

COMMISSION REGULATION (EEC) No 724/82

of 30 March 1982

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 Bulgaria, Czechoslovakia, the German Democratic Republic, Poland, Romania and the USSR, and terminating the proceeding in respect of imports of said products originating in Hungary

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3017/79 of 20 December 1979 on protection against dumped or subsidized imports from countries not members of the European Economic Community⁽¹⁾, and in particular Article 11 thereof,

After consultations within the Advisory Committee set up under that Regulation,

Whereas, on 22 February 1980, the Commission decided to accept undertakings in connection with the 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 Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland and Romania, and to terminate that procedure⁽²⁾; whereas a similar decision was taken on 19 June 1980 in respect of the USSR⁽³⁾;

Whereas on 5 August 1981 the Commission announced, in a notice published in the *Official Journal of the European Communities*⁽⁴⁾, that it was reviewing the decision to accept undertakings in connection with the 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 Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania and the USSR and was re-opening those proceedings;

Whereas the Commission officially so advised the exporters and importers known by it to be concerned;

Whereas the Commission has given the parties directly concerned the opportunity to make known their views in writing and to be heard orally;

Whereas some of the parties concerned took this opportunity to present detailed written and/or oral observations;

Whereas, in order to arrive at a preliminary assessment of the dumping margin and injury, the Commission gathered from the Community exporters, importers and producers concerned which agreed to cooperate in the investigation all the information it deemed necessary and checked that information; whereas, where necessary, it carried out inspections at the companies' premises; whereas information was supplied *inter alia* by the following companies:

— Community importers:

Exico (London)
Frimodt-Pedersen (Daugard)
Arnitlund Handels APS (Voyens)
A. Johnson (Charlottenlund)
Enital (Milan)
Veneta Motori (Padua)
Bame (Quarrata)
Elprom (Parma)
Elektropol Cantoni (Milan)
Mez Italiana (Milan)
Emac (Turin)
Cimme (Piacenza)
Stanko (Longjumeau)
Magra (Bagnole)
Sofbim (Argenteuil)
Sorice (Ivry s/Seine)
Sodimef (Strasbourg)
Sermet (Strasbourg)
Symkens (Liège)
Industrial Electric (Kortrijk)
Neotype (Bergich Gladbach)
Eltrans (Hamburg)
Elektra (Frankfurt a/m)
Fritz Oberstenfeld (Hamburg)
Elprom (Borken)
Rotor (Eibergen)
Stokvis (Rotterdam)
Bege (Wassenaar)
Huberts (Veghel)
Peja (Arnhem)

— Community producers:

Acec (Drogenbos)
Leroy-Somer (Angoulême)
Cem (Lyons)
Ansaldo (Arzignano)
Marelli (Milan)

⁽¹⁾ OJ No L 339, 31. 12. 1979, p. 1.

⁽²⁾ OJ No L 53, 27. 2. 1980, p. 21.

⁽³⁾ OJ No L 153, 21. 6. 1980, p. 48.

⁽⁴⁾ OJ No C 197, 5. 8. 1981, p. 2.

Asea (Odense)
Bcpm (London)
Newman Electric Motors (Bristol)

— and exporters :

Transelektro (Hungary)
Electroexportimport (Romania)
Zse (Czechoslovakia)
Elektrotechnik (German Democratic Republic)
Elektrim (Poland)
Electroimpex (Bulgaria)

Whereas, in order to establish whether the abovementioned imports were dumped, the Commission has to take into account the fact that Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania and the USSR are not market-economy countries ;

Whereas, for that reason, the Commission has to base its calculations on the normal value in a market-economy country ; whereas, in that connection, the complaint cited the Austrian and Spanish domestic markets ; whereas other parties referred to the Brazilian market ;

Whereas, on the basis of contacts with Brazilian producers and inspections carried out on their premises, and in the light of the arguments put forward in the course of the hearings by the exporters and importers concerned *inter alia* disputing the comparability of the Spanish and Austrian markets, a comparison with the price of electric motors on the Brazilian domestic market appeared fair and reasonable since *inter alia* the Brazilian market is large, the biggest local producer manufactures considerable quantities of motors of similar technical standards and also more than six producers are operating on the Brazilian market ; whereas that market is therefore competitive and the level of prices on that market reasonable ;

Whereas the preliminary assessment of dumping has accordingly been effected by comparing the average Brazilian ex-works prices for sales over the period from January to November 1981 with the prices for exports to the Community from the countries in question over the same period ;

Whereas, to take due account of the differences affecting price comparability, the maximum discounts for bulk orders, sales and service costs have been deducted from Brazilian list prices ; whereas an adjustment was made to bring the prices to a 'cash payment' level ; whereas all the above factors, added to the fact that the producer prices serving as a reference are considerably lower than those of its national competitors, have had the effect of reducing the Brazilian ex-works and hence of narrowing the gap between those prices and the export prices of the countries concerned by the procedure ; whereas the latter export prices were available on a fob and cif basis and a price adjustment has, where necessary, been made to take account of the

transport costs included in those prices and of the payment terms ;

Whereas the above preliminary examination of the facts shows the existence of dumping in respect of the imports considered in the investigation, the dumping margin being equal to the amount by which the normal value as established above exceeds the price for export to the Community ; whereas the margin varies depending on the type of motor, the exporting country and the importing Member State ; whereas the margins for the six types of motors considered by nearly all the parties concerned to be the most common, and hence most representative, of those covered by the proceeding, vary between 13.2 and 97.7 % for imports originating in Bulgaria, between 11.1 and 144.5 % for Czechoslovakia, between 19.9 and 105.8 % for the German Democratic Republic, between 4.9 and 45.6 % for Hungary, between 10.5 and 93 % for Poland, between 14.9 and 131.1 % for Romania and between 16.9 and 101.5 % for the USSR ;

Whereas, with regard to the injury caused to the Community industry, the evidence available to the Commission shows that imports into the Community of multi-phase electric motors having an output of more than 0.75 kW but not more than 75 kW and originating in the countries covered by the investigation have risen from approximately 817 000 units in 1977 to 1 047 000 units in 1979 and to approximately 753 000 units for the first nine months of 1981 ;

Whereas the best information available suggests that imports of standardized multi-phase electric motors with an output of more than 0.75 kW but not more than 75 kW originating in the countries covered by the investigation took a market share of 15.8 % in the Community in 1977, 17.2 % in 1980 and 20.8 % during the first nine months of 1981 ; whereas that share is estimated for the last period referred to at 9 % for Belgium, 61.7 % for Denmark, 6.1 % for the Federal Republic of Germany (excluding inter-Germany trade), 26.1 % for France and 38.1 % for Italy ;

Whereas the resale prices in the Community of motors originating in the countries in question have undercut those of like motors produced by Community manufacturers by different amounts according to the type of motor and have undercut them by more than 25 % in many cases ;

Whereas the consequent impact on the Community industry, whose volume of production has fallen from 4 900 000 units in 1977 to approximately 2 800 000 in the first nine months of 1981, has taken the form of pressure on prices, which have not been able to develop in line with production costs, making it impossible in most instances to cover those costs ;

Whereas most of the Community firms are consequently making considerable losses on the standardized multi-phase motors covered by the procedure, and this puts at risk the profitability of the rotary

machinery industry as a whole, and has already led to an appreciable fall in the numbers directly employed in the manufacture of electric motors, from 28 300 in 1974 to 23 630 in 1978; whereas more than a thousand further jobs were lost between 1979 and 1981;

Whereas injuries caused by other factors which could adversely affect the Community industry, such as the volume and prices of other imports, or stagnation of demand, have been examined and have not been attributed to the imports under consideration;

Whereas the preliminary examination of the facts shows the existence of dumping, and there is sufficient evidence of consequent injury;

Whereas the Commission must in these circumstances withdraw its acceptance of the undertakings offered in 1980;

Whereas the Romanian exporter Electroexportimport and the Soviet exporter Energomachexport proposed new undertakings to increase their prices; whereas the Commission, after consultations within the Committee provided for in Regulation (EEC) No 3017/79, and with regard to Romania, after examining these solutions in the light of Article 13 of the GATT anti-dumping code, found that the proposed price levels are unlikely to eliminate either the dumping margin or the injurious effects of the imports originating in Romania and the Soviet Union;

Whereas the Hungarian exporter Transelektro also proposed a new undertaking to increase its prices; whereas the Commission, after consultations within the Committee, found that the proposed price level is likely to eliminate the injury; whereas the Commission therefore considers this undertaking acceptable and that the procedure may be terminated in respect of imports originating in Hungary;

Whereas, in these circumstances, the interests of the Community call for immediate action to prevent injury being caused during the procedure by the imports in question other than those originating in Hungary;

Whereas a provisional anti-dumping duty must therefore be imposed on imports of the electric motors in question;

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

Whereas the Commission accordingly compared the average prices, costs, and profits and losses of Community manufacturers with the importers' costs and conditions of sale; whereas it also took account of differences in quality, particularly with regard to thermal and electrical insulation, between the motors produced by Community manufacturers and those imported from the countries involved in the proceeding and of the differences between the Brazilian and Community price structures; whereas it has therefore concluded that injury would be eliminated if import prices, calculated for cash payment, free at Community frontier, not cleared through customs, were no lower than the prices set out in the Annex, which are well below the normal value; whereas, in order to take account of differences in transport costs, these prices vary according to the country of origin of the imports;

Whereas these prices apply to imports of type B3 multi-phase electric motors and an amount of 5 %, in accordance with the practice in the industry, must be added to them in the case of other models such as the B5 and B14 types; whereas it is therefore necessary to stipulate that the duty applicable to imports of the electric motors in question must be equal to the difference for each type, between the import price, for cash payment, free at Community frontier, not cleared through customs, to the first purchaser and the price specified in the Annex; whereas for the purposes of this calculation the import price must be reduced for 1 % for each month of deferred payment granted;

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

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

HAS ADOPTED THIS REGULATION :

Article 1

1. The Commission Decisions of 22 February 1980 and 11 June 1980 accepting the undertakings given respectively by exporters in Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland and Romania and by exporters in the USSR, in connection with the anti-dumping proceedings 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 those countries, are hereby repealed.

2. The new undertaking entered into by the Hungarian exporter Transelektro is hereby accepted and the procedure regarding imports originating in Hungary terminated.

Article 2

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-ex 33, ex 34 and ex 36, originating in Bulgaria, Czechoslovakia, the German Democratic Republic, Poland, Romania or the USSR.

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

3. The free-at-Community frontier price, not cleared through customs, referred to in paragraph 2 shall be net if the terms of sale provide that payment

shall be made in cash on the date of delivery ; it shall be lowered by 1 % for each month for which payment is deferred.

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

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

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

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

Article 3

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

Article 4

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

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

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

Done at Brussels, 30 March 1982.

For the Commission
Wilhelm HAERKAMP
Vice-President

ANNEX

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

The minimum import prices referred to in Article 1 (2) of this Regulation are contained in the following tables and are expressed in ECU. These prices apply to type B3 multi-phase electric motors (with retaining legs).

For other types (e.g. B5 or B14) a supplement of 5 % must be added to the prices specified in these tables.

(a) Imports originating in Czechoslovakia and the German Democratic Republic:

kW	hp	3000 r/min	1 500 r/min	1 000 r/min	750 r/min
1.1	1.5	25.55	29.53	40.72	53.29
1.5	2	29.14	32.69	48.18	69.59
2.2	3	36.37	42.20	58.87	95.23
3.0	4	47.38	50.58	66.72	113.78
4.0	5.5	63.58	64.43	97.23	137.26
5.5	7.5	74.90	82.06	99.31	168.91
7.5	10	90.98	105.81	143.52	191.21
11.0	15	143.42	140.71	207.57	282.99
15.0	20	165.59	183.82	271.65	364.16
18.5	25	206.78	223.75	321.38	452.07
22	30	254.78	263.56	391.48	557.32
30	40	326.45	347.83	518.46	717.76
37	50	374.71	431.32	639.27	872.61
45	60	494.42	511.52	765.27	1 024.81
55	75	662.95	639.27	951.10	1 245.84
75	100	884.75	846.86	1 261.99	1 513.15

(b) Imports originating in Poland:

kW	hp	3000 r/min	1 500 r/min	1 000 r/min	750 r/min
1.1	1.5	25.80	29.82	41.12	53.80
1.5	2	29.52	33.01	48.65	70.27
2.2	3	36.73	42.61	59.44	96.17
3.0	4	47.84	51.08	67.37	114.90
4.0	5.5	64.20	65.07	98.17	138.60
5.5	7.5	75.62	82.87	100.28	170.57
7.5	10	91.86	106.85	144.93	193.06
11.0	15	144.81	142.09	209.60	285.77
15.0	20	167.20	185.63	274.31	367.74
18.5	25	208.78	225.95	336.46	456.51
22	30	257.25	266.14	395.32	562.79
30	40	329.62	351.25	523.55	724.80
37	50	378.35	435.55	645.54	881.18
45	60	499.28	516.54	772.79	1 034.87
55	75	669.46	645.54	960.44	1 258.08
75	100	893.44	855.18	1 274.39	1 527.84

(c) *Imports originating in Bulgaria and Romania:*

kW	hp	3000 r/min	1 500 r/min	1 000 r/min	750 r/min
1.1	1.5	26.30	30.39	41.91	54.84
1.5	2	30.08	33.65	49.59	71.62
2.2	3	37.43	43.43	60.59	98.01
3.0	4	48.76	52.06	68.66	117.09
4.0	5.5	65.44	66.31	100.06	141.25
5.5	7.5	77.08	84.45	102.21	173.83
7.5	10	93.63	108.89	147.70	196.77
11.0	15	147.60	144.81	213.61	291.23
15.0	20	170.41	189.18	279.56	374.77
18.5	25	212.80	230.27	342.89	465.24
22	30	262.20	271.23	402.88	573.55
30	40	335.96	357.96	533.56	738.66
37	50	385.63	443.88	657.88	898.02
45	60	508.82	526.42	787.56	1 054.65
55	75	682.26	657.88	978.80	1 282.12
75	100	910.51	871.52	1 289.75	1 557.23

(d) *Imports originating in the USSR:*

kW	hp	3000 r/min	1 500 r/min	1 000 r/min	750 r/min
1.1	1.5	26.54	30.68	42.31	55.36
1.5	2	30.27	33.96	50.06	72.30
2.2	3	37.79	43.84	61.16	98.94
3.0	4	49.22	52.55	69.31	118.21
4.0	5.5	66.05	66.94	101.01	142.60
5.5	7.5	77.80	85.26	103.17	175.49
7.5	10	94.51	109.93	149.10	198.63
11.0	15	148.99	146.19	215.65	294.01
15.0	20	172.02	190.98	282.23	378.35
18.5	25	214.81	232.46	346.16	469.68
22	30	264.67	273.82	406.72	579.02
30	40	339.13	361.38	538.65	745.71
37	50	389.27	448.11	664.16	906.59
45	60	513.68	531.44	795.07	1 064.72
55	75	688.77	664.16	988.14	1 294.36
75	100	919.20	879.84	1 311.14	1 571.92