COUNCIL REGULATION (EC) No 469/2001

of 6 March 2001

imposing a definitive anti-dumping duty on imports of certain electronic weighing scales originating in Singapore

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1], and in particular Article 9 and Article 11 thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Previous investigations involving Singapore

(1) By Regulation (EEC) No 1103/93 [2] the Commission imposed a provisional anti-dumping duty on imports into the Community of certain electronic weighing scales originating in Singapore and the Republic of Korea and falling within CN code ex 8423 81 50.

(2) In October 1993, by Regulation (EEC) No 2887/93 [3], the Council imposed definitive anti-dumping measures on imports of certain electronic weighing scales originating in Singapore and the Republic of Korea. In 1995 the measures applicable to Singaporean exporting producers were modified by Regulation (EC) No 2937/95 [4] which resulted in an increase in the level of the duties as it was established that the Singaporean exporting producers had been absorbing the duties in place.

2. Recent investigations involving the product concerned

(3) In April 1993, by Regulation (EEC) No 993/93 [5], the Council imposed definitive anti-dumping measures on imports of certain electronic weighing scales originating in Japan. These measures are also subject to a review which was opened in April 1998 [6].

(4) On 16 September 1999, the Commission published a Notice in the *Official Journal of the European Communities* [7], announcing the initiation of an anti-dumping proceeding in accordance with Article 5 of Regulation (EC) No 384/96 (hereinafter referred to as the 'basic Regulation') regarding imports into the Community of certain electronic weighing scales originating in the People's Republic of China, the Republic of Korea and Taiwan. This investigation was concluded in November 2000, by Council Regulation (EC) No 2605/2000 [8], which imposed definitive anti-dumping measures on imports of certain electronic weighing scales originating in those countries.

3. Request for review

(5) Following the publication of a notice of impending expiry of the anti-dumping measures in force on imports of certain electronic weighing scales originating in Singapore and the Republic of Korea [9], the Commission received a request to review the measures (applicable to Singapore only) pursuant to Article 11(2) of the basic Regulation.

The request was lodged on behalf of Community producers whose collective output constituted a major proportion of the total Community production of the product concerned.

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[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2238/2000 (OJ L 257, 11.10.2000, p. 2).
[2] OJ L 112, 6.5.1993, p. 20.
[3] OJ L 263, 22.10.1993, p. 1.
[4] OJ L 307, 20.12.1995, p. 30.
[5] OJ L 104, 29.4.1993, p. 4.
[6] OJ C 128, 25.4.1998, p. 11.
[7] OJ C 262, 16.9.1999, p. 8.
[8] OJ L 301, 30.11.2000, p. 42.
[9] OJ C 125, 23.4.1998, p. 3.

(6) The request was based on the grounds that the expiry of the measures would be likely to result in the continuation or recurrence of dumping and injury to the Community industry. Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of a review, the Commission initiated an investigation pursuant to Article 11(2) and 11(3) of the basic Regulation ([1]). The opening of the Article 11(3) investigation by the Commission was based on the allegation in the request that dumping margins had significantly increased since the previous investigation and that the expiry of the measures would therefore result in increased dumping and injury.

4. **Investigation**

(7) The Commission officially advised the Community producers supporting the review request, the exporting producers, importers and a user association known to be concerned, as well as the representatives of the exporting countries, and gave interested parties the opportunity to make their views known in writing and to request a hearing within the time limits set out in the Notice of initiation of the review.

(8) The Commission sent questionnaires to the parties known to be concerned and received replies from two Community producers and one Singaporean exporting producer. The Commission also sent questionnaires to importers and Eurocommerce, the association representing multiple and small users in the Community. There was no formal response from either the importers, users or the user association.

(9) The Commission sought and verified all the information it deemed necessary for the purposes of determining the likely continuation or recurrence of dumping and injury and the Community interest. Verifications were carried out at the premises of the following companies:

Exporting producer:

— Teraoka Weigh System PTE Ltd, Singapore

Community producers:

— Bizerba GmbH & Co. KG, Balingen, Germany

— GEC Avery Ltd, (a subsidiary of the General Electric Company, plc), Birmingham, United Kingdom

(10) The investigation of continuation and recurrence of dumping covered the period from 1 October 1997 to 30 September 1998 (hereinafter referred to as the 'investigation period'). The examination of continuation and recurrence of injury covered the period from 1994 up to the end of the investigation period (hereinafter called the 'analysis period').

(11) The present review exceeded the period of 12 months within which it should normally have been concluded pursuant to Article 11(5) of the basic Regulation, due to the complexity of the investigation and in particular the impact of the euro-effect (see recital 39) on the investigation.

(12) All parties concerned were informed of the essential facts and considerations on the basis of which it was intended to recommend the maintenance of the existing measures. They were also granted a period within which to make representations subsequent to these disclosures. The comments of the parties were considered and, where appropriate, the findings have been modified accordingly.

B. **PRODUCT CONCERNED AND LIKE PRODUCT**

1. **The product concerned**

(13) The product concerned is the same as in the previous investigation, electronic weighing scales for use in the retail trade (hereinafter referred to as 'REWS') which incorporate a digital display of the weight, unit price and price to be paid (whether or not including a means of printing this data) falling within CN code 8423 81 50. REWS have different types or levels of performance and technology. In this respect, the industry defines three segments of REWS; low, mid and top ranges. These vary from stand-alone REWS, without built-in printers to more sophisticated models with pre-set key systems and the possibility of integration into computer-related control and management systems.

([1]) OJ C 324, 22.10.1998, p. 4.

(14) Although the potential use of REWS can vary, there is no significant difference in the basic physical and technical characteristics of the various types of REWS. In addition, the investigation has shown that between these three segments there are no clear dividing lines, models in neighbouring segments often being interchangeable. In line with the results of the previous investigation, they have, therefore, to be considered as one single product for the purposes of this investigation.

2. **Like product**

(15) The investigation has shown that the various REWS produced in Singapore and sold on that market have, despite differences in size, life span, voltage or design, the same basic technical and physical characteristics as compared to the REWS exported from Singapore to the Community and accordingly have to be considered as like products.

Likewise, apart from minor technical differences, the range of Community-produced REWS are basically alike in all respects to the REWS exported from Singapore to the Community.

C. **DUMPING AND LIKELIHOOD OF RECURRENCE OF DUMPING**

1. **Preliminary remarks**

(16) As indicated above, this investigation is a combination of an expiry review based on Article 11(2) of the basic Regulation and an interim review based on Article 11(3), the latter having been initiated to examine the allegation that the injurious dumping had increased. The Commission decided not to pursue this Article 11(3) review because the volumes sold on the Community market by the exporting producers were low and there was insufficient evidence for a lasting change in circumstances to be established. The Commission's findings are, therefore, based on those established under Article 11(2) relating to the likelihood of continuation and recurrence of injurious dumping should the existing measures be removed.

(17) According to Eurostat some 449 REWS from Singapore were imported into the Community during the investigation period as compared to 4 500 units in the previous investigation period on which the measures subject to review are based.

(18) The sole cooperating Singaporean producer, Teraoka Weigh System PTE Ltd, reported that it exported 315 units to the Community. Reference to Eurostat indicates that this represents 70 % of the exports to the Community which points to significant non-cooperation.

2. **Likelihood of continuation or recurrence of dumping**

(19) In accordance with Article 11(2) of the basic Regulation, the purpose of this type of review is to determine whether, or not, the expiry of the measures would lead to a continuation or recurrence of injurious dumping.

Likelihood of continuation of dumping

(20) In examining whether there is a likelihood of continuation of dumping if measures were removed, it is necessary to verify whether dumping exists at present and whether any such dumping is likely to continue. In this respect, the findings as set out for the Article 11(3) review for the determination of dumping apply.

Likelihood of recurrence of dumping

(21) As the findings on the likely continuation of any dumping cannot on their own be considered as decisive on whether measures should be maintained or repealed, given that they were based on a low volume of exports to the Community of a model which is gradually being phased out, the likelihood of recurrence of dumping should measures be removed was also addressed. In this respect, there are indicators which make a resumption of these imports to the Community in significant quantities

likely. These increased sales would be likely to materialise from two sources: through the transfer of production capacity, which is relatively mobile, from units related to Singaporean exporting producers in other third country markets back to Singapore; and through a switch in some of the sales from numerous other third country markets to the Community to take advantage of the slightly higher prices on the Community market. Moreover, the existence of measures in force against Japan reinforces this likelihood.

(22) The exporting producer argued that it was unlikely to switch any production back to Singapore which could then be sold to the Community, in particular the production of the units situated in the Community. But, these units did not cooperate with this investigation and these arguments were impossible to evaluate. In any event, the history of this product shows that production is very mobile and can be changed at relatively short notice in reaction to events such as the imposition of anti-dumping duties. For example, the units in the Community were set up after such duties were imposed.

(23) As to the price into the Community of imports of the like product should they resume, there is good reason to believe that these would be at dumped levels in particular given that a significant quantity of Singaporean exports to other third country markets, which have no measures in force (such as United States of America, Canada, Malaysia, Indonesia, the Republic of Korea, Israel and Thailand), are made at dumped prices. If the prices charged to these other third country markets were also charged on any sales to the Community dumping would also be taking place. This would still be the case if prices were slightly higher to reflect the slightly higher prices presently prevailing in the Community, as compared to these other third countries. Moreover, there is no indication that the relatively high level of prices in Singapore is going to alter in the short term and it is therefore considered reasonable to assume, taking due account of the dumping history for this product, that any significant resumption of exports to the Community would be at prices below those in Singapore.

(24) The exporting producer argued that there was no evidence that the sales made to these other third countries by the exporting producer were at dumped levels and in this respect produced calculations for the exports of one model as well as the profit margins of this model to the Community. But, this evidence failed to demonstrate the existence, or otherwise, of dumping on these sales, not least because the information only concerned one model and the fact that profits on sales to the Community are irrelevant. In fact, the Commission's observations on dumping to these third countries were derived from the information provided by the exporting producer, on all its sales to third countries, and this showed a distinct pattern of dumping with export prices in general being significantly lower than those charged in Singapore.

Determination of dumping under Article 11(3)

(25) In accordance with the allegation in the review request that dumping margins would increase if measures were removed, the investigation included a review of dumping for the investigation period. In this context, only one exporting producer cooperated in the investigation and during the investigation this party claimed that it was no longer dumping on its sales to the Community and that the measures which apply to its exports should be removed.

(26) With respect to the allegation made by the exporting producer that dumping had disappeared and that measures should be repealed, account was taken of the fact that measures were in force during the investigation period and that, therefore, any calculation of dumping could be affected by the existence of these measures, in particular in relation to the volume and prices of these imports to the Community. During the period set for this investigation the quantity exported by the exporting producer was 315 units. This was a much smaller quantity than the quantity exported during the investigation period which led to the existing measures but this level, as such, was not considered insufficient for a recalculation of a new dumping margin. However, most of these imports were made to an importer in the Netherlands which did not cooperate in this investigation but which had relations with the exporting producer which extended beyond a pure buyer and seller relationship. The non-cooperation of this party did not permit a proper examination of whether this relationship may have affected the prices of these exports in question.

(27) Moreover, the exporting producer reported the existence of a related party in the Community which also did not cooperate in this investigation other than to submit some general information about its activities. It was therefore not possible to establish with any certainty whether this company was directly or indirectly involved in selling the like product in the Community.

(28) In addition, the exporting producer based its claim of no dumping on a comparison of the export prices of one model to the Community when compared to the prices of a newer version of that model when sold in Singapore with the latter adjusted by over 20 % to take account of allegedly higher production costs of the model sold in Singapore.

(29) In any event, the exporting producer did not produce any evidence that these differences affected the prices charged on the Singaporean market. For example, no evidence was given in relation to the prices of the old and new models when the latter was introduced onto the market. Sales to third countries, other than the Community, were examined to see whether these could provide a basis for any adjustment and these showed that when the two models were sold on the same market there was no clear pattern of prices which could confirm the claim. For some countries, prices of both models were approximately the same, for some countries the 'older' version had the higher price and for some countries the newer version had the higher price. An average comparison of the prices of the two models to third countries showed that the newer version commanded a higher price of about 6 %.

(30) In these circumstances, it was observed that dumping would only disappear if the claimed adjustment for differences in physical characteristics was granted whereas if it was not, or only granted to the extent of the price difference for the two models concerned to third markets, significant dumping would remain.

(31) Thus, the relatively low volume of imports relating to only one model which is in the process of being phased out and which had no equivalent model sold in Singapore, the non-participation in the investigation of related or associated parties in the Community, at least to an extent which extends beyond a normal buyer and seller relationship, leads to the conclusion that a reliable and lasting dumping margin cannot be established for the investigation period.

(32) For the same reasons, the claim that measures should be increased is rejected. Measures can only be revised upwards or downwards on the basis of findings for the investigation period if these can be considered reliable and lasting. In this respect, there was no reliable evidence which could justify an increase in measures. In fact, the existence of measures appeared to be having a considerable impact in preventing dumping in significant quantities.

(33) For those exporting producers located in Singapore, which failed to cooperate with the investigation, dumping was determined on the basis of the facts available in accordance with Article 18(1) of the basic Regulation. In this respect, it is appropriate to consider that the most reasonable facts available are those established for the previous investigation. A residual dumping margin was therefore determined, by maintaining the previous residual margin of 31,0 %, expressed as a percentage of the cif import price at the Community border.

Conclusion

(34) The Article 11(2) review indicates that if measures were removed there would be a likelihood of continuation and/or recurrence of dumping. The Article 11(3) review could not be pursued as such a review is only justified where a lasting change in circumstances is shown.

D. SITUATION IN THE COMMUNITY REWS MARKET

1. Structure of the Community industry

(35) Since the current anti-dumping measures were imposed on imports of REWS from Singapore in 1993, the Community industry has undergone a restructuring and consolidation programme in order to maintain its competitiveness. A total of nine companies cooperated in the previous investigation but following the restructuring process in the industry only five companies remained in the investigation period. As mentioned at recital 8 two of these companies cooperated in the present investigation. It has become evident during the investigation that other Community producers have restructured along similar lines.

(36) The cooperating Community producers represent 39 % of Community production in the investigation period, and thus qualify as a major proportion of the Community production. These producers are referred to as 'Community industry' hereafter. In addition two large companies supported the review request but did not fully cooperate with the investigation. The representativity of Community production supporting the complaint was, therefore, well in excess of 50 %.

(37) It should be noted that for the purposes of the above calculation of the representativity of Community production, in accordance with Article 4(1)(a) and (2) of the basic Regulation, any company operating in the Community related to exporting producers in countries found to be dumping, was excluded from the definition of total Community production.

2. **Consumption of REWS on the Community market**

(38) Consumption in the Community has been calculated using verified sales data provided by the Community industry, figures in the review request (for sales of non-cooperating Community producers) and import volumes obtained via Eurostat. Consumption was as follows during the analysis period:

Consumption of REWS in the Community

(units)

1994	1995	1996	1997	Investigation period
174 448	161 682	172 314	177 391	191 341

(39) The increase in consumption in 1997 and the investigation period was mainly due to a one-off increase in demand from retailers arising from the introduction of the euro ('euro-effect'). From 1997 onwards, retailers realised more and more that they had to replace old REWS with euro-compliant models of REWS. This created increased demand for REWS in the Community and the volume of sales increased. This improved situation will be of short-term duration and sales volumes are predicted to drop back to normal levels by 2000, fall further to well below normal levels from 2001 before returning to normal again by 2004.

(40) An alternative consumption figure was provided by the legal representatives of the exporting producers in Singapore. This figure was an extrapolation largely based on one Member State using 1996 figures. The Commission considered, therefore, that the information from the sources mentioned above was more accurate, complete and up to date.

3. **Imports concerned**

Volume of imports

(41) Based on information from Eurostat (using the dedicated TARIC code 8423 81 50 10), the REWS imported from Singapore during the analysis period developed as follows:

Volume of imports

(units)

	1994	1995	1996	1997	Investigation period
Imports from Singapore	1 785	3 776	863	987	449
Market share	1,0 %	2,3 %	0,5 %	0,6 %	0,2 %

(42) The fall in volume of imports in 1996 can largely be attributed to the raising of the duty rate applicable to Teraoka Weigh System PTE Ltd following the anti-absorption review investigation which resulted in the adoption of Regulation (EC) No 2937/95.

(43) The sales of the cooperating Singaporean exporting producer on the Community market during the investigation period involved only one model (hereinafter referred to as Model A) and were imported during the analysis period in very low volumes as follows:

Volume of imports

(units)

	1995	1996	1997	Investigation period
Model A	1	487	738	315

(44) Teraoka Weigh System PTE Ltd submitted that the low market share of Singaporean imports was *de minimis*. However, it should be noted that the *de minimis* provisions in the basic Regulation only relate to proceedings involving new cases under Article 5 rather than Article 11 reviews of existing measures. In addition, it should be expected that the existence of measures may have a decreasing effect on import volumes from that country.

Price behaviour of exporting producers

(45) In view of the significant lack of cooperation of the exporting producers, the Commission had to assess which information was available to carry out an analysis of the pricing behaviour of the exporting producers. In this respect it was not considered appropriate to use Eurostat information because this gave no indication of the models involved. It was, therefore, considered most appropriate to use the information provided by the sole exporting producer which provided sales data for the Community market. A comparison between the prices of representative models marketed by the Community industry and the comparable model of the cooperating exporting producer was made on the basis of sales, excluding anti-dumping duties, at the same level of trade (prices to dealers/importers) during the investigation period. No adjustment for quality difference had to be made because the models used were identical in the perception of the buyer and were directly and fully comparable. Whilst it was deemed that these models provided a fair comparison, the low value of exports sold by this exporting producer inevitably makes it difficult, if not impossible, to draw clear conclusions. On the basis of the limited number of transactions available however, significant price undercutting was identified by the dumped imports concerned.

(46) It should be pointed out here that misleading information was provided by the cooperating exporting producer concerning the status of the major importer involved in the above calculation. Initially the Commission services were informed that the importer was not related to the Singaporean exporter but at a later stage they were described as being 'part of the Teraoka group'. Although the importer did not cooperate with the investigation and its relationship with the exporting producer could, therefore, not be conclusively determined, the Commission accepted the import purchase prices as being unaffected by the possible relationship and used them as the best source of information available in accordance with Article 18 of the basic Regulation.

4. **Situation of the Community industry**

(47) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Community industry included an evaluation of all economic factors and indices having a bearing on the state of the industry. However, certain factors are not dealt with in detail below because they were found to be not relevant for the situation of the Community industry in the course of this investigation. It should finally be noted that none of these factors necessarily gives decisive guidance.

Production, utilisation of capacity and inventories

(48) Production of all REWS fell over the period 1994 to 1996, but then increased in line with the euro-effect as explained at recital 39. The capacity utilisation rate of the Community industry increased by 13 % during the analysis period.

Community industry production and capacity

Index: 1994 = 100	1994	1995	1996	1997	Investigation period
Volume all REWS produced	100	93	95	104	102
Capacity (all REWS)	100	101	98	98	90
Capacity utilisation rate (all REWS)	100	92	98	105	113

It was considered that the level of inventories could not be considered to have any significant effect on the situation of the Community industry because the Community industry used a production to order system whereby stocks were almost non-existent.

Sales volume

(49) Sales of total REWS units made by the Community industry on the Community market fell over the period 1994 to 1996, but then increased in line with the euro-effect as explained at recital 39.

Sales volume in units

Index: 1994 = 100	1994	1995	1996	1997	Investigation period
Sales of Community industry	100	91	94	100	103

Sales turnover

(50) The sales turnover of total REWS made by the Community industry on the Community market fell over the period 1994 to 1997, but then increased in line with the euro-effect as explained at recital 39.

Sales turnover

Index: 1994 = 100	1994	1995	1996	1997	Investigation period
Sales of Community industry	100	93	90	85	90

Market share and growth

(51) The market share of the Community industry fell by 3 percentage points from 1994 to the end of the investigation period. Therefore, the Community industry could not benefit fully from the growth of the market.

Price development

(52) An analysis of REWS pricing in the Community was made by reference to the sales prices of models from each model range sold by the Community industry. The development of weighted average prices for sales to unrelated customers during the analysis period was as follows:

Development of prices of REWS

(ECU/unit)

Index: 1994 = 100	1994	1995	1996	1997	Investigation period
All REWS	100	103	95	83	87

Sales prices for all ranges decreased between 1994 and the investigation period by 13 %. This overall average price reduction was consistent across all model ranges of REWS.

Profitability

(53) The return on turnover of REWS as a whole rose from low positive levels in 1994 to over 10 % in the investigation period. At the beginning of the analysis period, the return on turnover was consistently below the rate considered necessary for the viability of the industry. The improved figures for 1997 and the investigation period were due to the abovementioned euro effect which gave a temporary boost to sales and, to a lesser extent, the effects of large scale restructuring carried out by the industry as mentioned at recital 35. In addition the existence of anti-dumping measures will also have had a positive effect.

Other performance related factors

(54) No detailed analysis was carried out on cash flow, ability to raise capital (or investments) and return on investments because such an analysis would relate to the situation of the company as a whole. The companies' other business lines represent more than 50 % of total company turnover and, therefore, an overall analysis would not necessarily be representative for the product under consideration.

As concerns the impact on the Community industry of the magnitude of the actual margin of dumping, given the volume and the prices of the imports from the countries concerned, this impact cannot be considered to be negligible.

Productivity, employment and wages

(55) The table below shows that during the analysis period employment in the Community industry decreased by 32 %.

Productivity per employee

Index: 1995 = 100	1995	1996	1997	1998	Investigation period
Number of units produced	100	93	95	104	102
Number of employees	100	94	86	75	68
Productivity per employee	100	99	111	138	150

(56) Productivity per employee increased by 50 % over the analysis period.

(57) No detailed analysis was carried out on wages given the importance of other business lines in the overall companies' activities. Such an analysis would relate to the situation of the company as a whole and not necessarily be representative for the product under consideration.

Conclusions on the situation of the Community industry

(58) The Community industry has undergone a major restructuring programme and has improved production and distribution techniques in order that it can benefit from the measures in place. However, it has continued to suffer from pricing pressures, which has squeezed margins and has resulted in a loss of market share and reductions in employment. Profitability improved over the analysis period but, as mentioned at recital 39, it was only at levels sufficient to maintain the Community industry's viability, and this was mainly due to one-off benefits resulting from the euro effect and profit levels are expected to revert to those realised during the main part of the analysis period.

It is thus considered that the Community industry has not fully recovered from the negative situation in which it was found in the previous investigation.

E. LIKELIHOOD OF RECURRENCE OF INJURY

1. Analysis of the situation of the Singaporean exporting producers

(59) The development of imports from Singapore is shown at recital 41. The application of increased anti-dumping duties following the anti-absorption investigation which came into force in December 1995 will have affected the level of imports from that date.

(60) Although at volumes lower than before, Singaporean exporting producers have continued to sell on the Community market, and it was submitted by the complaining industry that they have concentrated their sales in markets of certain Member States with specific models, rather than selling a full range of models. This claim was examined by the Commission and it was clear from sales figures submitted by the cooperating exporting producer, that certain markets were, indeed, being targeted with specific models, where the exporters felt that they could compete, mainly on the basis of low prices, without the large sales and distribution networks necessary for the Community industry.

The Community retail sector is dominated more and more by large supermarket chains which negotiate annual purchase contracts for REWS. Therefore the REWS market is susceptible to price pressure in the form of low-priced offers to increase the downward pressure on prices. The Commission considers, therefore, that low-priced offers involving imports from Singapore could easily lead to a recurrence of injury should the anti-dumping measures in place be allowed to lapse.

(61) The history of anti-dumping investigations involving this product has shown that production is mobile. The view of the Commission is that, if measures on imports of the product concerned expired, exports from Singapore would quickly regain their previous injurious levels and, in view of the finding of this investigation that dumping has continued to occur, at dumped prices. This is particularly pertinent here, where the main Singaporean producer is related to a producer in Japan; i.e. also a country for which a likelihood of recurrence of injurious dumping has been found.

(62) In addition to the above point regarding production movements, figures obtained from the cooperating exporting producer were unclear in respect of capacity utilisation. We were informed that capacity utilisation was 63 % of the nameplate production and over 100 % of the attainable production levels in the investigation period. The Commission concluded, however, that the mobility of production and the ease of setting up new facilities meant that production and exports could be increased should measures lapse.

(63) The major exporting producer submitted that production facilities had now been established in the Community, which meant that it was unlikely that exports from Singapore to the Community would increase if measures lapsed. However, these production units failed to cooperate with the investigation. It was clear from the limited amount of information supplied that a very small range of models were being produced in the Community and the Commission services concluded that, in order to offer a more complete range, that imports would be attracted in from Singapore. Indeed, should measures be allowed to lapse, it was possible that production in Europe would be moved back to Singapore.

(64) It should also be noted that the major exporting producer also sells at low prices on other markets (the United States of America, Canada, Israel, the Republic of Korea, Indonesia and Malaysia). For a total volume of sales of 665 units to these countries, sales prices (excluding duties) were around 9 % lower than prices of the same model on the Community market. This clearly suggests that the Community market would be very attractive to Singaporean exporting producers in the absence of anti-dumping measures.

(65) If measures lapsed, these prices would remain low and at dumped levels, and the imports would exert pressure on the Community market due to the increased volumes which would probably become involved due to the increased attractiveness of the market.

2. **Analysis of the situation of the Community industry**

(66) During the investigation period, the Community industry was enjoying a boost in sales volume caused by the euro effect, but as explained at recital 39, this will not be a permanent phenomenon. Given the potential for low-priced dumped imports from Singapore should measures be repealed, it can be expected that prices and the Community industry's market share will be eroded further.

(67) Sales prices have declined on average by 13,3 % during the period 1994 to the investigation period and it is expected that this trend will continue as the Community industry attempts to maintain its market share.

3. **Conclusion on recurrence of injury**

(68) In the light of the findings at recitals 59 to 67, it is concluded that the expiry of the measures on these imports is likely to lead to a recurrence of injury as defined by the various indicators used in Article 3(5) of the basic Regulation. In reaching this conclusion, the Commission has taken into account the fact that the Community market for REWS is susceptible to price pressure as it is dominated by large users.

(69) The Commission has taken into account the conclusion that production facilities can be transferred with relative ease between countries which increases available capacity, and recitals 59 to 65 explain the continuing attractiveness of the Community market to Singaporean exporting producers as compared to some of its third country markets.

(70) The expiry of the measures, therefore, would be likely to lead to a recurrence of injury to the Community industry, eventually putting at risk the viability of Community production.

F. **COMMUNITY INTEREST**

1. **General considerations**

(71) In accordance with Article 21 of the basic Regulation it was examined whether a prolongation of the anti-dumping duties would be against the interest of the Community as a whole. The determination of Community interest was based on an appreciation of all the various interests such as, the Community industry, the importers and traders and the users of the product concerned. In order to assess the likely impact of a continuation of the measures, the Commission requested information from all interested parties mentioned above.

(72) It should be recalled that, in the previous investigation, the adoption of measures was considered not to be against the interest of the Community. Furthermore, the present investigation is a review, thus analysing a situation in which anti-dumping measures are in place. Consequently, the timing and nature of the present investigation has allowed an assessment of any negative impact on the parties concerned by the anti-dumping measures imposed.

(73) The Commission also considered the effects of anti-dumping duties on REWS imported from Singapore in relation to the specific interests of the Community industry and other interested parties including professional end-users.

2. **Interests of the Community industry**

(74) In view of the continuing weak economic situation of the Community industry, especially in terms of inadequate profitability (at the beginning of the analysis period and in terms of medium term outlook), employment and market share, the Commission considers that, in the absence of measures against injurious dumping, the situation of the Community industry is certain to deteriorate. The previous review investigation involving REWS from Singapore expected that certain Community producers would probably cease production of REWS, and that there might be a reduction in employment levels, given the level of losses incurred by certain producers at that time. Although measures were maintained in 1993, the reduction in employment did in fact happen, the companies continuing presence on the Community market being due to a consolidation process involving mergers/acquisitions.

(75) Any further shrinking or deterioration of the Community industry would have negative implications for employment and investment in the industry itself, with knock-on effects, both on the industry's suppliers and on the related sectors of production within the Community industry. Indeed, the technologies of REWS and a whole range of other products are related. Examples of these are other types of electronic scales (such as industrial scales) and appliances used in the retail sector (such as slicing machines). Any loss of technological know-how in the REWS products will mean a global loss of competitiveness in these related sectors.

(76) In addition, the investigation has demonstrated that the Community industry has made every effort to meet the competition from Singapore and other countries. Examples of such steps are:

(a) A progression towards greater consolidation (fewer companies).

(b) The closure of excess capacity.

(c) Greater use of modern production techniques (e.g. production to order, increased mechanisation and computerisation).

(d) Improvements in productivity.

(e) Reducing costs by contracting out the manufacturing of some components, and

(f) Investing in new model ranges.

(77) Community producers have, therefore, shown a willingness and determination to maintain a competitive presence on the Community market and are capable of benefiting from the defence from unfair trade afforded by anti-dumping measures.

3. **Interests of other parties**

(78) The Commission sought the cooperation of a body representing the interests of retail outlets, including multiple users of the product concerned (supermarkets), in order to identify if there was any significant impact on any users.

(79) The Commission was notified informally by this body that there was to be no response from retail users. Indeed, no other interested parties made themselves known. This lack of cooperation is no doubt due to the very small proportion of users' total costs represented by REWS. The impact of maintaining measures, in what is a highly competitive market, can be assumed to be negligible.

(80) The Commission also sought the views of importers in the Community but no replies were received to our questionnaire. It is evident that the removal of measures would enable importers to reduce sales prices and increase margins. However, in view of the findings on dumping and injury above, this increase in profitability would be due solely to continued dumping.

4. **Conclusion**

(81) The low level of cooperation by users and importers clearly makes it difficult to draw conclusions on the impact in these sectors. It was concluded, however, that the impact would be negligible, particularly for the retail sector where the proportion of costs represented by REWS is very small.

(82) It should be recalled, however, that there is a likelihood of recurrence of material injury to the Community industry, which has made great efforts to remain competitive. The Community industry is temporarily benefiting from the introduction of the euro. However, if measures lapsed, and in view of the diminishing effect of the euro, it is likely that the Community industry will deteriorate in the future and threaten the viability of the entire Community production.

(83) On the basis of the above the Commission finds that there are no compelling reasons of Community interest against the maintenance of the anti-dumping measures.

G. **DEFINITIVE MEASURES**

(84) It will be recalled that the current review was opened under both Article 11(2) and Article 11(3) of the basic Regulation. The opening under Article 11(3) was initiated to investigate an allegation by the Community industry that circumstances had changed and that the expiry of the measures would result in increased dumping. In this case, the Commission decided not to pursue this Article 11(3) review for the reasons explained at recital 16. The Commission's findings are, therefore, based on those established under Article 11(2) relating to the likelihood of continuation and recurrence of injurious dumping should the existing measures be removed.

(85) As it was concluded that the removal of measures would be likely to lead to continuation or recurrence of injurious dumping under Article 11(2) of the basic Regulation, the following anti-dumping duties should be imposed:

Tereoka Weigh System PTE Ltd	15,4 %
All non-cooperators	31,0 %

(86) For the reasons explained at recital 11 concerning the duration of the investigation, it is considered appropriate that the duration of the measures should be limited to four years,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of electronic weighing scales for use in the retail trade which incorporate a digital display of the weight, unit price and price to be paid (whether or not including a means of printing these data), currently classifiable within CN code ex 8423 81 50 (TARIC code 8423 81 50 10 and originating in Singapore.

2. The duty, calculated on the basis of the net, free-at-Community-frontier price of the product, before duty, shall be:

31,0 % (TARIC additional code 8704), with the exception for electronic weighing scales produced by the company listed below, to which the following rate shall apply:

Tereoka Weigh System PTE Ltd (TARIC additional code 8703).	15,4 %

3. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

The anti-dumping duties shall be imposed for a period of four years from 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*.

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

Done at Brussels, 6 March 2001.

For the Council

The President

I. THALÉN