COMMISSION REGULATION (EEC) No 1043/87

of 10 April 1987

imposing a provisional anti-dumping duty on imports of standardized multi-phase electric motors having an output of more than 0,75 kW but not more than 75 kW, originating in Yugoslavia

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2176/84 of 23 July 1984 on protection against dumped or subsidized imports from countries not members of the European Economic Community (1), and in particular Article 11 thereof,

After consultation within the advisory committee as provided for under that Regulation,

Whereas :

A. Procedure

(1) In October 1986 the Groupement des industries de matériel d'équipement électrique et de l'electronique industrielle associés (Gimelec), supported by the Zentralverband der Elektrotechnischen Industrie (Zvei), the Rotating Electrical Machines Association (REMA), the Fédération des Entreprises de l'industrie des fabrications métallurgiques, mécaniques, électriques et de la transformation des matières plastiques (Fabrimetal) and the Associazione Nazionale Industrie Elettrotecniche ed Elettroniche (ANIE), lodged with the Commission a complaint that imports of certain standardized multi-phase electric motors, originating in Yugoslavia, were being dumped and were causing injury to a Community industry.

The complainants represent a large proportion of total Community production of the products in question.

(2) The complaint concerning imports from Yugoslavia was lodged with a view to extending the anti-dumping proceeding previously initiated concerning concerning imports of similar motors originating in Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania and the Soviet Union (2). Although this new proceeding concerning Yugoslav electric motors is separate from the review referred to above, it nevertheless deals with the same products. In addition, the reference periods chosen for assessing the situation are practically the same. The Commission, in reaching its preliminary conclusions regarding the Yugoslav imports in question, therefore took particular account of the Council's definitive conclusions concerning injury, causal link and Community interest in the sector in question, set out in Council Regulation (EEC) No 864/87 (3).

(3) The complaint included evidence of dumping and of consequent material injury for the Community industry manufacturing the standardized multi-phase electric motor in question. This evidence was considered sufficient to justify the initiation of a proceeding and the Commission therefore announced, by a notice in the *Official Journal of the European Communities* (4), the initiation of an anti-dumping proceeding concerning imports of standardized multi-phase electric motors having an output of more than 0,75 kW but not more than 75 kW, originating in Yugoslavia.

(4) The products concerned by the complaint are standardized multi-phase electric motors having an output of more than 0,75 kW but not more than 75 kW, falling within subheading ex 85.01 B 1 b) of the Common Customs Tariff, corresponding to NIMEXE codes ex 85.01-33, ex 85.01-34 and ex 85.01-36.

(5) The Commission officially informed the exporters and importers known to be concerned, the representatives of the exporting countries, and the complainants of the opening of the proceeding and gave the parties directly concerned the opportunity to make known their views in writing and to request to be heard orally.

Most of the Community manufacturers, certain importers, and the Yugoslav exporters known to be concerned — Rade-Koncar, Sever and Elektrokovina — made known their views in writing, in particular on the question of injury and its causes. The information thus gathered was checked by the Commission where necessary.

(6) In order to make a preliminary assessment of dumping and injury, the Commission carried out inspections at the premises of the following companies :

(1) OJ No L 201, 30. 7. 1984, p. 1.
(2) OJ No C 305, 26. 11. 1985, p. 2.
(3) OJ No L 83, 27. 3. 1987, p. 1.
(4) OJ No C 282, 8. 11. 1986, p. 2.

— *Community producers:*

— Federal Republic of Germany:

— BBC-Deutschland (Saarbrücken),

— Loher (Ruhstorff),

— Schorch (Mönchengladbach),

— Siemens (Erlangen),

— France:

— BBC-France (Lyon),

— Leroy-Somer (Angoulême),

— Italy:

— Ansaldo-Marelli/CEE (Milan),

— Electro-Adda (Baverate),

— Fimet (Turin),

— Lafert (S. Dona di Piave),

— Yugoslav exporters:

— Rade-Koncar (Zagreb),

— Sever (Subotica),

— Elektrovokina (Maribor).

(7) As several importers made their views in writing, the arguments presented by the following companies were also taken into account by the Commission:

— Sermes, Strasbourg,

— Rade-Koncar, Milan,

— Smem, Monza,

— Ceam, Inveruno,

— Incontrera & Wenninger, Milan,

— Sever Agrovojvodina, Copenhagen,

— Sever Agrovojvodina, Munich,

— Sever, Maidstone.

(8) The reference period adopted by the Commission for investigating whether dumping had occured was 1 January to 31 December 1985. The same reference period was used to examine price factors affecting injury.

B. Definition of the products

(9) The products alleged to have been dumped are AC standardized multi-phase electric motors having an output of more than 0,75 kW but not more than 75 kW.

In accordance with current commercial practice in the industry, the expression 'standardized multi-phase motors' is taken to include all motors subject to international norms, in particular those of the International Electrotechnical Commission (IEC).

The motors in question have the following standard rotation speeds: 3 000 rpm, 1 500 rpm, 1 000 rpm or 750 rpm; the following standard output: 1,1, 1,5, 2,2, 3, 4, 5,5, 7,5, 11, 15, 18,5, 22, 30, 37, 45, 55 or 75 kW; and the following standard spindle height: 80, 90, 100, 112, 132, 160, 180, 200, 250, 280 or 315 mm.

(10) Given the relatively high degree of international standardization in the manufacture of such motors, each type of standardized motor originating in Yugoslavia constitutes a like product to the same type of Community standardized motor, though there may be differences in physical characteristics.

(11) Given the large number of motors concerned by this proceeding (more than 64 types), the Commission considered that a sample of six precisely defined types of motor (1 500 rpm 4-pole motors of the following powers: 1,1 kW, 3 kW, 5,5 kW, 11 kW, 30 kW and 75 kW) of the category with the highest sales in the Community (enclosed, blower-cooled, type B3 motors with retaining legs, IP 44/54, 220/380/V, 50 Hz) was representative for the calculation of dumping margins and the determination of price-linked factors affecting injury (import and resale prices, production costs and price undercutting margins).

The validity of that method and the representative nature of that sample were not disputed.

C. Normal value

(12) The normal value of exports by each of the Yugoslav producers/exporters was established on the basis of the comparable prices actually paid or payable in the ordinary course of trade for the like product intended for consumption in Yugoslavia. It was calculated on the basis of the average sales prices during the reference period.

D. Export prices

(13) For each of the Yugoslav producers/exporters the Commission based export prices on the price actually paid or payable on exports to each of the main Community markets.

E. Comparison

(14) In comparing normal value with export prices at the ex-works stage for each of the like products, the Commision took account of differences affecting price comparability and made appropriate allowances where the interested parties showed that such a request was justified. Allowances were made for

payment, credit and guarantee conditions, after-sales service, salaries paid to sales staff, packaging, transport, insurance, handling and loading and associated costs, where these differences had a direct functional relationship to the sales in question.

An allowance was also made for the refund on exports to the Community of import charges borne by materials physically incorporated into such electric motors when the said motors are sold on the Yugoslav market.

The Yugoslav exporters requested a number of other allowances.

(15) The first request was for an allowance for differences in advertising costs.

However, the exporters were unable to show that these costs were directly linked to the sales in question ; the Commission therefore considered them to be general expenses, for which no allowance is made.

(16) The second request concerned an allowance for the cost of financing stocks intended for the domestic market.

The Commission considered these costs to be general expenses, for which no allowance is made. The Yugoslav exporters were unable to prove that the level of stocks in question was needed in order to satisfy the particular conditions of sales contracts for the Yugoslav market.

(17) A similar request concerned an allowance for the cost of joint financing by the producers of certain investments on the part of their suppliers.

For reasons similar to those given at point 16, the Commission considered these costs to be general expenses, for which no allowance is made.

(18) The fourth request was for an allowance to take account of the fact that raw materials purchased in Yugoslavia for the manufacture of electric motors for the Yugoslav market are more expensive than those purchased on the world market for the production of electric motors for export.

The investigation showed that use of raw materials of different origins did not result in differences in physical characteristics between Yugoslav motors sold on the domestic market and those exported to the Community, nor any other difference affecting price comparability within the meaning of Article 2 (10) of Regulation (EEC) No 2176/84.

(19) The fifth request concerned an allowance for inflation in Yugoslavia between the date of sale and date of payment, which would have the effect of reducing the domestic selling prices.

The Commission notes that due allowance has been made for conditions of payment, which are influenced in a market economy by the rate of inflation on that market. The relevant Community rules make no provision for a further allowance.

(20) The sixth request concerned allowances in respect of various export premiums paid by the Federal and provincial governments to encourage the acquisition of convertible currency.

Apart from the fact that the exporters were not always able to provide evidence of the amounts received under this programme during the period covered by the investigation, it was not proved that the programme would constitute a refund of import charges as referred to in Article 2 (10) (d) of Regulation (EEC) No 2176/84 and defined in the notes contained in the Annex to that Regulation.

(21) One of the exporters requested an allowance for an exemption from local and provincial taxes on salaries and profits, granted to it as an enterprise strongly geared to exports.

This request was rejected because the tax relief in question consists of a reduction in direct taxation, and therefore is not covered by Article 2 (10) (d) of Regulation (EEC) No 2176/84.

(22) Finally, the eighth request concerned an allowance for the fact that the official exchange rate for the Yugoslav dinar allegedly did not correspond to the real value of the currency.

The Commission notes that companies operating in Yugoslavia use the official exchange rate for the conversion of both import and export transactions carried out in foreign currency. The Commission therefore used the official Yugoslav dinar exchange rate for the comparison of prices.

F. Dumping margins

(23) Examination of the facts showed that all the transactions concerned involved substantial dumping. Dumping margins for each type of motor were calculated by comparing the average price on export to each of the main Community markets

with normal value as determined; this calculation showed that the dumping margin varied relatively little from one type of motor to another but differed substantially between exporters and between import markets.

(24) The average weighted dumping margins for all the motor types in the representative sample represented the following percentages of the free-at-Community-frontier price, not cleared through customs: Elektrokovina, 130 %; Rade-Koncar, 132 %; Sever, 97 %.

(25) It should be noted that the above dumping margins apply to the motors in the sample (type B3 motors). The investigation of Yugoslav producing/exporting firms showed that other types of motors (e.g. B5 or B14) were marketed in Yugoslavia subject to a price supplement of between 5 % and 20 %. The price of exports to the Community of such motors (B5, B14, etc.) originating in Yugoslavia, on the other hand, is very little — if at all — higher than that of B3 motors. The above dumping margins are thus lower than the dumping margins which would have been established if all types of standardized motor (B3 plus B5, B14, etc.) had been considered.

G. Injury

(26) Community import statistics for the multi-phase motors in question show a substantial increase in imports of motors originating in Yugoslavia between 1983, when 153 000 motors were imported, and 1985, when the figure was 496 300; in particular, imports to Italy rose from 49 600 motors to 410 800 motors.

These figures, and in particular the Italian import statistics for 1984/85, were disputed by the three Yugoslav producers/exporters. Almost all the Italian firms and organizations consulted also considered these figures exaggerated, their opinion being that Yugoslav single-phase motors — not covered by the proceeding — had been declared, whether intentionally or in error, as multi-phase motors. This view may be corroborated by the fact that, in the Italian import statistics, the growth in the number of Yugoslav motors declared on import as multi-phase coincided with a corresponding fall in the number of Yugoslav motors declared on import as single-phase.

In these circumstances, the Commission judges that the Yugoslav request for consideration of import figures other than those in the official statistics is justified. At the present stage of the proceeding, the best information available results from direct checks made by the Commission with the three Yugoslav producers/exporters concerned. On the basis of these checks, a minimum of 100 000 of the standardized multi-phase electric motors in question were imported into the Community in 1983, 123 000 in 1984 and 116 800 in 1985. Imports into Italy were at least 35 500 in 1983, 49 000 in 1984 and 52 900 in 1985.

The absolute value of imports of these motors from Yugoslavia therefore increased from 1982 to 1985 by 16 % for the Community as a whole and 49 % for Italy specifically.

(27) These quantities correspond to an overall market share during the period 1982 to 1985 in the region of 3,2 % to 3,3 % for the Community as a whole, with growing penetration of the two markets where Yugoslav imports are concentrated: between 1982 and 1985, their market share grew from 3,9 % to 4,8 % in Italy and from 13 % to 16 % in Denmark.

(28) The investigation also showed that each type of standardized multi-phase electric motor originating in Yugoslavia was, by virtue of the international standardization referred to at point 10, interchangeable with similar Community motors and with similar motors originating, in particular, in the State-trading countries.

It was therefore established that all Yugoslav standardized multi-phase electric motors covered by this proceeding, and those originating in the State-trading countries and covered by the review proceeding mentioned above, were in competition on the Community market with each other and with like Community products.

(29) Commission Regulation (EEC) No 3019/86 [1] and Regulation No 864/87 established that the Community standardized multi-phase electric motor industry has suffered material injury from the effects of the dumped imports in question originating in Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania and the USSR.

It is clear that an established material injury to a Community industry is bound to be aggravated by an additional, though smaller, injury caused by dumped imports of similar products originating in another exporting country.

(30) That is indeed the case here, imports from Yugoslavia, particularly since 1982, having held a significant share of the Community market — more than 3 %, in addition to the approximately 20 % already held by imports from the State-trading countries — and having been sold at prices similar to, or even below, those of motors from the State-trading countries.

[1] OJ No L 280, 1. 10. 1986, p. 68.

(31) As the investigation had shown that almost all industrial-scale Community manufacturers (1) were making losses on their production of standardized multi-phase electric motors (see Regulation (EEC) No 864/87), the Commission examined the gap between the cost price of the most efficient Community manufacturers on each market and the selling price of motors originating in Yugoslavia. There was considerable undercutting varying on average between 15 % and 35 % of the reference cost price.

It should also be noted that the ex-importer resale prices of motors originating in Yugoslavia have been significantly undercutting Community manufacturers' selling prices, by an average of between 10 % and 30 % of the selling prices of the most efficient producers.

The selling prices of the motors in question originating in Yugoslavia are thus far too low to allow Community manufacturers to cover their costs, by which is meant solely the cost of production plus overheads and general expenses, excluding profit.

(32) The Council's conclusions regarding imports originating in the State-trading countries, set out in Regulation (EEC) No 864/87, can therefore in substance be applied to imports of like products originating in Yugoslavia.

Although production and sales of standardized multi-phase electric motors by Community manufacturers have been rising since 1982, owing to the revival of economic activity and consumption of electric motors in the Community, the fact remains that the extremely low import prices of Yugoslav motors (which, at the cif free-at-Community-frontier stage, are about 43 % of Community manufacturers' average cost price for motors with the same physical characteristics) have exerted a strong downward pressure on Community manufacturers' prices. This is shown by the existence of large-scale price undercutting. Further, it is clear that the margin of undercutting, whether in relation to manufacturers' selling prices or cost prices, is wholly attribuable to dumping by the Yugoslav exporters.

(33) In the light of the analysis at points 26 to 32 of this Regulation and of the Council's conclusions regarding injury and causal link in the sector in question, set out in Regulation (EEC) No 864/87, which substantially apply also to Yugoslav imports, the Commission is convinced that the injury caused by the massive dumping of those imports must of itself be considered material injury.

H. Community interest : form and rate of the duty

(34) As in the case of imports of standardized multi-phase electric motors originating in the State-trading countries, and for the same reasons, the Commission considers that Community interests require the adoption of a trade protection measure against the Yugoslav imports proved to have been dumped, in order to eliminate the injury caused by those imports.

(35) In order to avoid discrimination, and for the same factual reasons, the form and rate of the provisional anti-dumping duty to be imposed must be similar to those finally imposed by the Council on imports of motors originating in the State-trading countries.

— The most appropriate type of anti-dumping duty will therefore be a variable duty reflecting the difference between a minimum price expressed in ECU for each type of motor and the price to the first independent buyer.

As certain importers, in particular Sever Agrovojvodina of Copenhagen and Sever Agrovojvodina of Munich, are linked to an exporter by an association or a compensatory arrangement with a third party within the meaning of Article 2 (8) (b) of Regulation (EEC) No 2176/84, the Commission considers it necessary to take as a reference point in calculating the anti-dumping duty for those importers the price paid by the first buyer not associated with the exporter. In the case of the importers in question, the net unit price, free-at-Community-frontier, will correspond to the customs value as determined in accordance with Article 6 of Council Regulation (EEC) No 1224/80 of 28 May 1980 on the valuation of goods for customs purposes (2).

— The minimum price for each type of motor concerned has been based on the production costs of the most efficient industrial producers. A gross profit margin of 4 % of the cost price has been included to reflect the conditions of competition between Community producers.

(1) In other words, not artisanal.

(2) OJ No L 134, 31. 5. 1980, p. 1.

On the basis of the Community reference cost price and the abovementioned profit margin, and given that there are no differences in physical characteristics between the imported motors and the Community motors, the Commission has determined the price increases necessary at the cif free-at-Community-frontier stage (see Annex).

The price increases for 4-pole motors represent a rise of approximately 30 % over import prices during the reference period.

The rate of the provisional anti-dumping duty is therefore much lower than the dumping margins established. However, having regard to the selling price needed to provide efficient Community producers with a reasonable profit, it should be sufficient to remove the injury caused by the imports concerned to the Community standardized multi-phase electric motor industry.

I. Final procedural provisions

(36) A period should be fixed following imposition of the provisional duty within which the interested parties may make known their views in writing and request an oral hearing,

HAS ADOPTED THIS REGULATION :

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of standardized multi-phase electric 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, ex 85.01-34 or ex 85.01-36, originating in Yugoslavia.

2. The expression 'standardized multi-phase motors' shall include all motors subject to international norms, in particular those of the International Electrotechnical Commission (IEC). The motors in question have the following standard rotation speeds : 3 000 rpm, 1 500 rpm, 1 000 rpm or 750 rpm ; the following standard output : 1,1, 1,5, 2,2, 3, 4, 5,5, 7,5, 11, 15, 18,5, 22, 30, 37, 45, 55 or 75 kW ; and the following standard spindle height : 80, 90, 100, 112, 132, 160, 180, 200, 250, 280 or 315 mm.

3. The amount of duty shall be equivalent, for each type of motor, to the difference between the net unit price, free-at-Community-frontier, not cleared through customs, and the price specified in the Annex.

The said free-at-Community-frontier price, not cleared through customs, shall be net if the actual terms and conditions of sale provide that payment shall be made within 30 days of the date of dispatch ; it shall be lowered by 1 % for each month by which payment is actually deferred.

4. (a) Where it appears to the customs authorities that there is an association or a compensatory agreement between the exporter and the importer or a third party wthin the meaning of Article 2 (8) (b) of Regulation (EEC) No 2176/84, the price actually paid or payable for the product sold for export to the Community may not be used as a reference in establishing the net unit price, free-at-Community-frontier, mentioned in paragraph 3.

The unit price, free-at-Community-frontier, shall in this case correspond to the customs value as it could be determined in accordance with Article 6 of Regulation (EEC) No 1224/80. Failing this, where in the case of an associated importer the customs value cannot be determined in accordance with the above provisions, the net price, free-at-frontier, shall correspond to the customs value as determined in accordance with Article 2 (3) of that Regulation.

(b) The provisions of subparagrph (a) shall apply *inter alia* to motors originating in Yugoslavia imported by the companies named below :

— Sever Agrovojvodna, Copenhagen,

— Sever Agrovojvodina, Munich.

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

6. The provisions in force with regard to customs duties shall apply subject to the provisions of this Regulation.

Article 2

Without prejudice to Article 7 (4) (b) and (c) of Regulation (EEC) No 2176/84, interested parties 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.*

Without prejudice to Articles 11, 12 and 14 of Regulation (EEC) No 2176/84, this Regulation 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, 10 April 1987.

For the Commission

Willy DE CLERCQ

Member of the Commission

ANNEX

Minimum prices for imports into the Community of certain standardized multi-phase electric motors originating in Yugoslavia

The minimum import prices referred to in Article 1 (3) of this Regulation are shown in the following table, expressed in ECU.

These prices apply to type B3 multi-phase electric motors (with retaining legs).

For other types (e.g. type B5 or B14) a supplement of 7 % must be added to the prices given below.

kW	hp	3 000 rpm	1 500 rpm	1 000 rpm	750 rpm
1,1	1,5	40,3	41,7	57,9	89,1
1,5	2	45,4	49,1	68,3	105,0
2,2	3	59,1	60,4	89,1	135,8
3	4	70,0	72,5	108,3	162,0
4	5,5	87,5	92,0	136,2	195,8
5,5	7,5	113,3	117,0	177,4	241,2
7,5	10	143,7	150,8	204,5	299,5
11	15	194,1	200,3	295,7	403,2
15	20	244,9	261,6	387,3	519,4
18,5	25	314,0	319,0	475,2	644,3
22	30	375,7	375,7	558,1	794,7
30	40	501,5	495,6	739,3	1 023,3
37	50	627,2	614,8	911,3	1 244,1
45	60	704,7	729,3	1 090,8	1 461,1
55	75	945,5	911,3	1 356,1	1 776,8
75	100	1 261,5	1 207,0	1 799,7	2 287,4