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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 864/87

of 23 March 1987

imposing a definitive 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, Hungary, Poland and the Soviet Union, and definitively collecting the amounts secured as provisional duties

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2176/84 of 23 July 1984 on protection against dumped or subsidized imports from countries not members of the European Economic Community [1], and in particular Article 12 thereof,

Having regard to the proposal from the Commission, submitted after consultations within the Advisory Committee established by the said Regulation,

Whereas :

A. Provisional measures

(1) Commission Regulation (EEC) No 3019/86 [2], in connection with the review proceeding opened on 26 November 1985 [3], imposed 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 (GDR), Hungary, Poland, Romania and the Soviet Union (USSR).

That Regulation also withdrew the Commission's acceptance of the price undertakings previously given by the exporters from Hungary and the USSR.

On the same day Council Regulation (EEC) No 3018/86 withdrew acceptance of the price undertakings previously given by the exporters from Bulgaria, Czechoslovakia, the GDR, Poland and Romania.

Council Regulation (EEC) No 254/87 [4] extended the provisional duty for a period of two months.

B. Further proceedings

(2) Shortly after the provisional duties were imposed, the complainants — Gimelec, supported by Zvei, Rema, Fabrimetal and Anie — asked the Commission to extend the proceeding to imports of the product in question originating in Yugoslavia.

The Commission decided after consultations that the evidence presented was sufficient to justify the opening of an anti-dumping proceeding concerning the imports in question originating in Yugoslavia, and began its investigation on 8 November 1986 [5].

Although the anti-dumping proceeding concerning imports originating in Yugoslavia is distinct from the present review proceeding, it nevertheless concerns the same products. In order to establish the definitive findings *vis-à-vis* the State-trading countries concerned, the Commission therefore also examined the level of domestic prices in Yugoslavia, the number of the motors in question exported by Yugoslav producers to the Community and the price levels involved.

[1] OJ No L 201, 30. 7. 1984, p. 1.
[2] OJ No L 280, 1. 10. 1986, p. 68.
[3] OJ No C 305, 26. 11. 1985, p. 2.
[4] OJ No L 26, 29. 1. 1987, p. 1.
[5] OJ No C 282, 8. 11. 1986, p. 3.

(3) After the imposition of the provisional duties, and within the period provided for by Regulation (EEC) No 3019/86, the exporters from the State-trading countries against which the provisional duties had been imposed, and certain importers (Symkens, Liège ; Sermès, Strasbourg ; Stanko, Longjumeau ; Neotype Techmaschexport, Bergisch-Gladbach), requested a hearing from the Commission. The latter informed them in detail of the facts and considerations on which its provisional conclusions had been based and on the basis of which it intended to propose the imposition of a definitive duty and the collection of the amounts secured by way of the provisional anti-dumping duty.

All parties were given the opportunity to make known their point of view on these conclusions within a prescribed period. Some of them took advantage of this opportunity, and their observations were taken into account.

(4) Certain exporters claimed that the Commission had infringed Article 14 of Regulation (EEC) No 2176/84, which sets out the conditions for the re-opening of an anti-dumping proceeding, in that the complainants had not submitted evidence of changed circumstances sufficient to justify the need for such a review.

It was decided to re-open the anti-dumping proceeding in November 1985, when the complainants had demonstrated in a sufficiently convincing manner that the imports concerned were increasing (604 000 units in 1983, 689 500 units in 1984, 748 000 units in 1985), that such imports still had a market share of approximately 20 % throughout the Community, and considerably more in some Member States, and that the price undertakings which the Community institutions had previously accepted had not been passed on to the market in such a way as to remove the injury suffered by the producers.

(5) In order to establish definitively the normal value in the State-trading countries under consideration, the Commission made additional checks on the main Swedish producer, whose domestic prices had been used for the preliminary determination of the normal value.

As a parallel anti-dumping proceeding had been opened concerning imports of motors originating in Yugoslavia (see point 2), the Commission also made checks on the following three Yugoslav producers/exporters of standardized electric motors :

— Rade-Koncar, Zagreb,

— Sever, Subotica,

— Elektrokovina, Maribor.

In order to investigate the questions of injury and causality in more detail, the Commission also made additional checks on the Community producers listed in Regulation (EEC) No 3019/86, and included in the investigation two Italian producers whose names had been suggested by several importers ;

— Electro-Adda, Beverate (Como),

— Lafert, S. Dona di Piave.

C. Normal value

(6) In order to establish whether products originating in Bulgaria, Czechoslovakia, the GDR, Hungary, Poland, Romania or the USSR were still being imported at dumped prices, and in view of the fact that those countries do not have a market economy, the Commission had made a preliminary determination of the normal value of domestic prices in those countries on the basis of the prices on the Swedish domestic market of products manufactured by Asea, the main Swedish manufacturer.

The Commission had considered that the prices on the Swedish domestic market of products manufactured by the largest Swedish manufacturer constituted an appropriate and not unreasonable basis for comparison within the meaning of Article 2 (5) of Regulation (EEC) No 2176/84. This choice was not disputed by any of the exporters in question within the prescribed period of the preliminary phase of the investigation. Only a small number of importers disputed the choice within the prescribed period, proposing that France or Italy should be chosen as market-economy reference country and that normal value for those countries should be determined on the basis of market prices (cf. Article 2 (5) (c) of that Regulation).

The Commission had rejected this proposal, since Article 2 (5) (c) is to be applied only when neither price nor constructed value as established under Article 2 (5) (a) or (b) provides an adequate basis, which was not the case here, given the characteristics of the Swedish market. In addition, one of the exporters, ZSE, had specifically accepted that the normal value should be established on the basis of Swedish domestic prices.

(7) Several of the exporters concerned — in particular those from the GDR, Poland and the USSR — disputed, in varying degrees, (i) the choice of Sweden as the reference market, (ii) the choice of Asea as representative producer, and (iii) the level of the Asea prices considered, in other words the level of discounts considered.

(8) Whilst the Commission considered that the prices on the Swedish domestic market of products manufactured by the largest Swedish manufacturer constituted an appropriate and not unreasonable basis for comparison, it has also, since the provisional duties were imposed, been able to carry out in due time, under the parallel proceeding on Yugoslav imports, checks on three Yugoslav producers/exporters of standardized electric motors.

As Yugoslavia is a market-economy country, the question arose as to whether prices on the Yugoslav domestic market would not also constitute an appropriate, and not unreasonable, basis for comparison.

Only certain exporters — essentially those from the GDR and the USSR — considered that this was not the case.

In addition it appeared to the Community authorities that to establish the normal value for the State-trading countries in question on the basis of the Yugoslav market prices would ensure an equality of treatment of all the exporting countries involved in the two proceedings underway.

The exporters and other interested parties were therefore informed of the Commission's intention of choosing the weighted average of the Yugoslav producers' domestic selling prices as the basis for comparison in definitively establishing the normal value.

This choice was disputed by the exporter from the USSR, who asked for a constructed normal value to be established on the basis of the Yugoslav producers' production costs; this was rejected for the reasons set out at point 14.

Finally, the request by the exporter from the GDR that France or Italy should be taken as market economy reference country and that the normal value should be established there on the basis of the market price (Article 2 (5) (c) of Regulation (EEC) No 2176/84) was rejected for the reasons set out in point 6.

The Commission therefore considered, and the Council shares this opinion, that the weighted average of Yugoslav producers' domestic selling prices presents a basis for comparison which is appropriate and not unreasonable for the definitive establishment of the normal value of domestic prices in the State-trading countries in question.

On this basis, the normal values for the six types of motor in the sample chosen (cf. recital 11 of Regulation (EEC) No 3019/86: 1 500 rpm four-pole motors of the following capacities: 1,1 kW, 3 kW, 5,5 kW, 11 kW, 30 kW and 75 kW, enclosed, blower-cooled, type B 3 motors with retaining legs, IP 44/54, 220/380 V, 50 Hz) were established as follows, taking account of the appropriate allowances explained at point 11 of this Regulation.

kW	Normal value ECU (1985) (ex-works, cash payment)
1,1	69,13
3	146,38
5,5	216,55
11	325,80
30	802,38
75	1 938,11

D. Comparison

(9) The definitive determination of dumping was made by comparing the normal values established above with the prices for exports to the Community from the seven State-trading countries concerned during the reference period. The export prices selected were the prices actually paid or payable on export to each of the main Community markets. This was the case even for linked importers, taking into account the fact that a comparison between the normal value at the transfer price resulted in such a dumping margin that even a reconstruction of the export prices would not have influenced the level of the measure finally adopted. Moreover, the lack of reconstruction of export prices between linked parties has not been challenged by the parties concerned.

(10) In order to compare the normal value with the ex-works export prices of each of the products contained in the sample, the Commission took account of differences affecting the comparability of Yugoslav domestic prices and the prices of motors exported by the State-trading countries, and appropriate allowances were made where the interested parties proved that such a request was justified.

(11) The domestic prices of the Yugoslav motors were reduced to the cash payment ex-works price. In this respect, allowances were made to take account of the sales conditions (payment and credit terms, warranties, servicing, salaries paid to salesmen, packing, transport, insurance, handling, loading and ancillary costs in particular) in so far as those differences had a direct functional relationship to the sales under consideration.

The net sales prices of the Yugoslav producers were calculated on the basis of the discounts granted on their list prices by these producers to their largest customers.

(12) The export prices of the motors exported by the State-trading countries were likewise reduced to the cash-payment ex-works price by means of allowances to take account of payment conditions, credit terms, warranties, packing, transport, insurance, handling, loading and ancillary costs.

— The Commission established that the discounts given by the Yugoslav producers on their domestic market generally corresponded with quantities comparable to those purchased by importers of motors originating in State-trading countries.

— Certain interested parties claimed that there were differences in the physical characteristics of the Yugoslav motors and those from the State-trading countries which were such as to affect price comparability. In particular, the exporter in the GDR indicated that for motors with equal output its products contained a lower active material content than most motors manufactured by Yugoslav and even Community competitors. The Soviet exporter and various other exporters claimed that the raw materials used in the manufacture of their motors were of a lower quality than those used in the market-economy countries. Other technical differences were also referred to, concerning in particular electricity input, axle height and noise and vibration levels.

However, the investigation revealed that the use of materials and components of different origins and the greater or lesser optimization by the various producers of the active material content of their motors did not result in differences in physical characteristics, nor in other differences affecting price comparability for which allowances should be made pursuant to Article 2 (10) of Regulation (EEC) No 2176/84.

With regard to differences in physical characteristics, an exception was, however, made in respect of ball bearings, which the investigation showed to be one of the factors which influenced the buyer's choice. The Yugoslav motors are fitted with Community, Swedish or Japanese ball bearings, whereas the ball bearings fitted in the motors from the State-trading countries are widely regarded as being of lower quality [1]. Given the impossibility of quantifying the effect of that difference on the market value of the motors concerned on the Yugoslav market, the corresponding allowance was based on the resulting difference in the Yugoslav producers' costs of production.

(13) The USSR exporter requested the following additional allowances :

(i) a first allowance of 15 % to take account of differences between Yugoslavia and the USSR in terms of rationalization and economies of scale ;

(ii) a second allowance of 20 % to take account of differences in wage levels, apparently much higher in Yugoslavia than in the USSR ;

(iii) a third allowance of 30 % to take account of differences in physical characteristics and in the quality of raw materials, the poor brand image of USSR products among distributors and consumers and lower efficiency of the after-sales service compared with that provided for Community products ;

(iv) a fourth allowance in respect of the costs borne by importers in adapting products to comply with EEC technical standards and the cost of financing stocks for export borne by both the exporter and importers. Energomachexport put this allowance at 35 % of the Yugoslav market price.

(14) The Council firstly notes that hardly any of the differences referred to by the USSR fall within any of the categories of factors mentioned in Article 2 (9) and (10) of Regulation (EEC) No 2176/84.

With regard to the first request, the concept of 'economies of scale' is specific to market economies, and there is no reason to consider it valid in countries where trade is a monopoly or near-monopoly, and where all domestic prices are fixed by the State. So, taken to their logical conclusions, the arguments used by some exporters would, for example, confine the choice of reference country for establishing normal value for the USSR to the United States, because of the respective size of the two markets.

[1] See Commission Decision 86/100/EEC (OJ No L 102, 18. 4. 1986, p. 31).

With regard to the second request, in establishing normal value on the basis of a non-member country with a market eocnomy there is no reason to make adjustments which are supposed to represent differences in costs — be they differences in wages or other items — arising between a State-trading country and a market economy country. Any adjustment of costs incurred in the reference country, Yugoslavia in the case in point, would imply reliance on costs incurred in the USSR, which is specifically intended to be excluded by Article 2 (5) of Regulation (EEC) No 2176/84, since that country does not have a market economy.

With regard to the third and fourth requests, it shall be pointed out that the question of any allowance for differences in physical characteristics or in the quality of raw materials was dealt with in point 12, and that allowances for differences in the cost of financing stocks are not acceptable since such costs fall under overheads.

The other elements of such requests are not relevant to the comparison between the Yugoslav normal value and the export price, but rather to the question of injury. The USSR exporter's arguments are therefore dealt with at point 31.

The arguments put forward by Energomachexport concerning allowances to take account of supposed comparative advantages are therefore rejected.

E. Dumping margins

(15) Examination of the facts showed that all the transactions involved substantial dumping. Dumping margins for each type of motor were therefore calculated by comparing the average price on export to each of the Member States of the Community with the normal value as determined for Yugoslavia.

This calculation showed that the dumping margin varied relatively little from one type of motor to another but did vary from one exporting country to another and, above all, from one Community market to another.

(16) For all the motors in the representative sample, the average weighted dumping margins represented the following percentages of the cif free-at-Community-frontier price, not cleared through customs :

	EEC (percentages)
Bulgaria	144
Czechoslovakia	121
GDR	137
Hungary	146
Poland	139
Romania	134
USSR	131

F. Injury

(17) Many exporters disputed the Commission's conclusions on the injury caused by the dumped imports set out in Regulation (EEC) No 3019/86.

Various arguments, put forward by the exporters in the GDR, Hungary, Poland and the USSR in particular, may be summarized as follows :

(18) (i) The exporters first argued that the impact of their respective exports to the Communiy should be examined separately, and that their small shares of the Community market could not have caused injury.

(ii) Concerning the volume of Community imports of the standardized multi-phase electric motors concerned, the Hungarian exporter claimed that, unlike the other exporters in the State-trading countries, it mainly exported motors for special uses to the Community.

(iii) As regards price-linked factors affecting injury, the exporters disputed the method used in Regulation (EEC) No 3019/86 to calculate price undercutting (comparison of the Community producers' production costs and the ex-importer resale price) and the accuracy of the production cost calculations; they further claimed that the price undercutting on the various Community markets, i.e. the difference between the Community producers' sale prices and the ex-importer resale prices, was far smaller than calculated according to the Commission's method, and in some cases non-existent.

(iv) The exporters further disputed the degree of injury suffered by the Community producers, arguing that Community production standardized motors had increased substantially since 1982, whereas the overall market share of

imports from the State-trading countries concerned had fallen, according to preliminary findings, from 23,2 % in 1982 to 20,3 % in 1985, while consumption was increasing over that period.

(v) Lastly, the causal link between imports from the State-trading countries and injury was disputed, it being claimed that:

— there had been a substantial increase in imports into the Community originating in countries other than those concerned by this proceeding,

— Community producers had not rationalized their production processes sufficiently, retaining too many factories with capacities too small to benefit from economies of scale,

— intra-Community competition, in particular from certain Italian producers, had also contributed to the difficulties experienced by the Community industry.

These arguments give rise to the following considerations:

(19) The first argument put forward by the exporters concerned essentially the question of cumulation. In order to assess the impact which the dumped imports had on the Community industry, the Commission considered the impact of all the dumped imports of standardized multi-phase electric motors from the seven exporter countries concerned as a whole.

In considering whether cumulation was appropriate in each case, the Commission took into consideration the comparability of the imported products in terms of their physical characteristics, the quantities imported, the very low level and the similarity of the prices charged by all the exporters concerned and the extent to which each imported product competed within the Community with a similar product of the Community industry.

On the basis of this analysis, the Commission can only note the fungible nature of the products concerned — that is their interchangeability and the comparability of their physical characteristics — and the similarity of prices as between one exporter and another.

In terms of volume, exports from the USSR, the GDR and Czechoslovakia increased, those from Bulgaria remained stable and exports from Poland, Hungary and Romania fell, as set out in recital 25 of Regulation (EEC) No 3019/86.

However, the Commission considered that failure to take account of the quantities exported by exporters with stable or falling exports would be equivalent to ignoring the interchangeability of the motors in terms of their physical characteristics and price; it would further ignore the fact that imports were still being dumped, despite the fall in volume, whereas Article 4 (1) of Regulation (EEC) No 2176/84 expressly provides that 'dumped imports' must be considered for the determination of injury.

The Commission was therefore of the opinion — and the Council shares this view — that all the dumped imports from the State-trading companies concerned must be considered to be contributing to the material injury suffered by the Community standardized electric motor industry; moreover, these imports took place under similar conditions, and to treat one exporter separately for the determination of injury would thus be to discriminate against the others.

The Council therefore considers that for the definitive determination of injury all the dumped imports concerned, from all of the exporters concerned by this proceeding, should be considered as a whole.

(20) Transelektro, the Hungarian exporter, disputed the import statistics of standardized electric motors from Hungary, claiming that its exports consisted largely of motors for special purposes and fell outside the scope of this proceeding.

However, the exporter supplied sufficient evidence to support its claims only for 1985. In these circumstances, the Council confirms the Commission's conclusion that the Hungarian request for figures other than official Community statistics to be taken into account should be accepted only for the said year. Moreover, given the nature of the standardized multi-phase electric motors sector, the fact that the Hungarian market share may have fallen, in some years, to a *'de minimis'* level does not in itself justify closing the proceedings without taking any definitive measure with regard to imports originating in Hungary.

Price-linked factors affecting injury

(21) The exporters and some importers disputed the procedure, followed in Regulation (EEC) No 3019/86 and set out in recital 22 thereof, whch consists of calculating the difference between the cost price of the most efficient industrial-scale — that is to say not artisanal — Community manufacturers on each market and the resale price of motors originating in the State-trading countries.

It is nevertheless clear that in a market such as that for standardized electric motors, where prices are depressed and almost all manufactaurers are selling at a loss, calculating the price undercutting margin simply by taking the difference between the manufacturer's sales price and the importer's resale price does not reflect the real injury to the industry, since the industry is, precisely, selling at less than its cost price. The Council therefore confirms the validity of the method applied by the Commission in Regulation (EEC) No 3019/86.

(22) Regarding the Community's manufacturers' cost prices, the Commission and the Council consider that these have been checked as much as is necessary during both the preliminary and final phases of the investigation, and that the figures at their disposal are an accurate reflection of the real economic position of the different Community manufacturers. In addition, the Commission in the final phase of its investigation checked the cost prices — and the sales prices — of additional Italian manufacturers which some importers had indicated to be particularly efficient. Lastly, it extended its enquiry to include the principal United Kingdom manufacturer.

These additional checks have led the Commission to modify some of the quantitative parameters of its analysis of the injury, but not to alter its major conclusions.

The arithmetic mean of the cost prices of the main industrial-scale Community manufacturers in 1985 was finally established as follows :

1,1 kW :	80,63 ECU
3,0 kW :	127,81 ECU
5,5 kW :	212,54 ECU
11 kW :	387,17 ECU
30 kW ;	931,48 ECU
75 kW :	2 368,08 ECU

The weighted average was fixed at slightly higher levels.

(23) As the Community manufacturers' definitively established costs are higher than their sales prices, the price undercutting margins when expressed as a percentage of the manufacturers' costs are as follows :

Price undercutting margins expressed as a percentage of the costs of the most efficient industrial-scale national manufacturers on each market (see recital 22 of Regulation (EEC) No 3019/86)

(%)

kW	D	F	I	BLEU
1,1	34 to 45	36 to 47	17 to 32	28 to 37
3	33 to 44	32 to 50	2 to 23	25 to 35
5,5	31 to 44	42 to 60	10 to 31	24 to 32
11	31 to 44	39 to 55	18 to 35	17 to 35
30	33 to 45	35 to 55	5 to 19	12 to 36
75	33 to 55	29 to 45	29 to 53	18 to 40

(24) Moreover it should also be noted that the resale prices ex-importer of motors originating in State-trading countries have significantly undercut the sales prices of Community manufacturers. In each of the main Member States concerned by this proceeding, the price undercutting margins were calculated in relation to the sales prices of the most efficient manufacturers.

Price undercutting margins expressed as a percentage of the sales price of the most efficient industrial-scale national manufacturers on each market

(%)

kW	D	F	I	BLEU
1,1	44,7 to 54,0	17,9 to 27,4	10,8 to26,2	24,4 to 34,0
3	44,1 to 47,4	13,3 to 31,2	1,8 to 24,3	21,7 to 31,8
5,5	42,7 to 53,7	21,9 to 46,7	6,8 to 29,2	14,2 to 23,4
11	42,4 to 53,6	30,7 to 47,2	19,5 to 36,7	7,2 to 26,8
30	42,3 to 53,7	30,5 to 48,1	4,6 to 27,1	7,2 to 32,4
75	44,1 to 54,3	27,8 to 44,5	0,8 to 22,5	28,8 to 47,6

The table above shows that the resale prices of motors originating in State-trading countries were, during the reference period, clearly very far below Community manufacturers' sales prices, even in Italy, where the market is nevertheless most depressed. The fact that, on this market in particular and in a limited number of transactions, the prices of dumped imports have been undercut by some Community manufacturers is not sufficient for a determination of no injury or causal link.

The Council's conclusive finding is therefore that the resale prices of motors originating in the State-trading countries are far too low to enable Community manufacturers to cover their cost prices (i. e. production costs plus overheads and general expenses excluding profit), whichever market is considered.

Macro-economic factors and impact on Community manufacturers

(25) Although the information collected by the Commission concerning the trend of production and sales of Community manufacturers of standardized electric motors does not lead to the conclusion that the imports of the motors concerned originating in the State-trading countries have had a visible adverse impact on these manufacturers, the same is not true of information on other relevant factors such as the high market share of imports, the significant amount of under-cutting the sales prices (loss making) of Community motors, operating losses, return on investments and employment in the standardized multi-phase motors sector.

(26) In addition to the considerations set out in points 25 to 28 of Regulation (EEC) No 3019/86, information gathered during this and previous proceedings shows that for several years Community manufacturers have been forced to sell their standardized motors at prices far below those necessary to cover their production costs, despite the price undertakings previously accepted by the Community institutions. This situation has forced Community manufacturers of standardized motors to finance investment indispensable for maintaining their production facilities from profits made in their other areas of activity.

Despite a growth in sales and production since 1982 due to the recovery of economic activity and consumption in the Community (up from 3 115 000 to 3 605 000 between 1982 and 1985, i. e. 15,7 %), Community manufacturers, with exception of two of the companies examined, have not been able to operate profitably in the standardized motor section in question. For the motors in the sample, operating losses in 1985 expressed as a percentage of the cost price varied between 2 % and 25 %. The only two companies to make profits in this sector had gross profit margins of ... % (1) and ... % (1) of costs respectively. In this respect it is significant that the company achieving the latter (relatively high) rate of profit is situated in the United Kingdom, where import penetration by State-trading countries is very low (only 4,5 % of the market).

Finally, employment directly related to the production of such electric motors in the Community continued to decline between 1982 and 1985, falling to 5 040 in 1985. It must be remembered that in 1978, 23 630 people were directly employed in manufacturing standardized multi-phase electric motors.

Other causes of injury

(27) According to the exporters, extra-Community imports into Italy other than those originating in the countries concerned by this proceeding have increased substantially. Italian statistics for 1985 on imports of standardized multi-phase electric motors of the output in question showed 411 000 motors originating in Yugoslavia and 217 000 originating in Hong Kong. However, the reliability of these figures has, since the beginning of the proceeding, been disputed by almost all the Italian firms and organizations consulted, their opinion being that single-phase motors — not covered by the proceeding — had been declared, whether intentionally or in error, as multi-phase motors.

According to these sources, all motors imported from Hong Kong were in fact micro-motors not covered by the proceeding. This opinion has been corroborated by the examination of Hong Kong export statistics which do not show any export of multi-phase motors for Italy. The exporters' argument on this point has thus been rejected.

As regards imports of Yugoslav motors, the Commission is currently undertaking an anti-dumping proceeding parallel to this proceeding.

(28) As regards the argument that Community manufacturers have not rationalized sufficiently, some exporters — particularly those from the GDR and the USSR — put forward the view that the Community manufacturers' cost prices were too high and that this situation stemmed from the over-fragmented structure of the Community standardized motor industry.

Concerning this aspect, though it is true that the Community industry still has a large number of production units, it must be noted that the industry has made considerable efforts towards automation as is shown by the reduction in manufacturing times to extremely competitive levels (much less than 60 minutes for a four-pole motor — B 3 — 1,1 kW).

In parallel with these efforts towards automation, a process of relocation of production plants in the new Member States of the Community (Spain and Portugal) has begun.

(1) Confidential figures, omitted in accordance with Article 8 of Regulation (EEC) No 2176/84.

Moreover, it is to be noted that the most efficient Community manufacturers are those which have been able, on the one hand, to cut down on their overheads and, on the other, to develop production facilities on a medium but optimum scale, being extremely flexible and providing good conditions for manufacturing standardized motors and all derived products in the 'rotary machines' sector.

The Council considers therefor the argument alleging lack of rationalization of Community manufacturers as being factually inaccurate, and furthermore it notes the considerations developed in point 14 concerning the allegations of comparative advantages existing in countries which do not have a market economy.

(29) As regards the argument of intra-Community competition, it is true that the Commission has established that competition was intense between Community industrial manufacturers. Italian industrial manufacturers have, on the whole, the lowest cost prices, for reasons related to their economic environment. However, Italian industrial manufacturers concentrate their sales efforts in the Community on 'special' multi-phase motors which are not like products compared with the motors imported from the State-trading countries.

Furthermore, the assessment of the injury factors linked to price, made in points 21 to 24, has shown that during the reference period the resale prices of motors imported from State-trading countries significantly undercut both the sales prices of industrial-scale Community manufacturers and their cost prices, even in Italy.

Finally, if small scale Italian artisanal manufactures locally charge prices comparable to those of motors originating in the State-trading countries, it must be emphasized that these manufacturers, which have only a little less than a quarter of the Italian market, manufacture under very special conditions, in particular using parts originating in the State-trading countries, have only a very restricted sales network and do not export motors, of whatever type, to the remainder of the Community.

(30) In addition to the exporters' arguments set out in point 18, and answered at points 19 to 29, the exporter from the USSR had claimed two allowances — see point 18 (iii) and (iv) — which in fact concern the assessment of injury.

— In determining price undercutting, the Commission compared products which are like products within the meaning of Article 2 (12) of Regulation (EEC) No 2176/84. However, it did not attempt to establish the effect of buyers' preferences, which would be a subjective judgement and difficult to quantify. No hard evidence has been provided concerning the precise effect of any possible preference on the part of the buyers on the price which they would be prepared to pay for the different motors.

— Due account was taken of the importers' costs in calculating the level of duty necessary to eliminate the injury in question.

Conclusions (existence of material injury and causal link)

(31) As regards injury, the definitive results of the investigation confirm that the difficulties experienced by Community manufacturers as a result of the very low priced dumped imports of motors originating in the State-trading countries in question have not been eliminated by the preceding Community measures. Almost all manufacturers, in 1985, continued to suffer substantial financial losses in the standardized multi-phase motor sector, despite a slight improvement in their market shares.

— Certainly, intra-Community competition by certain Italian industrial manufacturers contributed to the difficulties of the highest-cost Community manufacturers. Nevertheless, the Commission's overall finding was that the free-at-Community-frontier prices of imports of motors originating in the Eastern European countries were equivalent to approximately half the cost prices of the industrial-scale Italian manufacturers, whose costs are among the lowest in the Community; similarly on the Italian market, which is the most depressed, during the reference period the Italian importers' resale prices for motors from State-trading countries undercut the industrial manufacturers' prices more or less systematically and to a significant extent.

— The investigations showed that the price undertakings previously accepted by the Community institutions had become manifestly insufficient to cover the Community manufacturers' present cost prices, even of the most efficient. In particular, the adjustments carried out in 1984 had no effect on the level in ECU of these undertakings, but dealt with the exchange rates to be applied by the exporters. The adjustments in question, then, reflected solely currency fluctuations and not changes in the other economic parameters.

What is more, the investigation has shown that apart from their insufficient price levels, the previous price undertakings, by reason of the characteristics of the Brazilian market on the basis of which they were established in 1982, presented an unbalanced price structure in relation to present overall tariff structure of Community manufacturers.

— The market share held by the State-trading countries in question certainly diminished between 1982 and 1985 (from 23,0 % in 1982 to 19,6 % in 1985), and overall the Community manufacturers' share recovered (from 66,2 % to 68,6 %) on account of the effect of the preceding price undertaking. It is nevertheless the case that dumped imports, by maintaining an overall market share of a high level, approximately 20 %, have exerted considerable downward pressure on Community manufacturers' prices, as is proved by the existence of clear price undercutting on all markets.

— Moreover, it is clear that the whole of the price undercutting margins detected, whether in relation to the manufacturers' sales prices or costs, can be explained by the dumping practised by the exporters in question.

(32) In conclusion, taking account of all the factors affecting injury which the Commission in Regulation (EEC) No 3019/86 subjected to a preliminary investigation and of the assessment at points 17 to 31 of this Regulation, the Council declares its belief that the injury caused by the massively dumped imports originating in the State-trading countries must, taken individually, be considered material injury.

G. Community interest

(33) Several exporters and importers argued that there was a danger of an anti-dumping duty as imposed by Regulation (EEC) No 3019/86 leading to a very considerable drop in imports of standarized multi-phase motors into the Community. They also put forward the argument that this type of measure would have adverse effects on compensation agreements with the State-trading countries in question. The exporters from the USSR and the GDR in particular emphasized the number of special motors bought by their countries from the Member States of the Community.

Lastly, some assemblers, in particular manufacturers of pumps, drew the Commission's attention to the high proportion of their cost prices accounted for by the price of motors.

(34) The Commission took all of these observations into account.

However, it also took into account the Community manufacturers' financial losses in the standardized multi-phase electric motors sector and the fact that this sector is central to the Community 'rotary machines' industry, whose importance, both economic and social, as well as from an industrial policy viewpoint, is considerable. All rotary machines (retarders, flame-proof motors, step-down motors, variable-speed motors etc ....) incorporate one or more standardized motors, or motors derived from standardized motors.

The investigation showed that very low price dumped imports of standardized motors were threatening to have, or were already having, adverse effects on other activities in the 'rotary machines' industry, in particular in Italy where there is considerable compensation trade involving imports of standardized motors and of parts for motors. A similar situation, with assembly plants being set up, has appeared in the Netherlands and in the Federal Republic of Germany.

The Council views these developments, which threaten to wipe out the efforts of even the most efficient manufacturers and which are taking place as the accession of Portugal and Spain gives Community manufacturers the opportunity to relocate, as harmful to the Community interest and considers that a stop should be put to them.

(35) The Council therefore considers that Community interests require the adoption of a commercial protective measure against the imports proved to have been dumped, in order to eliminate the injury caused by these imports.

However, given the intra-Community competition in the standardized multi-phase motor sector and the need to maintain as far as possible the competitiveness of the downstream industries, the Council believes it appropriate to determine the level of the measure to be taken — whatever its form — on the basis of the cost prices of the most efficient industrial-scale manufacturers.

H. Undertakings

(36) Certain manufacturers/exporters offered the Commission undertakings concerning their future exports to the Community.

(37) The Commission did not accept these undertakings, except that offered by the Romanian exporter. It informed the manufacturers/exporters concerned of the reasons for its decisions.

I. Form and rate of the duty

(38) Regarding the form of the anti-dumping duty to be imposed on imports originating in the countries concerned, the Council confirms its view that, given the wide variety of motors in question and the fact that they originate in State-trading countries, the most appropriate type of anti-dumping duty in this case, both in the interests of maximum transparency efficiency and in order to induce exporters to raise their prices, is a variable duty calculated according to the difference between the minimum price expressed in ECU for each type of motor and the price for the first independent buyer.

As the investigation revealed that a substantial number of importers — in particular Enital (Milan), Mez-Italiana (Milan), Sofbim (Argenteuil), Stanko-France (Longjumeau), Neotype Techmaschexport (Bergisch-Gladbach), Elprom (Borken, Hessen) — were linked to an exporter by an association or a compensatory arrangement with a third party within the meaning of Article 2 (8) (b) of Regulation (EEC) No 2176/84, the Council considers it necessary, in the interests of effectiveness, to take as a reference point in calculating the anti-dumping duty the price paid by the first buyer not associated with the exporter. In the case of such importers, the free-at-Community-frontier unit price shall correspond to the customs value as determined in accordance with Article 6 of Council Regulation (EEC) No 1224/80 of 28 May 1980 on the valuation of goods for customs purposes [1].

(39) The minimum price for each type of motor concerned was calculated on the basis of the production costs of the most efficient industrial producers. A gross profit margin of 4 % of production costs was finally taken into consideration on account of the competition between Community producers.

On the basis of the reference Community cost prices and profit margin referred to above, taking due account of differences in the physical characteristics of the imported motors and the Community motors, the Commission quantified the necessary price increases at the cif free-at-Community-frontier stage (see Annex).

The price increases for four-pole motors represent approximately 25 % of the import prices during the reference period.

Thus the rate of anti-dumping duty is clearly lower than the dumping margins established. However, in view of the sale price needed to provide efficient Community producers with a reasonable profit, it should be sufficient to remove the injury caused to Community production of standardized motors by the imports concerned.

At the resale stage, the effective increase of the ex-importer prices will of course form part of the import margin of each importer. However, the rate of duty should normally induce the importers to resell their type B 3 standardized, multi-phase motors on average at the following prices in ECU :

kW	hp	3 000 rpm	1 500 rpm	1 000 rpm	750 rpm
1,1	1,5	55,2	56,9	79,2	121,9
1,5	2	62,2	67,2	93,4	143,6
2,2	3	80,9	82,6	121,9	085,8
3	4	95,7	99,1	148,1	221,6
4	5,5	119,7	125,9	186,3	267,8
5,5	7,5	154,9	160,1	242,7	329,9
7,5	10	196,6	206,2	279,7	409,6
11	15	265,6	274,1	404,6	551,6
15	20	335,0	357,8	529,9	710,5
18,5	25	429,6	436,4	650,2	881,4
22	30	513,9	513,9	763,6	1 087,2
30	40	686,0	678,0	1 011,4	1 400,0
37	50	856,0	840,9	1 246,7	1 701,9
45	60	964,0	997,8	1 492,3	1 998,9
55	75	1 293,5	1 246,7	1 855,3	2 430,8
75	100	1 725,9	1 651,3	2 462,0	3 129,3

(40) Finally, the Council noted that the maximum customs duty in force in Spain and Portugal, in 1986 and 1987, for the standardized multi-phase electric motors in question, was higher than the Common Customs Tariff duty applicable to the same products. In order to prevent imports into these Member States from being subject to higher overall duties, it was deemed appropriate to bring about a situation where the cumulative amounts of the anti-dumping duty and the non-adjusted customs duties in Spain and Portugal do not exceed the cumulative amounts of the Common Customs Tariff duty and the anti-dumping duty.

J. Collection of provisional duties

(41) A provisional duty is aimed at increasing the price of goods for the first independent purchaser established in the Community. An importer who chooses not to raise his prices thus runs the risk of having to pay the duty in question and it is reasonable to take measures to cause him to increase his prices, since, through his choice, Community production continues to suffer injury. Consequently, in this procedure, the amounts secured by way of provisional anti-dumping duty must, taking into account the importance of the dumping and the material injury resulting therefrom, be collected at the level of the definitive duty imposed.

In the same way, for imports originating in Romania, the amounts secured by way of provisional anti-dumping duty must be collected for

[1] OJ No L 134, 31. 5. 1980, p. 1.

each type of motor at a level equal to the difference between the net unit price free-at-Community-frontier, not cleared through customs, and the price specified in the Annex,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive 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 code ex 85.01-33, 85.01-34 or ex 85.01-36, originating in Bulgaria, Czechoslovakia, the GDR, Hungary, Poland or the USSR.

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

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

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

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

In this case the net unit price, free-at-Community-frontier, shall be the customs value as determined in accordance with Article 6 of Regulation (EEC) No 1224/80. Failing this, in cases where, for an associated importer, it is not possible to determine the customs value in accordance with the foregoing provisions, the net price, free-at-frontier, shall correspond to the customs value as determined in accordance with Article 2 (3) of the said Regulation.

(b) The provisions of (a) above shall apply in particular to motors originating in the countries concerned and imported by the companies named below:

Importers	Motors originating in
Enital (Milan)	USSR
Mez-Italiana (Milan)	Czechoslovakia
Sofbim (Argenteuil)	Bulgaria
Stanko-France (Longjumeau)	USSR
Neotype Techmaschexport (Bergisch Gladbach)	USSR
Elprom (Borken/Hessen)	Bulgaria

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

Article 2

1. With regard to the imports concerned originating in Bulgaria, Czechoslovakia, the GDR, Hungary, Poland or the USSR, the amounts secured by way of the provisional anti-dumping duty imposed by Commission Regulation (EEC) No 3019/86 and extended by Council Regulation (EEC) No 254/87 shall be collected definitively at the level of the definitive duty imposed.

2. With regard to imports originating in Romania, the amounts secured by way of provisional anti-dumping duty shall be collected definitively at a level equal to the difference between the net unit price, free-at-Community-frontier, not cleared through customs, and the price specified in the Annex.

Article 3

The anti-dumping duties imposed or collected pursuant to Articles 1 and 2 shall be collected on imports into Spain and Portugal only in so far as the cumulative amount of the customs duty in force in these Member States on the product in question and of the anti-dumping duty does not exceed the cumulative amount of the Common Customs Tariff duty and the anti-dumping duty concerning the same product.

Article 4

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, 23 March 1987.

For the Council

The President

H. DE CROO

ANNEX

Minimum prices on import into the Community of certain standardized multi-phase electric motors originating in Bulgaria, Czechoslovakia, the GDR, Hungary, Poland and the USSR

The minimum import prices referred to in Article 1 (3) of the Regulation are those given in the Table below, expressed in ECU.

The prices given are for type B 3 multi-phase electric motors (i.e. those with retaining legs).

For other motors (type B 5, B 14, etc.), an additional amount of 7 % shall be added to the price specified below.

kW	hp	3 000 rpm	1 500 rpm	1 000 rpm	750 rpm
1,1	1,5	39,4	40,7	56,6	87,1
1,5	2	44,4	48,0	66,7	102,6
2,2	3	57,8	59,0	87,1	132,7
3	4	68,4	70,8	105,8	158,3
4	5,5	85,5	89,9	133,1	191,3
5,5	7,5	110,7	114,4	173,4	235,7
7,5	10	140,4	147,3	199,8	292,6
11	15	189,7	195,8	289,0	394,0
15	20	239,3	255,6	378,5	507,5
18,5	25	306,9	311,7	464,4	629,6
22	30	367,1	367,1	545,4	776,6
30	40	490,0	484,3	722,4	1 000,0
37	50	612,9	600,7	890,5	1 215,7
45	60	688,6	712,7	1 065,9	1 427,8
55	75	923,9	890,5	1 325,2	1 736,3
75	100	1 232,8	1 179,5	1 758,6	2 235,2