arnitlund Handels

(1) OJ No L 339, 31. 12. 1979, p. 1.

(2) OJ No C 103, 25. 4. 1979, p. 9.

APS (Vojens), Nordelektro A.S. (København) and A. Johnson & Co. A.S. (Charlottenlund); in the Federal Republic of Germany, Horst Schenk (Brilon) and Fritz Oberstenfeld (Hamburg); in France, Sermes S.A. (Strasbourg), Les Industries françaises (Wissous), Sodimef S.A. (Strasbourg), Sorice S.A. (Ivry-sur-Seine) and Sofbim S.A. (Paris); in Italy, Mez Italiana S.p.A. (Milano), Imex S.p.A. (Milano), Elprom S.p.A. (Parma), Elektropolcantoni & Co. S.p.A. (Milano), Veneta Motori S.N.C. (Padova), B.A.M.E. di Bartolomei Bruno (Pistoia) and Enital S.p.A. (Milano); and in the Netherlands, Rotor C.V. (Eibergen) and Peja Elektrotechniek B.V. (Arnhem); whereas the Commission contacted a number of other agents and importers; whereas the Commission also carried out inspections at the premises of the main complainant Community producers, viz. in Belgium, ACEC (Charleroi); in the Federal Republic of Germany AEG-Telefunken AG (Oldenburg), Bauknecht GmbH (Stuttgart) and Siemens AG (Erlangen); in France, Alsthom-Unelec (Paris), Compagnie Électro-mécanique S.A. (Paris) and Leroy-Somer S.A. (Angoulême); and in Italy, Ansaldo S.p.A. (Genova) and Ercole Marelli S.p.A. (Milano);

Whereas, in order to establish whether the abovementioned imports were dumped, the Commission had to take into account the fact that Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania and the USSR are not market economy countries;

Whereas, for that reason, the Commission had to base its calculations on the normal value in a market economy country; whereas, in that connection, the complaint had cited the Austrian and Spanish domestic markets;

Whereas, on the basis of contacts with Austrian and Spanish producers and inspections carried out on their premises, and in the light of the arguments put forward in the course of the hearings by the exporters concerned *inter alia* disputing the comparability of the Spanish market, a comparison with the price of electric motors on the Austrian domestic market appeared reasonable at least for the purposes of a preliminary finding of dumping, since the manufacturing processes and technical standards and also the technology are similar, while the large volume of imports, notably from the countries cited in the complaint, appeared to guarantee a fair level of prices;

Whereas the preliminary assessment of dumping has accordingly been effected by comparing the average Austrian ex-works prices for sales over the period from September 1978 to September 1979 with prices for imports into the Community from the countries in question over the same period;

Whereas, to take due account of the differences affecting price comparability, the maximum discounts for bulk orders and cash payment, and sales and service costs borne by the Austrian manufacturers, have been deducted from Austrian list prices; whereas only fob or cif export prices were available, but no adjustment has been effected to take account of the transport costs included in those prices; whereas all the above factors have had the effect of reducing the difference between Austrian ex-works prices and export prices;

Whereas the above preliminary examination of the facts showed the existence of dumping in respect of the imports considered in the investigation, the dumping margin being equal to the amount by which the normal value as established above exceeded the export price to the Community; whereas the margin varied depending on the type of motor, the exporting country, and the importing Member State; whereas, for example, the said margin in every case exceeded 19·65 EUA for B 3 type 1·1 kW 1 500 rpm motors, which is one of the commonest types;

Whereas, with regard to the injury caused to the Community industry, the evidence available to the Commission showed that imports into the Community of the electric motors in question originating in the countries covered by the investigation have risen from approximately 462 000 units in 1975 to 856 000 units in 1978, and reached 469 000 units for the first six months of 1979;

Whereas the best information available suggests that for 1978 imports of standardized electric multiphase motors with an output of more than 0·75 kW but not more than 75 kW originating in the countries covered by the investigation took a market share of 28 % in the Community, 44 % in Belgium, 41 % in Denmark and France, 46 % in Italy and 12 % in the Federal Republic of Germany (excluding inter-Germany trade);

Whereas in 1978 imports in the Community originating in the Soviet Union accounted for 5·25 % of the imports from all the countries in question; whereas in France that share was 13·5 %, and in both the Federal Republic of Germany and Italy, 4·3 %, those three countries being the main importers among the Member States of electric motors originating in the USSR;

Whereas the resale prices in the Community of motors originating in the countries in question have undercut those of like motors produced by Community manufacturers by between 10 and 51 %; whereas, for example, the resale price of a B 3 type

1·1 kW 1 500 rpm motor imported from the USSR was 37 % lower than the price of the same motor produced in France, and 51 % lower than the price of the same motor produced in Italy;

Whereas the consequent impact on the Community industry, whose volume of production has been stagnating since 1976, has taken the form of a depression of Community prices, in real terms, making it impossible in most instances to cover production costs;

Whereas most of the Community firms consequently made considerable losses on the standardized multiphase motors covered by the procedure, and this put at risk the profitability of the rotary machinery industry as a whole, and has already led to an appreciable fall in the numbers directly employed in the manufacture of electric motors, from 28 300 in 1974 to 23 600 in 1978;

Whereas injuries caused by other factors which could adversely affect the Community industry, such as the volume and prices of other imports, or stagnation of demand, have been examined and have not been attributed to the imports under consideration;

Whereas the preliminary examination of the facts showed the existence of dumping, and there was sufficient evidence of consequent injury;

Whereas, in these circumstances, the interests of the Community called for action to prevent injury being caused during the proceeding;

Whereas such action consisted in the imposition by Regulation (EEC) No 451/80 [1], of a provisional anti-dumping duty on imports of the electric motors concerned;

Whereas, after the imposition of the provisional anti-dumping duty, the Soviet exporter, Energomachexport, authorized its importers and agents in the Community, the firms Enital SpA (Milan), Les Industries françaises (Wissous), Neotype Techmashexport GmbH (Bergisch-Gladbach) and Stanbel (Braine-Le-Chateau) to do whatever was necessary to create normal conditions for the sale of motors on the market and to take the appropriate measures;

Whereas, on the basis of these authorizations, undertakings covering transactions in all parts of the Community have been offered to the Commission by the agents and importers of Energomachexport in the Community, acting on behalf of that firm as well as on their own behalf;

Whereas, in view of the complexity of the authorization procedure, it must be regarded as exceptional, and the acceptance of such a procedure in this case does not prejudice the future attitude of the Commission in similar situations;

Whereas the effect of the said undertakings will essentially be to increase import prices into the Community; whereas the said increases take account not only of the differences noted in the course of local investigations between the prices charged by the various exporting countries, but also of the particular situation of the industry in the different Member States;

Whereas the Commission has provisionally determined that implementation of those undertakings would neutralize the injurious effects of the imports in question and that it is not now necessary to take protective action in respect of imports from countries having entered into such undertakings;

Whereas the Commission is responsible for ensuring that the undertakings are strictly complied with, in particular by carrying out periodically the necessary checks and inspections;

Whereas the decision to accept these undertakings may be reconsidered should the Commission, on the basis of the information in its possession, consider this necessary; whereas, in particular, should the said undertakings not be passed on to the Community market and hence fail to eliminate the injury being caused to Community producers, the Commission could suggest that they be varied or decide to denounce them;

Whereas in these circumstances the undertakings offered are acceptable and the proceedings may therefore be terminated without imposition of anti-dumping duties,

HAS DECIDED AS FOLLOWS:

Article 1

In the context of the anti-dumping proceeding concerning imports of standardized electric multiphase motors having an output of more than 0·75 kW but more than 75 kW [2], originating in the Soviet Union, the Commission hereby accepts the undertakings given by Enital SpA (Milano), Les Industries françaises (Wissous), Neotype Techmashexport (Bergisch-Gladbach) and Stanbel (Braine-le-Chateau),

[1] OJ No L 53, 27. 2. 1980, p. 15.

[2] NIMEXE codes ex 85.01-33, 34, 36 (CCT subheading ex 85.01 B 1 b)).

importers and agents in the Community for the Soviet exporter Energomachexport, acting on behalf of the said exporter and on their own behalf.

Article 2

The anti-dumping procedure in respect of imports of standardized electric multi-phase motors having an output of 0·75 kW but not more than 75 kW originating in the Soviet Union is hereby terminated. This termination is without prejudice to any decision by the Council regarding the definitive collection of amounts secured by way of provisional duty.

Article 3

This Decision shall take effect on 22 June 1980.

Done at Brussels, 19 June 1980.

For the Commission

Wilhelm HAFERKAMP

Vice-President