COMMISSION REGULATION (EEC) No 451/80

of 22 February 1980

imposing a provisional anti-dumping duty on 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

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), and in particular Article 11 thereof,

After hearing the opinions expressed by 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 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.L. (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. (Angoulème); 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;

(1) OJ No L 339, 31. 12. 1979, p. 1.
(2) OJ No C 103, 25. 4. 1979, p. 9.

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 would appear 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, would appear to guarantee a fair level of prices ;

Whereas the preliminary assessment of dumping was accordingly 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, were deducted from Austrian list prices ; whereas only fob or cif export prices were available, but no adjustment was effected to take account of the transport costs included in those prices ; whereas all the above factors had the effect of reducing the difference between Austrian ex-works prices and export prices ;

Whereas the above preliminary examination of the facts shows 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 exceeds the price at which the goods are exported to the Community ; whereas the margin varies depending on the type of motor, the exporting country, and the importing Member State ; whereas, for example, the said margin in every case exceeds 19·65 EUA for B 3 type 1·1 kW 1 500 rpm motors, which are one of the commonest types ;

Whereas, with regard to the injury caused to the Community industry, the evidence available to the Commission shows that imports into the Community of the electric motors in question originating in the countries covered by the investigation rose 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, in the absence of separate production and import figures relating to standardized motors alone, it is difficult to gauge the size of the Community market for such motors with the desirable precision ; whereas, nevertheless, the best information available suggests that for 1978 imports of standardized electric multi-phase 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-German trade) ;

Whereas in 1978 imports into 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 undercut those of like motors produced by Community manufacturers by between 10 % and 51 % ; whereas, for example, the resale price of a B3 type 1·1 kW 1 500 rpm motor imported from the USSR is 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, takes 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 are consequently making considerable losses on the standardized multi-phase motors covered by the procedure, and this has 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 shows the existence of dumping, and there is sufficient evidence of consequent injury ;

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

Whereas such action takes the form of a provisional anti-dumping duty imposed on imports of the electric motors concerned;

Whereas, in order to determine the amount of such duty, the Commission considered the provisionally determined dumping margins and the scale of injury caused;

Whereas, after comparing the average prices, costs, and profits and losses of Community manufacturers with the importers' costs and particular conditions of sale, the Commission has concluded that injury would be eliminated if import prices were no lower than the prices set out in the Annex, calculated free at Community frontier, not cleared through customs;

Whereas it is therefore necessary to stipulate that the duty applicable to imports of the electric motors in question must be equal to the difference, for each type, between the price free-at-Community frontier, not cleared through customs, to the first purchaser, and the price specified in the Annex; whereas the amount of duty so calculated is considerably less than the provisionally determined dumping margins;

Whereas, in the course of the investigation, undertakings were given by the exporting bodies in Bulgaria (Electroimpex — Sofia), Czechoslovakia (Zavody Silnoproude Elektrotechniky — Prague), the German Democratic Republic (Elektrotechnik — Import-Export — Berlin), Hungary (Transelektro — Budapest), Poland (Elektrim — Warsaw) and Romania (Electroexportimport — Bucharest); whereas the price increases resulting from the application of these undertakings have convinced the Commission that it is not now necessary to take protective action in respect of products originating in those countries;

Whereas, in these circumstances, imports from those countries should be exempted from application of the duty;

Whereas the Soviet exporting body (Energomachexport — Moscow) has not given such undertakings;

Whereas it is necessary to arrange for application of the duty in respect of imports originating in the USSR, in order to eliminate the injury caused by such imports and ensure that the goal of market stabilization which prompted acceptance of the undertakings is not jeopardized by continued imports from the USSR at dumping prices, which would put at a disadvantage both Community manufacturers and exporters having undertaken to raise their prices;

Whereas, in order to prevent evasion of the anti-dumping duty, it is necessary to establish another basis for calculating such duty where the electric motors in question are not put into free circulation by the first purchaser in the Community; whereas the method used should take account of the average margin between import prices and resale prices charged by Community importers for electric motors originating in the USSR, such margin having been provisionally determined in the course of the investigations carried out by the Commission on the premises of importers known to it;

Whereas a time limit should be fixed within which the parties concerned may, following the imposition of the provisional duty, make their views known and apply to be heard orally by the Commission,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on standardized electric multi-phase motors having an output of more than 0·75 kW but not more than 75 kW, falling within subheading ex 85.01 B I b) of the Common Customs Tariff, corresponding to NIMEXE codes ex 85.01-33, 34, 36, originating in the USSR.

2. Subject to paragraph 4, the amount of duty shall be equivalent, for each type of motor, to the difference between the net unit price, free at the Community frontier and not cleared through customs to the first purchaser on Community territory, and the price specified in the Annex.

3. The free-at-Community frontier price mentioned above shall be net if the terms of sale provide that payment shall be made within 90 days of delivery; it shall be increased or lowered by 1 % for each month by which the final date of payment is delayed or advanced.

4. (a) Where the products defined in paragraph 1 are not put into free circulation on the basis of the price to the first purchaser in the Community, the amount of duty shall be equivalent, for each type, to the difference between the net unit price, free at the Community frontier and not cleared through customs, and the price specified in the Annex increased by 40 %;

(b) However, where the declarant is able to give proof to the satisfaction of the customs authorities of the price paid by the first purchaser, paragraph 2 of this Article shall apply.

5. The release for free circulation in the Community of the products referred to in paragraph 1 shall be subject to payment of a deposit equivalent to the amount of the provisional duty.

6. The provisions in force with regard to customs duties shall apply to the said provisional duty.

Article 2

Subject to Article 7 (4) (b) and (c) of Regulation (EEC) No 3017/79, the parties concerned may make known their views, and apply to be heard orally by the Commission, within a month of the entry into force of this Regulation.

Article 3

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

Subject to Articles 11, 12 and 14 of Regulation (EEC) No 3017/79, this Regulation shall be applicable for four months or until the adoption by the Council of definitive measures.

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

Done at Brussels, 22 February 1980.

For the Commission

Wilhelm HAFERKAMP

Vice-President

ANNEX

Minimum prices for imports into the Community of standardized electric multi-phase motors

Output		Unit prices (in EUA)			
hp	kW	750 rpm	1 000 rpm	1 500 rpm	3 000 rpm
1·5	1·1	61·60	39·88	30·13	26·77
2	1·5	74·45	46·97	35·90	32·79
3	2·2	94·39	59·38	42·54	41·66
4	3	115·66	75·78	51·85	50·96
5·5	4	138·27	93·95	65·14	61·60
7·5	5·5	165·74	118·77	83·31	85·09
10	7·5	202·08	150·67	105·91	102·81
15	11	289·83	198·98	142·25	140·03
20	15	382·00	273·87	181·70	177·71
25	18·5	462·21	335·91	226·90	209·61
30	22	530·90	380·23	267·67	261·02
40	30	704·18	528·69	357·63	339·46
50	37	840·23	639·92	428·09	439·61
60	45	1 006·86	784·39	523·37	527·80
75	55	1 628·17	951·46	634·60	639·92
100	75	2 174·14	1 174·41	845·55	862·39

The above prices apply to electric multi-phase motors, of IP 44 enclosed design, type B3 (with retaining legs).

For other types (e.g. B5 or B14) or modification (such as tropicalization, shaft ends for specific uses, particular types of insulation, etc.) a supplement of 5 % of the price specified above will be applied.