COMMISSION REGULATION (EEC) No 757/84

of 22 March 1984

imposing a provisional anti-dumping duty on imports of certain electronic scales originating in Japan

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 30 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 11 thereof,

After consultations within the Advisory Committee as provided for by the above Regulation,

Whereas :

A. Procedure

(1) On 6 April 1983 the Commission received a complaint lodged by the European Committee of Weighing Instrument Manufacturers (CECIP) on behalf of producers accounting for about 80 % of Community production of electronic scales. The complaint contained evidence of dumping and of material injury resulting therefrom which was considered sufficient to justify the initiation of a proceeding. The Commission accordingly announced, by a notice published in the *Official Journal of the European Communities* (3), the initiation of an anti-dumping proceeding concerning imports into the Community of scales for use in the retail trade which incorporate a digital display of the weight, unit price and price to be paid and sometimes a printout of these three functions, and are commonly referred to as electronic scales falling within heading No ex 84.20 of the Common Customs Tariff, corresponding to NIMEXE code ex 84.20-81 and originating in Japan. The Commission then commenced an investigation.

(2) The Commission officially so advised the exporters and importers known to be concerned, the representatives of the exporting country and the complainants, and gave the parties directly concerned the opportunity to make known their views in writing and to request a hearing. All the known exporters and most importers made their views known in writing and some of them requested and were granted hearings.

(3) For the purpose of a preliminary determination the Commission requested and received detailed written submissions from complainant Community producers, exporters and importers. The information received was also checked by means *inter alia* of investigations carried out at the premises of Community producers and Japanese producers and/or exporters, including W & T Avery Ltd, Ishida Scales Manufacturing Co. Ltd, Kubota Ltd, Teraoka Seikosno Co. Ltd, Tokyo Electric Co. Ltd, Yamato Scales Co. Ltd and C. Itoh Electronics Ltd.

(4) The investigations revealed that the complainants Berkel GmbH and Alfred Herbert & Sons Ltd had links with the Japanese exporters of the products in question and had consequently, by virtue of Article 4 (5) of the abovementioned Regulation (EEC) No 3017/79, to be deleted from the list of complainants in the proceeding in hand. In the light of this, complainant Community producers represent 72 % of the Community's production of electronic scales.

(5) The investigation of dumping covered the period September 1982 to August 1983.

B. Normal value

(6) For imports of all scales from Kubota and Ishida and some Yamato and Teraoka models, normal value was provisionally determined on the basis of the actual prices of domestic sales in Japan. For Kubota the domestic selling prices were adjusted to take account of the fact that the goods had been sold at a loss, the adjustment being equivalent to the loss plus an 8 % profit margin, which was considered reasonable in the light of the

(1) OJ No L 339, 31. 12. 1979, p. 1.
(2) OJ No L 178, 22. 6. 1982, p. 9.
(3) OJ No C 236, 3. 9. 1983, p. 5.

performance of Japanese manufacturers of scales over the past three years.

(7) For imports of other Yamato and Teraoka models and all scales from Tokyo Electric Co., normal value was provisionally determined on the basis of production costs and overheads plus a reasonable margin of 8 %, determined as indicated above. The use of a constructed value was justified either, as in the case of Yamato, Teraoka and some Tokyo Electric Co. models, by the absence of any like product or, as in the case of two other models exported by Tokyo Electric Co., by the fact that there had been no sales of like products on the Japanese domestic market in the ordinary course of trade.

C. **Export prices**

(8) Export prices were determined on the basis of the prices actually paid or payable for the products sold for export to the Community. However, where exports were made to associated companies or subsidiaries in the Community, export prices were constructed on the basis of the prices at which the imported product was first resold to an independent buyer, suitably adjusted to take account of all costs incurred between importation and resale, including customs duty, and of a profit margin of 8 %, which was considered reasonable in the light of the profit margins of independent importers of the products concerned. In particular, the products of Kubota Ltd are exported to the Community by a Japanese firm, C. Itoh Electronics Ltd, and the export prices taken into consideration were the latter's.

(9) Several Japanese exporters pointed out that, since the export price and the normal value were not on a comparable basis, appropriate allowances should be made in accordance with Article 2 (10) of Regulation (EEC) No 3017/79, which provides for consideration of differences affecting price comparability.

Accordingly, adjustments were made to take account where appropriate of differences in payment terms, levels of trade and technical characteristics affecting price comparability, where such differences could be satisfactorily established.

D. **Margins**

(10) The above preliminary examination of the facts shows the existence of dumping by all exporters involved, the dumping margin being equal to the amount by which the normal value as established exceeds the price for export to the Community. These margins vary according to the exporter, the importing Member State and the type of electronic scales concerned, the weighted average margin for each of the exporters investigated being as follows :

— C. Itoh Electronics Ltd (exporter of scales manufactured by Kubota Ltd) : 51,88 ECU,

— Yamato Scale Co. Ltd : 16,50 ECU,

— Ishida Scales Manufacturing Co. Ltd : 10,56 ECU,

— Teraoka Seikosno Co. Ltd : 34,27 ECU,

— Tokyo Electric Co. Ltd : 21,05 ECU.

E. **Injury**

(11) With regard to the injury caused by the dumped imports, the evidence available to the Commission shows that imports of electronic scales from Japan rose steeply from 4 167 units in 1980 to 8 315 units in 1982. The investigation also showed that total recorded Japanese exports of these products to the Community from September 1982 to August 1983 reached 9 445 units, with a consequent increase in the share of the Community market held by Japanese imports from 6,01 % in 1980 to 10,05 % in 1982. Moreover, it has been noted that the resale prices on the Community market of certain Japanese weighing scales have undercut by more than 50 % the selling prices of like products manufactured by the Community industry.

(12) The Community industry in respect of which the impact of the dumped imports must be assessed consists of the European manufacturers of electronic scales.

(13) For the Community industry, the main effects of the dumping have been price depression reaching 10 % in certain instances, a fall in employment by more than 700 units since 1980, and the achievement of profit levels below those necessary to enable this advanced technology sector to undertake the investment needed to improve productivity and develop its products.

(14) The Commission considered whether injury had been caused by other factors such as the volume and prices of other imports or the trend of demand. Imports into the Community from all origins other than Japan fell from 4 581 to 1 704 units between 1980 and 1982. Consumption in the Community increased during the same period. It was, however, established that the reduction in imports from other sources had benefited the dumped imports more than Community production.

(15) Therefore the sharp increase in the dumped imports and the prices at which they are offered for resale in the Community led the Commission to find that the effects of the dumped imports of certain electronic scales originating in Japan must be regarded as a cause of material injury to the Community industry concerned.

F. **Community interest**

(16) After having considered both the interests of the Community and the dumping and the injury provisionally established, the Commission has come to the conclusion that action should be taken. In order to prevent further injury being caused during the remainder of the proceeding, this action should take the form of the remainder of the proceeding, this action should take the form of a provisional anti-dumping duty.

G. **Rate of duty**

(17) Having regard to the extent of injury caused, the duty should in all cases correspond to the margin of dumping provisionally determined. In the case of products from Japanese exporters not known to the Commission, it should correspond to the highest such margin recorded.

(18) A period should be fixed within which the parties concerned may make their views known and request an oral hearing,

HAS ADOPTED THIS REGULATION :

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of scales for use in the retail trade which incorporate a digital display of the weight, unit price and price to be paid and sometimes a printout of these three functions, and are commonly referred to as electronic scales falling within heading No ex 84.20 of the Common Customs Tariff, corresponding to NIMEXE code ex 84.20-81 and originating in Japan.

2. The amount of the duty shall be equal to 51,88 ECU per item, with the following exceptions :

— 16,50 ECU per item for scales manufactured and exported by Yamato Scale Co. Ltd,

— 34,27 ECU per item for scales manufactured and exported by Teraoka Seikosno Co. Ltd,

— 10,56 ECU per item for scales manufactured and exported by Ishida Scales Manufacturing Co. Ltd,

— 21,05 ECU per item for scales manufactured and exported by Tokyo Electric Co. Ltd.

3. The provisions in force concerning customs duties shall apply to this duty.

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

Article 2

Without prejudice 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 one 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, it shall apply for a period of four months, unless the Council adopts definitive measures before the expiry of that period.

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

Done at Brussels, 22 March 1984.

For the Commission

Étienne DAVIGNON

Vice-President