

**COUNCIL REGULATION (EC) No 468/2001  
of 6 March 2001**

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

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 <sup>(1)</sup>, 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. Measures subject to review involving Japan**

- (1) In April 1993, by Regulation (EEC) No 993/93 <sup>(2)</sup>, the Council imposed definitive anti-dumping measures on imports of certain electronic weighing scales originating in Japan.

**2. Measures in force involving other countries**

- (2) In October 1993, by Regulation (EEC) No 2887/93 <sup>(3)</sup>, the Council imposed definitive anti-dumping measures on imports of certain electronic weighing scales originating in Singapore. In 1995 these measures were modified by Regulation (EC) No 2937/95 <sup>(4)</sup> following an investigation which showed that the dumping margin had increased as a result of the duties being absorbed. These measures are also subject to a review which was opened in October 1998 <sup>(5)</sup>.
- (3) On 16 September 1999, the Commission published a Notice in the *Official Journal of the European Communities* <sup>(6)</sup> 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 <sup>(7)</sup>, which imposed definitive anti-dumping measures on imports of certain electronic weighing scales originating in those countries.

**3. Request for review**

- (4) 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 Japan <sup>(8)</sup>, the Commission received a request dated 23 January 1998 to review the measures pursuant to Article 11(2) of the basic Regulation.
- (5) 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.

<sup>(1)</sup> 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).

<sup>(2)</sup> OJ L 104, 29.4.1993, p. 4.

<sup>(3)</sup> OJ L 263, 22.10.1993, p. 1.

<sup>(4)</sup> OJ L 307, 20.12.1995, p. 30.

<sup>(5)</sup> OJ C 324, 22.10.1998, p. 4.

<sup>(6)</sup> OJ C 262, 16.9.1999, p. 8.

<sup>(7)</sup> OJ L 301, 30.11.2000, p. 42.

<sup>(8)</sup> OJ C 329, 31.10.1997, p. 6.

- (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<sup>(1)</sup>. 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 Eurocommerce (a user association representing multiple and small users in the Community) which were known to be concerned. Representatives of the exporting countries were also officially advised. Interested parties were given 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 three Community producers and two Japanese producers, only one of which had exported the product concerned to the Community during the investigation period. The Commission also sent questionnaires to importers and the user association. Two importers replied. There was no response from the user association or any individual users.
- (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 producers:*

- Yamato Scale Co. Ltd, Akashi
- Ishida Co. Ltd, Kyoto

*Applicant Community producers:*

- Bizerba GmbH & Co. KG, Balingen, Germany
- GEC Avery Limited, (a subsidiary of the General Electric Company, plc), Birmingham, United Kingdom
- Testut/Lutrana SA, Béthune, France

*Importers:*

- Digi Nederland B.V., Purmerend, The Netherlands
- Carrin and Co. NV, Antwerp, Belgium

- (10) The investigation of continuation and recurrence of dumping covered the period from 1 April 1997 to 31 March 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 on the investigation (see recital 34) and the difficulties in establishing findings given the extent of non cooperation.
- (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.

<sup>(1)</sup> OJ C 128, 25.4.1998, p. 11.

## B. PRODUCT CONCERNED AND LIKE PRODUCT

### 1. The product concerned

- (13) The product concerned is the same as in the original investigation, i.e. 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 ex 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.
- (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) It was established that the various REWS produced and sold in Japan have, despite differences in size, life span, voltage or design, the same basic technical and physical characteristics as compared to the REWS exported from Japan to the Community and accordingly have to be considered as like products.

Likewise, apart from minor technical differences, Community-produced REWS are basically alike in all respects to the REWS exported from Japan 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 information contained in the request for review indicating 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 995 REWS from Japan were imported into the Community during the investigation period, as compared to 19 000 units in the previous investigation period on which the measures subject to review were based. The cooperation in this investigation has been very limited (a total of 35 units or less than 4 % of imports) with only partial cooperation forthcoming from two producers, Yamato Scales Co. Ltd and Ishida Co. Ltd, the latter not exporting to the Community market during the investigation period. This compares to cooperation from four exporting producers in the previous investigation.

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

- (18) In accordance with Article 11(2) of the basic Regulation, the purpose of an expiry review is to determine whether, or not, the expiry of the measures would be likely to lead to a continuation or recurrence of injurious dumping.

*Likelihood of continuation of dumping*

- (19) 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.
- (20) Only two producers submitted comments in response to the Notice of initiation of the investigation. Both of these cooperated only partially. One had no exports to the Community during the investigation period and therefore provided no information on export prices while the other had exported but provided incomplete information on normal values. Three other producers which were involved in the previous investigation refused to cooperate altogether. In these circumstances, the Commission only had access to very limited information from the Japanese producers in order to determine the existence of dumping.
- (21) The partial cooperator, Yamato Scales Co. Ltd provided complete information on its export prices but incomplete information on normal values as the data provided only covered one third of its domestic sales of the product concerned (the remaining sales being made to related distribution companies). The company also failed to provide any data on the selling, general and administrative costs it had incurred on its domestic sales. A comparison of these export prices with the incomplete data on normal values indicated that significant dumping was taking place on this exporter's sales to the Community. Also, a comparison of these export prices with the constructed normal value established for this producer in the original investigation also indicated the existence of significant dumping.
- (22) Moreover, one Japanese exporting producer, who accounted for the vast majority of REWS imports from Japan during the investigation period, when declaring his non cooperation, admitted that he was dumping on his exports to the Community. The Commission also examined Eurostat data and the average price of all exports from Japan derived from that data supported a finding of dumping in that such price was lower than any normal value established for the partial cooperator.
- (23) In view of the significant non cooperation the above information was considered as the facts available under the terms of Article 18 of the basic Regulation. As indicated, this showed the existence of a significant dumping margin.
- (24) Given the exchange rate fluctuations of the Japanese currency since the previous investigation, the depreciation of the yen against the invoice currency, i.e. US dollar, was examined also but it was found that the increased export prices in yen was partly offset by a significant real fall in dollar export prices (as reported by Eurostat) since the original case. This was confirmed by the findings for the partial cooperator where the depreciation of the yen did not, insofar as could be deduced from the incomplete information received, result in a lower dumping margin. Moreover, there were clear signs that the depreciation of the yen may not prove lasting.
- (25) In addition to the finding of the existence of significant dumping during the investigation period, no information was submitted showing that dumping was unlikely to continue should measures be removed. In fact, the evidence available to the Commission strongly suggests that these imports would continue to be made at dumped prices for the foreseeable future should the measures be removed. In particular, it should be noted that the Community market is attractive for exporters in that, on the basis of information received from the one partial cooperator, prices there are higher than in other third country markets (Taiwan, Malaysia) to which this company also exports.
- (26) It should be furthermore noted that in Japan prices have remained systematically higher than elsewhere, a situation which has persisted over a number of years. Therefore, this situation is considered unlikely to change in the short or medium term and makes the continuation of dumping very likely.

*Likelihood of recurrence of dumping*

- (27) Given that measures are deemed to have resulted in significantly lower quantities being exported from Japan to the Community, the question of the effects of the removal of measures in terms of increased quantities and dumped prices to the Community, i.e. recurrence of dumping, was examined.
- (28) There are indicators which make a resumption of these imports in significant quantities from both the partially cooperating and the non cooperating companies likely. Firstly, the removal of these measures would make the Community an attractive destination for Japanese exports in that prices appear to be slightly higher there than in certain other third country markets on which the exporting producers are present. Thus, given that there are still significant Japanese exports to these other third country markets, the re-direction of at least some of these exports to the Community would be very likely. Secondly, the Community market is a very important one in terms of size and these exporters are unlikely not to take advantage of any removal of measures.
- (29) As to the price of these imports should they resume, there is no reason to consider that the prices would be any different to those charged for the current albeit low level of imports. Arguably, lower prices may be a pre-requisite for significantly increased quantities. A recurrence of dumping is also made more likely by the fact that, as indicated in recital 25, Japanese exports to third country markets which have no measures in force (Taiwan and Malaysia) are made at dumped prices. Nor is there any indication that the relatively high prices in Japan are going to alter in the short term.

**D. SITUATION IN THE COMMUNITY REWS MARKET****1. Structure of the Community industry**

- (30) Since the current anti-dumping measures were imposed on imports of REWS from Japan in 1993, the Community industry has undergone a restructuring and consolidation programme in order to maintain its competitiveness. A total of ten companies cooperated in the previous investigation but following the restructuring process in the industry only six of these companies remained active in the investigation period. Three of these companies cooperated in the present investigation. It has become evident during the investigation that other Community producers restructured along similar lines.
- (31) The cooperating Community producers represent 41 % of total Community production in the investigation period and thus qualify as a major proportion of the Community production pursuant to Article 4(1) of the basic Regulation. 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 %.
- (32) 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**

- (33) 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**

<i>(units)</i>				
1994	1995	1996	1997	Investigation period
174 448	161 682	172 314	177 391	184 990

- (34) 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 purchased new, Euro-compliant models in anticipation of the introduction of the Euro. As retailers were, thus, bringing forward their replacement of old REWS, an increase in demand was created within the Community market 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 below normal levels from 2001 before returning to normal again by 2004.

**3. Imports concerned***Volume of imports*

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

**Volume of imports**

<i>(units)</i>					
	1994	1995	1996	1997	Investigation period
Imports from Japan	1 320	474	954	1 606	995
Market share	0,8 %	0,3 %	0,6 %	0,9 %	0,5 %

*Price behaviour of exporting producers*

- (36) As far as prices of the imports are concerned, it was considered most appropriate to use the information provided by the sole cooperating producer which exported to the Community market during the investigation period. Given the nature of the product, it was considered representative to examine the exporting producer's price behaviour during the investigation period by comparing its export prices with those of similar models sold by the Community industry. Whilst it was deemed that these models provided a fair comparison, the low volume of exports sold by this exporting producer, inevitably makes it difficult to draw clear conclusions. On the basis of the limited number of transactions available, however, there were indications that the exporting producer concerned made sales at very low prices in comparison with those of the Community industry. It was also evident that the decrease in prices of these models during the analysis period, was roughly mirrored by a reduction in prices charged by the Community industry (quoted at recital 42).

**4. Situation of the Community industry**

- (37) 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*

- (38) Production of all REWS fell over the period 1994 to 1996, but then increased in line with the Euro-effect as explained at recital 34. The capacity utilisation rate of the Community industry increased by 6 % during the analysis period.

**Community industry — Production and capacity**

<i>Index: 1994 = 100</i>	1994	1995	1996	1997	Investigation period
Volume all REWS produced	74 829	70 862	69 926	77 057	75 915
Capacity (all REWS)	105 446	106 770	100 338	99 888	100 625
Capacity utilisation rate (all REWS)	71 %	66 %	70 %	77 %	75 %

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*

- (39) 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 34.

**Sales in units**

	1994	1995	1996	1997	Investigation period
Sales of Community industry	58 245	54 307	53 485	57 794	58 002

*Sales turnover*

- (40) 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 38.

**Sales turnover in ECU***(1 000 ECU)*

	1994	1995	1996	1997	Investigation period
Sales of Community industry	87 445	80 679	77 066	74 079	77 902

*Market share and growth*

- (41) The market share of the Community industry fell from 33,4 % in 1994 to 31,4 % in the investigation period. Therefore, the Community industry could not benefit fully from the growth of the market.

*Price development*

- (42) An analysis of REWS pricing in the Community was made by reference to the sales prices of all models 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)*

	1994	1995	1996	1997	Investigation period
All REWS	1 576	1 562	1 508	1 321	1 404
Index	100	99	96	84	89

Sales prices for all ranges decreased between 1994 and the investigation period by 11 %. This overall average price reduction was consistent across all model ranges of REWS.

*Profitability*

- (43) As evidenced by the Table below, return on net turnover was positive throughout the period but, at the beginning of the analysis period, 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 two factors; 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 explained at recital 30.

**Profit (return on net turnover) in the Community**

	1994	1995	1996	1997	Investigation period
Community industry	2,2 %	3,1 %	1,6 %	4,9 %	9,6 %

*Other performance related factors*

- (44) 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*

- (45) The table below shows that during the analysis period employment in the Community industry decreased by 29 %.

**Productivity per employee**

	1995	1996	1997	1998	Investigation period
Number of units produced	74 829	70 862	69 926	77 057	75 915
Number of employees	1 370	1 305	1 208	1 063	978
Productivity	55	54	58	72	78

- (46) Productivity per employee increased by 42 % over the analysis period.
- (47) 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*

- (48) The Community industry has undergone a major restructuring programme and has improved production and distribution techniques. However, it has continued to suffer from pricing pressures, which have squeezed margins and resulted in a loss of market share and reductions in employment. Profitability improved towards the end of the analysis period but, as mentioned at recital 34, this was mainly due to one-off benefits of the 'Euro effect', and profit levels are quickly 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 identified in the previous investigation.



## E. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY

### 1. Analysis of the situation of the Japanese exporting producers

- (49) The development of imports from Japan is described at recital 35. Japanese exporting producers have continued to sell on the Community market, and it was submitted by the Community industry that they have concentrated their sales in markets of certain Member States with specific models, rather than selling the full range of models. This claim was examined by the Commission, and it was clear, from sales figures submitted by importers, that imports were indeed concentrated in certain markets, where the exporters felt that they could compete, mainly on the basis of low prices, without the need for large sales and distribution networks necessary for the Community industry.
- (50) The cooperating importers submitted that the reduction in exports from Japan was due to a transfer of production to other countries, and claimed that, as this transfer was lasting, there was no likelihood of an increase of REWS output in Japan and consequent exports to the Community in the future. In this respect it should be noted that the history of anti-dumping investigations involving the product concerned suggests that production is mobile, and can be moved to countries not subject to measures with relative ease. The investigation has shown that this process was aided by the fact that, when production moved from Japan to other South East Asian countries in the past, a significant value of parts (especially electronic components) continued to be produced and supplied from Japan. On this basis the Commission considers that, if measures on imports of the product concerned are allowed to expire, contrary to the submission made by the cooperating importers, it can not be excluded that exports from Japan would quickly reach their previous levels. In view of the finding of this investigation that dumping has continued to occur, it can be expected that such imports would be at dumped prices.
- (51) In addition to the above point regarding the relative ease of relocation of production, figures obtained from the partially cooperating exporting producer show that capacity utilisation, for the existing production facilities in Japan, was only 50 % in the investigation period. This shows that there is clearly scope for increased production and exports should measures be allowed to lapse, as there are no other major markets which could absorb this additional production volume.
- (52) It should also be noted that this exporting producer also sells at low prices on other markets (Malaysia and Taiwan for example). At similar levels of sales as those to the Community market, sales to Malaysia and Taiwan were at prices around 30 % lower than the sales price (on a cif basis excluding anti-dumping duties) of the same model on the Community market. This clearly suggests that the Community market would be very attractive to Japanese exporting producers in the absence of anti-dumping measures.
- (53) It is also clear that the Community import prices of the small number of transactions observed during the investigation period are at low levels despite the anti-dumping measures in force, but given their low volume these could not exert significant downward pressure on the prices of the Community industry. If measures were allowed to lapse exporters and importers would have increased price flexibility. Exporting producers might be able to benefit from increased export prices but this increase is likely to be limited in order to increase the attractiveness of their products. However, in the absence of anti-dumping duties it is likely that import prices would decrease and thus exert pressure on the Community industry's prices.

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

- (54) The Community market for REWS is predicted to remain relatively stable in the medium term, reflecting the fact that REWS are relatively mature products. During the investigation period, the Community industry was enjoying a boost in sales volume caused by the 'Euro effect', but, as explained at recital 34, this will not be a permanent phenomenon, and can be expected to be offset by losses in future sales. In the medium term sales will return to a gradual but slow decline. The Community industry can therefore expect to see no medium or long term increases in its sales

volume, but its market share can be expected to be eroded further due to pressure from imports from third countries. This situation would be made much worse if measures were allowed to lapse with respect to imports originating in Japan, because a large increase in the import volumes could be expected, as existing production capacities were more fully utilised in Japan or as production was switched back to Japan from countries it moved to after the imposition of anti-dumping duties.

- (55) Sales prices have declined on average by 10,9 % 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. The current trend in retailing away from small shops to large supermarket chains also has a downward effect on prices because of the bargaining power of these chains. The supermarket chains negotiate annual purchase contracts for REWS direct with producers. During the investigation, it became clear that these large retailers used low-priced offers from Japanese exporting producers to increase the downward pressure on prices. Bearing in mind the expected increased attractiveness of the Community market, the use of low price offers can be expected to have a serious price depressing effect and thus supports the likelihood of recurrence of injury.

### **3. Conclusion on recurrence of injury**

- (56) In the light of the above analysis it is concluded that the expiry of the measures on these imports is likely to lead to a recurrence of injury within the meaning in Article 11(2) of the basic Regulation. In reaching this conclusion, the Commission has also taken into account the fact that the Japanese exporting producers could influence the Community market to a far greater degree than their market share during the investigation period would suggest. If anti-dumping duties are removed it is highly likely that the dumping will continue at much higher volumes of imports. This conclusion is supported further by the level of unused production capacity available in Japan, by the relative ease with which production facilities can be transferred between countries, and by the finding at recital 52 above relating to the continuing attractiveness of Community market to Japanese exporting producers.
- (57) The expiry of the measures therefore would worsen the situation of the Community industry, eventually putting at risk the viability of Community production of REWS.

## **F. COMMUNITY INTEREST**

### **1. General considerations**

- (58) 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.
- (59) 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.

### **2. Interests of the Community industry**

- (60) 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 likely to deteriorate. The previous review investigation involving REWS from Japan 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, there was still a reduction in employment due to a consolidation process involving various mergers and acquisitions.

- (61) 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.
- (62) In addition, the investigation has demonstrated that the Community industry has made every effort to meet the competition from Japan 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.
- (63) 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 importers**

- (64) The Commission considered the interests of importers in the Community and received questionnaire responses from two companies (listed at recital 9) which imported the product concerned from Japan during the investigation period. The importers considered that the measures should be removed as they were hindering their ability to sell a high quality product which was not offered for sale by the Community industry. However, the Commission considered that the model imported was similar to some of the top range models produced and sold by the Community industry, that they were in direct competition with each other and that they were, therefore, like products.
- (65) As to the importers' sales and profitability, it is evident that the removal of measures would enable importers to reduce their resale prices and increase margins. In view of the findings on dumping and injury above, this increase in profitability would be due solely to continued dumping.

### **4. Interests of users**

- (66) 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.
- (67) 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.

### **5. Conclusion**

- (68) 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.

- (69) It should be recalled, however, that there is 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.
- (70) 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

- (71) It will be recalled that the current review was opened under both Article 11(2) and Article 11(3) of the basic Regulation. As explained at recital 16, the Commission decided not to pursue the Article 11(3) review. 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.
- (72) It follows that the existing anti-dumping duties should therefore be maintained:
- |                               |        |
|-------------------------------|--------|
| Yamato Scale Co. Ltd, Akashi  | 15,3 % |
| Tokyo Electric Co. Ltd, Tokyo | 22,5 % |
| Teraoka Seiko Co. Ltd, Tokyo  | 22,6 % |
| Ishida Co. Ltd, Kyoto         | 31,6 % |
| All other companies           | 31,6 % |
- (73) For the reasons explained in 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 retail trade scales currently classifiable within CN code ex 8423 81 50 (TARIC code 8423 81 50 10) and originating in Japan.

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

31,6 % (TARIC additional code 8697), with the exception for retail electronic weighing scales produced by the companies listed below, to which the following rate shall apply:

Yamato Scale Co. Ltd, Akashi (TARIC additional code 8696)	15,3 %
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Tokyo Electric Co. Ltd, Tokyo (TARIC additional code 8694)	22,5 %
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Teraoka Seiko Co. Ltd, Tokyo (TARIC additional code 8695)	22,6 %
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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

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