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(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 2005/88

of 5 July 1988

imposing a provisional anti-dumping duty on imports of serial impact fully formed character printers 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 2176/84 of 23 July 1984 on protection against dumped or subsidized imports from countries not members of the European Community (1), as amended by Regulation (EEC) No 1761/87 (2), and in particular Article 11 thereof,

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

Whereas :

A. Procedure

(1) In March 1987 the Commission received a complaint lodged by the Committee of European Printer Manufacturers (Europrint) on behalf of producers whose collective output was stated to constitute a major proportion of Community production of the product in question. The complaint contained evidence of dumping of the product concerned originating in Japan 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 fully formed character (daisy wheel) printers corresponding to CN code ex 8471 92 90, originating in Japan, and 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.

Two of the known Japanese exporters, some importers and all known Community producers made their views known in writing.

Submissions were also made by a number of dealers, end users and organizations representing Community purchasers of the product.

(3) The Commission sought and verified all information it deemed to be necessary for the purposes of a preliminary determination and carried out investigations at the premises of the following :

(a) *EEC producers :*

— Olivetti Peripheral Equipment SpA, Italy,

— Triumph-Adler, GmbH, Germany ;

(b) *Japanese exporters :*

— Tokyo Electric Co. Ltd, Tokyo,

— Tokyo Juki Industrial Co. Ltd, Tokyo ;

(c) *Importers in the Community :*

Juki Europe GmbH, Germany.

(4) The Commission requested and received detailed written submissions from the complainant Community producers, the two exporters and some importers, and verified the information therein to the extent considered necessary.

(5) The investigation of dumping covered the period from April 1986 to March 1987 inclusive.

(1) OJ No L 201, 30. 7. 1984, p. 1.
(2) OJ No L 167, 26. 6. 1987, p. 9.
(3) OJ No C 121, 7. 5. 1987, p. 4.

B. Product under consideration, like product and Community industry

(6) The products under consideration are serial impact fully formed character (SIFF) printers. These printers are computer printers which means that they are computer driven and print only information which is already contained in the computer. Their printing technology is that of impact by which a hammer strikes an inked ribbon to cast a figure on paper. SIFF printers use a device known as a daisy wheel as the print element. This revolves at high speed to position spokes bearing a character. These spokes are struck by a hammer to print characters.

(7) There are numerous different SIFF printers on the Community market. According to the information available, different models were sold during the reference period ranging from low cost, low speed daisy wheel printers dedicated to small business applications and word processing (low end of the market) to expensive, high speed, heavy duty printers dedicated to word processing systems with high throughput (high end of the market). Between the low end and the high end of the market there is a variety of printer models to meet the requirements of the different kinds of user.

(8) In order to determine the like product in these proceedings, where a variety of printers is concerned, the Commission's analysis had to consider whether SIFF printers form one single category of products or whether they fall into different categories separated by clearly defined dividing lines. In this respect, the Commission found that all SIFF printers are based on the same basic technology as described above and that their basic physical and technical characteristics are identical. As far as the different print speed, the different size and weight, the different features and specifications, accessories, softwares or interfaces are concerned, all these differences may have effects on the quality and the application of the printer but do not change the basic physical and technical characteristics. Moreover, the Commission took the view that differences in physical or technical characteristics should not cause products to be considered as not 'like' each other unless these differences have the effect that the application, use or customer's perception of the products in question are fundamentally different. The identity of the technology and the similarity of the basic physical and technical characteristics, therefore, indicate that there exists only one category of printers.

(9) Since there are, however, numerous different printer models on the Community market, the Commission examined whether characteristics other than basic physical and technical characteristics such as print speed, number of needles in the print head, weight, etc., should be used to find a clear dividing line between the printer models. The Commission found, however, that no generally accepted criteria exist do differentiate between printer models. At the same time, the technical characteristics of SIFF printers are subject to rapid development and changes. Indeed, the Commission found that the SIFF printer market is best considered as a series of products with no clearly defined boundaries between them. It seems probable that with further technical development the boundaries between the different models will, if they exist at all, be variable. The Commission therefore concluded that the differences in characteristics other than basic technical and physical characteristics are not sufficient to establish clearly defined dividing lines between the different printers.

(10) Regarding the application, use and consumers' perception of the SIFF printers, the Commission noted first that they all have the same basic application and perform the same basic function, namely to print onto paper or other print medium information which is contained in a computer. In this respect, and as far as the consumers' perception of the printers is concerned, the Commission is aware that the different printer models are intended to meet different end user requirements according to their print speed, size, features, software and interface. However, it has also been found that there are only two main applications, either personal or business. Further, a printer destined for business use can easily be used by consumers for their personal applications. The Commission acknowledges that the degree of commercial interchangeability between the different printer models decreases as the differences in their features and specifications increase. However, this does not mean that there is a clear dividing line based on end users' application and consumers' perception separating these models. Instead, the Commission found that there are important overlapping areas of competition between the different printer models. It therefore concluded that, besides the identity of the basic application and use, there is, at least to a certain degree, interchangeability between the different printer models.

(11) As far as the other factors for drawing a clear dividing line between the different printer models are concerned, the Commission found that, in the past, technical progress led to rapidly changing printer models. The Commission has also found that the producers themselves make no distinction between their different SIFF printers, classified in different market segments, with regard to production, distribution or accounting. Both European and Japanese SIFF printer manufacturers have, for all their different printer models, similar production equipment and use the same employees, i.e. all SIFF printers are a product of similar manufacturing processes. Further, the same distribution channels and the same internal accounting are used for all SIFF printer models.

(12) The Commission therefore considered that the similarities of all SIFF printers, as far as their technical and physical characteristics, as well as their application and end use are concerned, outweighed, for the purposes of these proceedings, their differences. It has therefore come to the conclusion that all SIFF printers are sufficiently alike to be considered as like products in the context of these proceedings.

(13) As far as the determination of the European Industry is concerned and according to the information available to the Commission, there are five producers of SIFF printers in the Community. The invetigation has shown that, during the period under investigation, the two Europrint members manufactured about 60 % of the total Community output of SIFF printers, hence a major proportion of the total Community production of the like product within the meaning of Article 4 (5) of Regulation (EEC) No 2176/84. The Commission therefore interpreted the term Community industry as referring to the two Community producers which are members of Europrint.

C. Normal value

(14) For the purposes of establishing normal value, neither exporter's volume of own brand sales on the domestic market of the like product was more than the threshold, established by the Commission in previous cases, of 5 % of the volume of exports of these models to the Community. The Commission thus considered such sales to be insufficient to be representative and determined normal value for all models on the basis of constructed value. The constructed value was established on the basis of the costs, both fixed and variable, in the country of origin of materials and manufacture for the model exported to the Community plus a reasonable amount for selling, administrative and other general expenses and profit.

(15) As regards the amounts of selling, administrative and other general expenses and profit to be included in such constructed values, both exporters concerned had no, or insufficient, profitable sales on the domestic market of the like product. Accordingly, the calculation of the relevant costs and profit for establishing normal value was based, for one exporter, on the expenses incurred and profit realized on its profitable sales on the domestic market of dot matrix printers. These printers were considered to be the most appropriate products in the same general business sector as the product in question since this was the only printer with impact technology sold domestically by the company concerned. The only printers with impact technology sold domestically by the other exporter were line printers and, accordingly, this product was considered to be the most appropriate for the purposes of calculating a reasonable amount for selling, administrative and other general expenses and profit to be added to the manufacturing cost to establish normal value for that company. No evidence was submitted to suggest that the expenses incurred and profit realized for the various products i.e. dot matrix, daisy wheel and line printers would be significantly different and this method was also proposed by the two exporters concerned.

(16) Where allocations were required for the addition of sales, administrative and other general expenses these were generally made on the basis of turnover. In other instances, the amount to be allocated was calculated on the basis of the exporter's accounting practice where the Commission was satisfied that the method used was reasonable for the particular costs concerned. For a number of costs, requests were made that allocations be made on the basis of neither turnover nor the company's normal accounting practice. Such requests were not considered acceptable, the suggested allocations being devised solely for the anti-dumping investigation in question. Accordingly, the Commission saw no reason to deviate from its practice of applying Article 2 (11) of Regulation (EEC) No 2176/84 by basing all cost calculations on available accounting data, normally allocated, where necessary, in proportion to the turnover for each product and market under consideration.

(17) In addition to own brand sales, one of the exporters concerned sold the product in question on an original equipment manufacturer (OEM) basis for export to the Community. These models were sold to, and subsequently by, the OEM companies under those companies' brand names. Some of these models had both a different design and different technical specifications from those sold under the manufacturer's own brand. However, the exporter concerned had insufficient profitable sales of the like product sold on an OEM basis on the domestic market which could be compared with their export sales of OEM models. In the absence of such sales on the domestic market, normal value was established on the basis of the constructed value of the product concerned.

(18) As regards selling, administrative and other general expenses and profit the Commission received no information on sales of the like product on an OEM basis on the domestic market by any other producer or exporter in Japan. Thus, the amount to be included for the exporter concerned was calculated on the basis of the expenses incurred and the profit realized by that exporter on its profitable sales to OEM's in the domestic market of dot matrix printers. These printers were considered to be the most appropriate products in the same general business sector as the product in question since this was the only printer with impact technology sold by that company domestically. No evidence was submitted to suggest that the expenses incurred and profit realized for the two products, i.e. dot matrix and daisy wheel would be substantially different and this method was proposed by the exporter concerned..

(19) One exporter claimed that selling, administrative and other general expenses incurred, and the profit made, by their sales organizations in Japan should not be included in the calculation of normal value, whether based on constructed value or on domestic prices. This, according to the exporter concerned, would assimilate the determination of normal value with the determination of the export prices to exporters' related sales organizations in the Community, where such costs are deducted in order to construct export prices.

(20) The Commission considers, however, that such expenses should in these cases be included in the determination of normal value.

(21) In the first place, it was established that the sales organization concerned has primarily functions which are those of a sales branch or department. Where the sales organization performed functions other than domestic sales (e.g. import and resales of products of other manufacturers) the Commission was satisfied that the costs relating to these other functions did not increase the allocation of costs to the sale of daisy wheel printers, the allocation being made on the basis of the total turnover of the sales organization.

(22) Secondly, a normal value based on domestic price is to be, according to Article 2 (3) of Regulation (EEC) No 2176/84, the price actually paid in the ordinary course of trade for the like product in the exporting country. Such a price will include sales, administrative and other general costs and profit which, in the case of the exporters in question, are the sales, administrative and other general costs and profit of their domestic sales organizations. Accordingly, in the view of the Commission, the costs of these sales organizations should be included in normal value when this is based on domestic prices.

(23) Thirdly, where normal value is based on constructed value, Article 2 (3) (b) (ii) of Regulation (EEC) No 2176/84 provides that a reasonable amount for selling, administrative and other general expenses (and profit) should be added to the costs of production. This is intended to lead to a normal value determination as if sales on the domestic market had taken place. For such domestic sales to be considered in the ordinary course of trade in the market under consideration, their prices should reflect an amount equal to that incurred by the seller for sales, administrative and general expenses. Since sales in the ordinary course of trade of daisy wheel printers in Japan are made for the most part through wholly-owned or controlled sales companies, and since these organizations have the functions of sales departments of the producing companies, the selling, administrative and general expenses incurred by the relevant sales companies of such exporters are costs which must be taken into consideration for the determination of the individual exporter's constructed normal value.

D. Export price

(24) With regard to exports by Japanese producers directly to independent importers in the Community, export prices were determined on the basis of the prices actually paid or payable for the product sold.

(25) In one case, exports were made to a subsidiary company which imported the product into the Community. In this case it was considered appropriate, in view of the relationship between exporter and importer, that export prices be constructed on the basis of prices at which the imported products was first resold to an independent buyer. Discounts, rebates and the value of free goods given in connection with sales were deducted from the price to this independent customer and suitable adjustment was made to take account of all costs incurred between importation and resale, including all duties and taxes.

(26) Where cost allocations were necessary in constructing export prices these were generally made on the basis of turnover. The costs and turnover used for this purpose were generally those of the related importers' last available financial year and accordingly based on audited accounts. Only where the Commission received satisfactory proof that an alternative method to an allocation based on turnover would more appropriately reflect the costs incurred was such a method used.

(27) These allocated costs included all selling, administrative and other general costs relating to the sales under consideration whether financed by the exporter or by the related importer.

(28) To arrive at a constructed cif Community frontier export price, adjustments were also made for Community customs duties and for a 5 % profit on sales turnover. The Commission received no information on the profitability of independent importers in the Community of the product concerned. However, in view of the Commission's understanding of the nature of the general business sector based on information received from importers of other types of printers, i.e. dot matrix printers, it was determined that a reasonable profit margin in terms of Article 2 (8) (b) of Regulation (EEC) No 2176/84 should be not less than 5 %. For the purposes of this provision, this percentage was accordingly applied to all sales of the related importer concerned to its first independent purchaser in the Community.

(29) As far as the export prices were concerned, the Commission verified, for the products of each exporter, at least 70 % of all transactions during the reference period. This quantity was considered representative of all transactions of the exporters during this period.

E. Comparison

(30) For the purpose of a fair comparison between normal value and export prices, the Commission took account, where appropriate, of differences affecting price comparability, such as differences in physical characteristics, and differences in conditions and terms of sale, where claims of a direct relationship of these differences to the sales under consideration could be satisfactorily demonstrated. This was the case in respect of differences in credit terms, warranties, commissions, salaries paid to salesmen, packing, transport, insurance, handling and ancillary costs.

(31) Normal value and export prices, the latter based on both prices paid and constructed export prices, were compared at the same level of trade. The prices or constructed values to which adjustments were made were established for exporting companies, domestic sales companies or sales organizations. Export prices were established ex-export sales company or sales organization. In order to place the export price and the normal value on a comparable basis, due allowance was made for differences affecting price comparability in accordance with Article 2 (9) and (10) of Regulation (EEC) No 2176/84.

(32) Claims were made for allowances under Article 2 (10) (c) of Regulation (EEC) No 2176/84 in respect of certain overheads and general expenses, notably advertising and sales promotion expenses. Article 2 (10) (c) provides, however, that allowances for differences in conditions and terms of sale shall be limited to those which bear a direct relationship to the sales under consideration, and that allowance for differences shall generally not be made for overheads and general expenses. The Commission was satisfied that, in the present case, the expenses claimed were of a general nature and did not fall into the category of directly related expenses. The Commission considered that in no case were the circumstances of the exporters concerned so exceptional as to require a departure from the general principle that no allowance is made for overheads and general expenses. Thus it considered that no allowance should be granted for differences in such costs.

(33) The point was also raised that since, in the case of associated importers, all costs of the importer are taken into account for the purpose of constructing the export price, an identical approach should be followed where sales on the domestic market are made through an associated sales company. This argument confuses two different issues, namely the construction of the export price on the basis of a

resale price of a related importer, and the comparison between normal value and export price. For the purpose of constructing the export price, Regulation (EEC) No 2176/84 prescribes the deduction of all costs incurred between importation and resale. This is designed to arrive at an export price which is not influenced by the relationship between the exporting company and its associated importers. As regards the comparison between normal value and export price, other rules apply which have led to price adjustments for all allowable factors, as explained under points 30 and 31 above.

F. Dumping margins

(34) Normal value for each of the models of each exporter was compared with export prices, adjusted where necessary, of comparable models on a transaction-by-transaction basis. The preliminary examination of the facts shows the existence of dumping in respect of imports of daisy wheel printers originating in Japan from both the Japanese exporters investigated, the margin of dumping being equal to the amount by which the normal value, as established, exceeds the price for export to the Community.

— Tokyo Electric Co. Ltd, Tokyo : 21,05 %,

— Tokyo Juki Industrial Co. Ltd, Tokyo : 22,01 %.

(35) For those exporters which neither replied to the Commission's questionnaire, nor otherwise made themselves known, dumping was determined on the basis of the facts available. In this connection the Commission considered that the information contained in the complaint provided the most appropriate basis for determination of the margin of dumping and that it would create an opportunity for circumvention of the duty to hold that the dumping margin for these exporters was any lower than the highest dumping margin (58 %) alleged in the complaint for a company which did not cooperate in the investigation. For these reasons it is considered appropriate to use this latter dumping margin for this group of exporters.

G. Injury

(36) As regards injury, no precise figures concerning total imports into and total consumption in the Community were available. According to the complainants, which based their assumption on their own market research, total SIFF printer consumption underwent the following development: 1983 — 199 560 units, 1984 — 297 517 units, 1985 — 289 725 units and 1986 — 263 840 units. At the same time, imports of SIFF printers into the Community from Japan increased from 140 260 units in 1983 to 216 179 units in 1984 but stabilized to 200 610 in 1985 and 195 000 in 1986. This development represents an increase in the market share held by Japanese producers in the Community from 70 % in 1983 to 74 % in 1986. During the same period, the market share of the two Europrint members increased from 6 % to 9 %.

(37) As far as prices are concerned, those of the Community producers showed, on average, a slight downwards trend throughout the period 1983 to 1987 (first three months) although their SIFF printer models were technically upgraded from year to year. As far as price undercutting is concerned, the Commission did not find that the two Japanese exporters which cooperated with the Commission undercut the prices of the Community manufacturers. However, these exporters supplied only 6 % of the Community market. As far as the non-cooperating Japanese exporters are concerned, the Commission referred to a comparison of the list prices of the Japanese exporters and the Community manufacturers supplied by the Community industry. According to this comparison Japanese exporters offered their models comparable to those of the Community producers at list prices in some cases substantially below those of the Community producers' list prices. The average margin of undercutting based on this list price comparison was 15 %. However, due to the non-cooperation of these Japanese exporters, no detailed examination of the price situation in the Community was possible.

(38) As far as the general conditions of the Community industry are concerned, the Commission found that the capacity of the two Community producers rose from 55 000 units in 1983 to 81 500 units by the end of the investigation period (March 1987) and that the capacity utilization rate increased during the same period from 30 to 35 % but reached a peak of 53 % in 1984. Production increased from 16 238 units in 1983 to 28 555 units by the end of March 1987. The number of sales of the two Community producers concerned underwent the following development: 1983 — 11 466, 1984 — 14 973, 1985 — 25 631, 1986 — 23 428, end of March 1987 — 22 567. In the same period, those Community producers' stocks of SIFF printers increased from 5 113 at the end of 1983 to 16 670 units by end of March 1987. This represented in 1983 about 45 % of sales in that year and at the end of March 1987 about 74 % of sales during the previous 12-month period.

(39) As far as the profitability of the Community producers is concerned, Triumph-Adler did not attain profitability on its SIFF sales during the period 1984 to 1987. The losses of this company fluctuated significantly during the period 1983 to end of March 1987 largely due to circumstances outside the Community. Olivetti had a reasonable profit margin in 1984 but this was reduced by two/thirds by 1987 despite making considerable efforts and investments to reduce its cost of production for printers.

(40) In order to determine whether the Community industry is suffering material injury, the Commission found that the capacity, sales figures and market share, taken in isolation, show a slight positive trend. However, capacity utilization decreased constantly from 1985. Moreover, the increase in stocks and, above all, the decrease in profitability, show that the condition of the Community industry has substantially worsened since 1985. This demonstrates that the Community producers could only increase their market position by selling their products at prices which hardly, if at all, covered their costs.

(41) The effect of reduced profitability has been that employment did not increase although production and sales increased. Furthermore, the expectation of continuing depressed prices has already resulted in the complete abandonment of the production of SIFF printers in 1987 by Triumph-Adler, which has not attained profitability since 1984.

(42) On the basis of this preliminary investigation the Commission concluded that the Community SIFF printer industry is currently experiencing material injury.

H. Causation of injury by the dumped imports

(a) Effects of dumped imports

(43) The Commission found that the downwards trend of the Community producers' prices and the reduced profitability of the Community industry coincide with the increase in the volume of imports of SIFF printers from Japan. Moreover, the dumped imports during the investigation period presumably undercut the prices of the Community producers by 15 %, TEC and Tokyo Juki excluded. Therefore, the Commission considers that, in a highly price-competitive market such as the SIFF printer market, the volume of dumped imports and the price undercutting, taken together with the already depressed or suppressed prices, have clearly had an appreciable negative effect on the profitability of the Community industry.

(b) Effect of other factors

(44) The Commission found that circumstances outside the Community relevant to one Community producer also had an appreciable effect on its financial performance from 1985 to 1987. It also found that demand for SIFF printers has been shrinking since printers with other technologies are increasingly available on the Community market. The Commission therefore restricted its evaluation to the causal link between dumped imports and the material injury sustained by the other Community producer (Olivetti) whose economic situation was not substantially effected by developments outside the Community market. In addition, it considered that the drop in sales of the Community industry between 1985 and the period under investigation (– 12 %) is, for the most part, due to the decrease in demand.

(45) In eliminating these two factors, the Commission found, however, that the continuous drop in profitability from 1984 onwards for the Community producer concerned cannot be explained by contraction of demand alone or by factors other than dumping. Indeed, until 1984, total consumption increased, and remained almost stable in 1985, while the profitability of the relevant Community producer decreased by almost 50 % between 1984 and 1985. It further decreased by 35 % between 1985 and 1986 and by a further 7,5 % between 1986 and the end of the investigation period. In contrast, between 1985 and 1986, total consumption decreased by only about 9 % and until the end of the period under investigation, by only a further 3 %.

(46) In the light of these facts, the Commission considered that, for the purposes of provisional findings, there is sufficient evidence that the volume of the dumped imports, their market penetration and the fact that the prices for the dumped SIFF printers from Japan undercut considerably the prices for the Community manufactured printers, taken in isolation, have provoked the considerable loss of profitability of the Community industry and thus caused material injury to the said industry.

I. Community Interest

(47) In assessing whether it is in the interest of the Community to take measures against the dumped SIFF printer imports from Japan which have been shown to cause material injury to the complainant Community industry, the Commission considered in the first place that printers play a key part in electronic data processing and that the printer industry is an essential part of the office equipment industry. The Commission was aware that other print technologies have reduced the importance of SIFF printers in the market. However, the Community industry has forecast that SIFF printers will, at least in the near future, occupy a not insignificant

share of the total printer market. Further, it considered that printers are the computer's main output device and the only device capable of providing the end user with a hard copy of the computer's input and output. Thus, printer technology has to be developed in parallel with computer technology in terms of configuration, sophistication and power. Since printers and computers are closely connected, the abandoning of or substantial cuts in production of printers by the Community industry would also have serious negative effects on the electronic data processing industry in the Community.

(48) The Commission considered that, in order to research and develop new printer technologies the Community industry should be in a position to realize sufficient profits on existing printer production. Furthermore, the Commission was of the opinion that lagging behind in such a fast developing market as the printer market would have inevitable negative effects not only in the printers sector but also on employment in the whole electronic data processing industry. The Commission therefore considers it necessary and in the Community interest to preserve a healthy Community printer SIFF industry.

(49) The Commission also considered the interests of the distributors, end users and OEM companies of SIFF printers and the effect which anti-dumping duties will have on them. The Commission was aware that prices for Japanese origin SIFF printers will increase and that distributors, end users or OEM companies will therefore have to pay more for their printer supplies or for business equipment. It should, however, be kept in mind that the price advantages which these buyers previously enjoyed originated from unfair business practices and that there is no justification for allowing these unfair low prices to persist. Further, the possible net increase in costs for the users of SIFF printers, due to the amount of the duty, will represent only a relatively small proportion of the total operating costs of the users of SIFF printers. Moreover, the Commission considered that these interests have to be weighed against the multiple consequences, including those of unemployment in the Community, of not offering protection to the Community industry and thus preserving a viable European manufacturing industry of SIFF printers. It considered that on balance the Community interest lies more in protecting a manufacturing capacity in the Community.

(50) In considering all the foregoing aspects, the Commission found that Community interests call for granting protection to the Community industry. As to the question of whether the injury should be eliminated before definitive findings are made, the Commission had to take account of the rapidity with which the conditions of the Community industry have worsened in recent years. The Commission therefore considers it necessary to bring this process to a halt.

(51) In conclusion, and on the basis of its provisional findings, the Commission is of the opinion that it is in the overriding interest of the Community that the Community industry be accorded provisional protection against dumped imports from Japan. In order to prevent further injury being caused during the remainder of the proceeding, the action taken should take the form of provisional anti-dumping duties.

J. Duty

(52) As far as the return on sales of SIFF printers in the Community is concerned, the Commission took the view that the short product life of SIFF printers and the necessity for the Community industry to be able to introduce new models require increased research and development, new investment in factory automation and higher marketing expenditures. Further, the new printer technologies which may replace the impact technology in the near future will need additional research and development expenditures. In this respect, the Commission took account of the average current expenditure of Olivetti in these fields and considered that a net profit on sales of SIFF printers of 12 % was an appropriate minimum. This rate on revenue is in line with the usual return on sales of the Community manufacturers in the last few years in other office automation sectors.

(53) In order to eliminate the injury suffered by the Community industry, their selling prices have to be substantially increased. This should enable the Community producers to cover their costs of production and to provide them with an adequate profit. Consequently, the duty should be such as to allow the Community manufacturers to increase their prices and their sales in order to achieve an adequate return on sales.

(54) When calculating the minimum amount of duty the Commission had to take into consideration that reliable information concerning their sales in the Community was available from only two Japanese exporters. Due to the non-cooperation of the other Japanese exporters, it was not possible for the Commission to make an independent inquiry to establish the extent of price undercutting or prevention of price increases. Therefore, the

Commission decided to base its findings on the fact that no price undercutting by the two Japanese exporters cooperating with the Commission (i. e. TEC and Tokyo Juki) was found and on the information contained in the complaint, according to which average price undercutting of 15 % took place. The Commission regarded this price undercutting margin as applicable to the other Japanese exporters.

(55) The Commission considered that the Community producer in question, even under the present circumstances, is still profitable. In this respect, and for the purposes of provisional findings, it was considered appropriate that the duty should cover the difference between the actual return on sales of SIFF printers within the Community and the return deemed necessary to achieve the appropriate minimum of 12 %. Therefore, the Commission established a factor which should enable the Community producer concerned to achieve a return of 12 % on its sales of SIFF printers in the Community.

(56) In calculating this factor for the two Japanese companies involved, no account was taken of any increase in market share and of economies of scale that the Community industry may benefit from as a result of the increase in duty. Where no substantial price undercutting has been found the Commission considered that the duty should remedy the existing injurious situation and that it cannot predict how the Community producers will respond to market developments resulting from the imposition of duties.

(57) In order to establish the rate of duty to be imposed provisionally, the Commission had to express the price increase factor referred to in point 55 as a percentage of the cif value of imports of SIFF printers from Japan To do this, it had first to establish the weighted average cif value of the two Japanese exporters. Thus, the Commission referred to the two Japanese exporters cooperating with the Commission and their printer models. On the basis of the information given by these exporters it was found that the cif value expressed as a percentage of the selling price to the first unrelated buyer was 85 %.

(58) The percentage referred to in point 55 was then expressed as a percentage of the cif value found. The result of this calculation is 12,4 % which is the price increase at the Community frontier necessary to remove the injury caused by the two Japanese exporters concerned.

(59) As far as the other Japanese exporters are concerned, the Commission considered that the price undercutting also had to be eliminated. It established a factor which covered the price undercutting of 15 % and the price increase for Japanese printers required to enable the Community producer concerned to achieve a return of 12 % on its sales of SIFF printers in the Community.

(60) No information as to the average cif value for the non-cooperating exporters was available. Further, the cif value established for the two cooperating exporters was calculated on the basis of company-specific data which cannot be considered as being representative for the other Japanese exporters. Indeed, one of these exporters had no related importer in the Community and the other exporter had a non-representative cost structure. Therefore, their cif value could not be considered representative for the other non-cooperating exporters. The Commission therefore thought it appropriate to establish the cif value on the estimation that it is similar to the cif value calculated for the exports of serial impact dot matrix printers where the cif value expressed as a percentage of the selling price to the first unrelated buyer was 68 %. On the basis of this estimation, the factor referred to in point 59 was then expressed as a percentage of the estimated cif value, the result of this calculation being 43,2 % which is the price increase at the Community frontier necessary to remove the injury.

(61) The Commission recognizes that a provisional duty will not necessarily bring about the beneficial effects for the Community industry as described above during the limited period of time for which it is in force. However, the considerations explained above are set out among other reasons so as to give interested parties an opportunity to comment on them.

(62) Accordingly, and in order that the injurious effect of the dumped imports should be eliminated, if possible, it was considered appropriate that the amount of provisional duty to be imposed should be 43,2 % for the exports of all Japanese exporters except for TEC and Tokyo Juki. For them, the provisional anti-dumping duty should be 12,4 %.

(63) The provisional duty to be imposed is to apply to all serial impact fully formed printers from Japan.

(64) A period should be fixed within which the parties concerned may make their views known and request a hearing. Furthermore, it should be stated that all findings made for the purposes of this Regulation are provisional and may have to be reconsidered for the purposes of any definitive duty which the Commission may propose,

HAS ADOPTED THIS REGULATION :

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of serial impact fully formed character printers falling within CN-code ex 8471 92 90 and originating in Japan.

2. The rate of duty shall be 43,2 % of the net free-at-Community-frontier price before duty, with the exception of imports of the products specified in paragraph 1 which are sold for export to the Community by the following companies, the rate of duty applicable to which is set out below :

— Tokyo Electric Co. Ltd :	12,4 %,
— Tokyo Juki Industrial Co. Ltd :	12,4 %.

3. The provisions in force concerning customs duties shall apply.

4. 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 2176/84, the parties concerned may make known their views and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

Article 3

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

Subject to Articles 11, 12 and 13 of Regulation (EEC) No 2176/84 Article 1 of 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, 5 July 1988.

For the Commission

Willy DE CLERCQ

Member of the Commission