

COMMISSION REGULATION (EC) No 355/2006**of 28 February 2006****imposing a provisional anti-dumping duty on imports of certain side-by-side refrigerators originating in the Republic of Korea**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾ (the basic Regulation) and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

1. PROCEDURE**1.1. Initiation**

- (1) On 18 April 2005, a complaint concerning imports of certain side-by-side refrigerators originating in the Republic of Korea was lodged by Whirlpool Europe srl. (the complainant) representing a major proportion of the Community production of side-by-side refrigerators.
- (2) This complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the opening of a proceeding.
- (3) On 2 June 2005, the proceeding was initiated by the publication of a notice of initiation in the *Official Journal of the European Union* ⁽²⁾.

1.2. Parties concerned by the proceeding

- (4) The Commission officially advised the complainant, Korean exporting producers, traders, importers, suppliers and retailers known to be concerned, as well as associations known to be concerned and representatives of the Republic of Korea, of the initiation of the proceeding. Interested parties were given an opportunity to make their views known in writing and to request a hearing within the time-limit set in the notice of initiation.
- (5) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, resulting injury and Community interest. To this end, the Commission sent questionnaires to all parties known to be concerned and to all the other companies that made themselves known within the deadlines set out in the notice of initiation. Replies were received from three Korean exporting producers and their related importers in the Community, from the complainant, from one unrelated importer, from two suppliers and from two retailers in the Community.
- (6) Verification visits were carried out at the premises of the following companies:

(a) *Producers in the Community:*

— Whirlpool Europe srl, Varese, Italy;

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).

⁽²⁾ OJ C 135, 2.6.2005, p. 4.

- (b) *Unrelated importers in the Community:*
- Indesit Company SpA, Fabriano, Italy;
- (c) *Retailers in the Community:*
- Media-Saturn Systemzentrale GmbH, Ingolstadt, Germany;
- (d) *Exporting producers in Korea:*
- Daewoo Electronics Corporation, Seoul,
 - LG Electronics Corporation, Seoul,
 - Samsung Electronics Corporation, Seoul;
- (e) *Related importers in the Community:*
- Daewoo Electronics Sales UK, Wokingham, United Kingdom,
 - LG Electronics Benelux BV, Almere, The Netherlands,
 - LG Electronics España SA, Madrid, Spain,
 - LG Electronics UK Limited, Slough, United Kingdom,
 - Samsung Electronics Benelux BV, Delft, The Netherlands,
 - Samsung Electronics Iberia SA, Barcelona, Spain,
 - Samsung Electronics UK Limited, Chertsey, United Kingdom.
- (7) All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

1.3. Investigation period

- (8) The investigation of dumping and injury covered the period from 1 April 2004 to 31 March 2005 ('investigation period' or 'IP'). With respect to the trends relevant for the injury assessment, the Commission analysed data covering the period from 1 January 2002 to 31 March 2005 (period considered).

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

- (9) The product concerned is side-by-side refrigerators, i.e. combined refrigerator-freezers of a capacity exceeding 400 litres, with at least two separate external doors fitted side-by-side, originating in the Republic of Korea, currently classifiable within CN code ex 8418 10 20.

- (10) One white goods producer in the Community requested the inclusion of refrigerator and freezer sets which, placed side-by-side, can be joined to form one system by using a special kit. The issue was investigated and it was concluded that this product consists of two distinct appliances which can be purchased and function independently of each-other. Therefore, this product is not a combined refrigerator-freezer and it, consequently, does not fall within the product definition.
- (11) According to one exporting producer, all refrigerators should have been included in the scope of the proceeding as they serve the same purpose, i.e. to preserve food and beverage, and as most of them have both a refrigerator compartment and a freezer compartment.
- (12) Additionally, the same company claimed that the product description in the notice of initiation was erroneous. According to this company, in the industry 'side-by-side refrigerators' were understood to be refrigerators with a refrigerator compartment and a freezer compartment located side-by-side to each other, with separate external doors for each compartment. The company claimed that should the definition of the product concerned in the notice of initiation be maintained, certain 'bottom mount freezers', namely combined refrigerator-freezers with two doors on the refrigerator compartment above and one door on the freezer compartment below, would be included in the investigation whereas comparable models with one door on each compartment would be excluded. The company therefore claimed that either all refrigerator-freezer combinations with three or more doors should be excluded from the proceeding or its scope should be enlarged by including all combined refrigerator-freezers.
- (13) As regards the argument that all refrigerators should have been included as they serve the same purpose, it is noted that the market of side-by-side refrigerators clearly is a separate and distinct market segment. The specific physical characteristics, notably the two large doors placed side-by-side, give a side-by-side refrigerator its own specific place on the market of combined refrigerator-freezers. This fact is also acknowledged by producers, distributors and sellers who market the product separately as a 'premium' kind of combined refrigerator-freezer.
- (14) As regards the second argument, it has been established in the investigation that there is no commonly used definition of side-by-side refrigerators. The three doors' combined refrigerator-freezer as mentioned under recital (12), however, can be found alongside all other models of side-by-side refrigerators in the market place. The exporting producer which made the above claims in the past also marketed these combined refrigerator-freezers explicitly as 'three door side-by-side refrigerators'.
- (15) It is therefore provisionally concluded that although there are differences in volume, optional features and materials used, all types of side-by-side refrigerators, including three-door combined refrigerator-freezers with bottom-mount freezers, share the same basic physical and technical characteristics and are basically used for the same purposes.
- (16) Consequently, the comments of this exporting producer did not justify changing the description of the product concerned as set out in paragraph 2 of the notice of initiation. A minor change in the wording with no effect on the product scope covered was, however, found necessary in order to align the product definition with the description in the Combined Nomenclature.

2.2. Like product

- (17) The product concerned, side-by-side refrigerators produced and sold in the Community by the Community industry and side-by-side refrigerators produced and sold in the Republic of Korea were found to have essentially the same physical and technical characteristics and the same basic uses. They are therefore provisionally considered to be alike within the meaning of Article 1(4) of the basic Regulation.

3. DUMPING

3.1. Normal value

- (18) For the determination of normal value the Commission first established, for each of the exporting producers, whether its total domestic sales of the like product were representative in comparison with its total export sales to the Community. In accordance with Article 2(2) of the basic Regulation, domestic sales were considered representative when the total domestic sales volume of each exporting producer was at least 5 % of its total export sales volume to the Community. In the case of all exporting producers their domestic sales were found to be representative within the meaning of Article 2(2) of the basic Regulation.
- (19) The Commission subsequently identified the types of the like product sold domestically which were identical or directly comparable to the types sold for export to the Community. For each of those types, it was established whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the basic Regulation. Domestic sales of a particular type were considered sufficiently representative when the total domestic sales volume of that type during the IP represented 5 % or more of the total sales volume of the comparable type exported to the Community.
- (20) The Commission subsequently examined whether the domestic sales of each type of the product concerned, sold domestically in representative quantities, could be considered as being made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing the proportion of profitable domestic sales to independent customers, of each exported product type: (a) for those product types where more than 80 % by volume of sales on the domestic market were not below unit costs, and where the weighted average sales price was equal to or higher than the unit cost, normal value, by product type, was calculated as the weighted average of all domestic sales prices of the type in question; (b) for those product types where at least 10 %, but no more than 80 %, by volume of sales on the domestic market were not below unit costs, normal value, by product type, was calculated as the weighted average of domestic sales prices which were found to be equal to or above unit costs only, of the type in question; (c) for those product types where less than 10 %, by volume of sales, on the domestic market, were not below unit costs, it was considered that the product type concerned was not sold in the ordinary course of trade.
- (21) For sales of product types not made in the ordinary course of trade, as well as for product types which were not sold in representative quantities on the domestic market, normal value had to be constructed.
- (22) To construct normal value pursuant to Article 2(3) of the basic Regulation, the selling, general and administrative (SG&A) expenses incurred and the weighted average profit realised by each of the co-operating exporting producers concerned on its domestic sales of the like product, in the ordinary course of trade, during the investigation period, was added to their own average cost of production during the investigation period. Where necessary, the costs of production and SG&A expenses reported were adjusted, before being used in the ordinary course of trade test and in constructing normal values.

3.2. Export price

- (23) Most sales of each of the exporting producers concerned were made to related importers in the Community. For those sales, the export price was established on the basis of the resale price to independent customers in accordance with Article 2(9) of the basic Regulation. Adjustments were made to the resale price to the first independent buyer in the Community for all costs including duties and taxes, incurred between importation and resale, in order to establish a reliable export price at Community frontier level. These costs were freight, handling, loading, insurance and ancillary expenses, as well as SG&A expenses incurred by the related importers. The resale price was further adjusted for a reasonable profit margin which was found in the investigation to have been attained by an independent importer of the product concerned.

- (24) The remaining exports of the product concerned by each of the exporting producers were made directly to independent customers in the Community. For those sales, the export price was established in accordance with Article 2(8) of the basic Regulation, on the basis of prices actually paid or payable.

3.3. Comparison

- (25) The comparison between normal value and export price was made on an ex-works basis. In order to ensure a fair comparison, account was taken, in accordance with Article 2(10) of the basic Regulation, of differences in factors which affect price comparability. Allowances for differences in packing costs, transport costs, ocean freight and insurance costs, handling costs, loading and ancillary costs, duty drawback, level of trade, after-sales costs, commissions, discounts, rebates and advertising costs were granted where applicable and justified, duly adjusted where necessary.
- (26) All three exporting producers submitted a comparison table between domestically sold models and partly comparable models sold for export to the Community, claiming, pursuant to Article 2(10)(a), an adjustment for the remaining differences in physical characteristics. For two companies, the claimed allowances per model had to be adjusted in order to properly reflect the market value of the differences in physical characteristics. On that basis, allowances for differences in physical characteristics were granted to all three exporting producers.
- (27) One company claimed a duty drawback adjustment pursuant to Article 2(10)(b) of the basic Regulation, basing its claim solely on the duties paid on raw materials allegedly used for the production of the product concerned. This company, however, did not substantiate the drawback of these duties upon exportation of the product concerned and, therefore, no refund of import duties could be established within the meaning of Article 2(10)(b) of the basic Regulation. Accordingly, this claim was rejected.
- (28) Two exporting producers made certain domestic sales via related retailers. They requested, pursuant to Article 2(10)(d)(i), exclusion of these retailers' sales from the normal value computation, as they would be at a level of trade nonexistent on the Community market. The investigation showed that these related retailers sold the like product predominantly or exclusively to consumers, a level of trade which did not exist on the Community market. It was also established that the prices charged to consumers were consistently at a different level as compared to prices charged to other categories of customers. In view of the above findings and as the remaining domestic sales of both companies were found to be sufficiently representative, it was decided to exclude these sales to consumers from the normal value computation.
- (29) One of the exporting producers had used a related company for the ocean transport of the product concerned. The freight costs charged by this related party were found to be significantly below the market level. Therefore, these costs were replaced with the costs of an unrelated freight forwarder of which ocean transport costs for shipping the product concerned to the Community could be obtained during the course of the investigation.
- (30) All three exporting producers claimed, pursuant to Article 2(10)(g), an adjustment for credit costs allegedly incurred on their domestic sales. These claims were based on the actual credit period taken by customers under the 'open account' payment system used on the Korean domestic market. It was found that under such a system, generally, the exporting producers did not actually grant specific credit periods and the credit periods taken could not be accurately determined, as receipts could not be linked to specific invoices. The exporting producers' claims, therefore, had to be rejected.

3.4. Dumping margin

- (31) For all three exporting producers a clear pattern of export prices which significantly differed between regions was established. It was indeed found that significant volumes at low prices were concentrated on the UK and French markets. These two markets were responsible for more than 50 % of the imports of the product concerned in the Community during the IP.
- (32) The dumping found on these markets would have been inappropriately disguised by the use of a comparison of a weighted average normal value with a weighted average of export prices to all Member States of the European Union, as the prices at dumped levels found for all three exporting producers on the UK and French markets were wholly or partly offset by higher and largely non-dumped prices on other Community markets. Such methodology would not, therefore, reflect the full degree of dumping being practised. It was accordingly found appropriate to reflect in the calculation of the dumping the significant differences in the pattern of export prices among different regions.
- (33) In this case, the transaction-to-transaction comparison was not found to be an appropriate alternative comparison method because the process of selecting individual transactions in order to make such a comparison was considered too impractical and arbitrary, with tens of thousands of export and domestic transactions.
- (34) Consequently, according to Article 2(11) of the basic Regulation, for each co-operating exporting producer, the weighted average normal value was compared to the prices of all individual export transactions to the Community.
- (35) On this basis, the provisional dumping margins expressed as a percentage of the cif Community frontier price, duty unpaid, are:

Company	Provisional dumping margin
Daewoo Electronics Corporation	9,1 %
LG Electronics Corporation	14,3 %
Samsung Electronics Corporation	4,4 %

- (36) Since the level of cooperation was high (100 % of the exports of the product concerned from Korea to the Community), the residual provisional dumping margin was set at the level of the highest dumping margin established for a cooperating company, i.e. at the level established for LG Electronics Corporation, namely 14,3 %.

4. INJURY

4.1. Community production and Community industry

- (37) Within the Community, the like product is only manufactured by the complainant.
- (38) The complainant properly co-operated in the investigation. Given that the complainant is the sole producer of the like product in the Community, its production represented, during the IP, 100 % of the Community production of the like product.

- (39) The complainant therefore constitutes both the Community production within the meaning of Article 4(1) of the basic Regulation and the Community industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation. The complainant will also be referred to as the 'Community industry'.
- (40) During the start-up phase (2002), the Community industry had to resort to imports of the like product procured from its mother company in the USA. The volumes procured from this source declined sharply from 2003 onwards as the production of the newly built plant gathered pace (see recitals (80) and (81) below). As for the assessment of the situation of the Community industry (see from recital (48) below), the analysis concerns only the Community industry's own production and not its purchases from its mother company.

4.2. Community consumption

- (41) Community consumption was established on the basis of the sales volumes of the Community industry's own production on the Community market, the import volumes data obtained from the three Korean co-operating exporting producers on the Community market, and the import volumes on the Community market from the USA, as obtained from the most widely used database in this particular business. The like product was not imported into the Community from any other country in the world during the period considered.
- (42) Given that the Community industry comprises only one producer, and given that the Community market for the product concerned and the like product is supplied by only three origins (the Community industry, the Korean producers and the USA), data relating to the market shares of the Community industry and of the USA are presented in an indexed format in order to preserve the confidentiality of the data submitted in confidence by the Community industry, pursuant to Article 19 of the basic Regulation.
- (43) Between 2002 and the IP, the Community market for the product concerned and the like product has grown more than twofold. Community consumption was around 213 000 pieces in 2002, and around 456 000 in the IP. Specifically, it increased by 51 % in 2003, rose further by 54 percentage points in 2004, and by 10 percentage points in the IP.

	2002	2003	2004	IP
Total EC consumption (pieces)	212 755	321 672	435 158	456 410
<i>Index (2002 = 100)</i>	100	151	205	215

4.3. Imports from the country concerned

(a) Volume

- (44) The volume of imports of the product concerned from the Republic of Korea into the Community rose massively and steadily between 2002 and the IP. It rose by 157 % between 2002 and the IP. In detail, imports from the country concerned increased by 66 % between 2002 and 2003, by a further 77 percentage points in 2004 and by a further 14 percentage points in the IP.

	2002	2003	2004	IP
Volume of imports from the Republic of Korea (pieces)	141 754	235 902	343 922	364 261
<i>Index (2002 = 100)</i>	100	166	243	257
Market share of imports from the Republic of Korea	66,6 %	73,3 %	79,0 %	79,8 %
Prices of imports from the Republic of Korea (EUR/piece)	649	575	579	577
<i>Index (2002 = 100)</i>	100	89	89	89

(b) *Market share*

- (45) The market share held by exporters in the country concerned increased by around 13 percentage points during the period considered to reach a level of almost 80 % during the IP. Korean exporters gained almost 7 percentage points in 2003, and again almost 6 percentage points in 2004. The Community market is therefore characterised by an overwhelming dominance of the Korean producers.

(c) *Prices*

(i) *Price evolution*

- (46) Between 2002 and the IP, the average price of imports of the product concerned originating in the Republic of Korea declined by 11 %, although there has been a constant improvement in the functionalities of the models offered for sale, year after year. Specifically, the drop in the price was concentrated in 2003 over 2002. After 2003, average prices have remained flat (see table above).

(ii) *Price undercutting*

- (47) A comparison for comparable models of the product concerned and like product was made between the exporting producers' and the Community industry's average selling prices in the Community. To this end, Community industry's ex-works prices to unrelated customers, net of all rebates and taxes have been compared with the cif Community frontier prices of exporting producers of the Republic of Korea, duly adjusted for unloading and customs clearance costs. The comparison showed that during the IP the product concerned originating in the Republic of Korea sold in the Community undercut the Community industry's prices by between 34 % and 42 %, depending on the exporter concerned.

4.4. **Situation of the Community industry**

- (48) Pursuant to Article 3(5) of the basic Regulation, the Commission examined all relevant economic factors and indices having a bearing on the state of the Community industry.
- (49) Given that the Community industry comprises only one producer, data relating to the Community industry are presented in an indexed format and/or in ranges in order to preserve confidentiality, pursuant to Article 19 of the basic Regulation. It must also be noted that the Community industry started its operation in April 2002, which explains that the injury trends described hereafter generally show sharp movements between 2002 and 2003, which may be upwards (like for the volume of production) or downwards (like for investments).

(a) *Production*

- (50) The Community industry's production increased by 205 % in 2003, increased further by 136 percentage points in 2004, when it reached a peak, and declined by 36 percentage points in the IP. During the IP, the Community industry's production volume ranged between 70 000 pieces and 100 000 pieces.

	2002	2003	2004	IP
Production (pieces)	cannot be disclosed			
<i>Index (2002 = 100)</i>	100	305	441	405

(b) *Capacity and capacity utilisation rates*

- (51) The production capacity first increased by 125 % in 2003, increased further by 113 percentage points in 2004 and stayed at this level in the IP. During the IP, the Community industry's production capacity ranged between 100 000 pieces and 150 000 pieces.

	2002	2003	2004	IP
Production capacity (pieces)	cannot be disclosed			
<i>Index (2002 = 100)</i>	100	225	338	338
Capacity utilisation	cannot be disclosed			
<i>Index (2002 = 100)</i>	100	136	131	120

- (52) Capacity utilisation rose by 36 % in 2003, when it reached its peak. In 2004, it declined by 5 percentage points, and dropped further by 11 percentage points in the IP. During the IP, the Community industry's capacity utilisation ranged between 60 % and 90 %.

(c) *Stocks*

- (53) During the IP, inventories of finished products represented around 30 % of the Community industry's total production volume, a level that is considered high and excessive. The level of closing stocks of the Community industry first decreased by 29 % in 2003 and then sharply increased by 140 percentage points in 2004, before rising by a further 27 percentage points in the IP compared to 2004. During the IP, the Community industry's stocks ranged between 10 000 pieces and 30 000 pieces.

	2002	2003	2004	IP
Closing stock (pieces)	cannot be disclosed			
<i>Index (2002 = 100)</i>	100	71	211	238

(d) *Sales volume*

- (54) The sales by the Community industry of its own production on the Community market to unrelated customers first increased by 284 % in 2003, rose further by 37 percentage points in 2004, but declined by 6 percentage points in the IP. During the IP, the Community industry's sales volume ranged between 50 000 pieces and 90 000 pieces.

	2002	2003	2004	IP
EC Sales volume to unrelated customers (pieces)	cannot be disclosed			
<i>Index (2002 = 100)</i>	100	384	421	415

(e) *Market share*

- (55) The index reflecting the evolution of the market share held by the Community industry rose by 154 % in 2003, when it reached a peak, then declined by 48 percentage points in 2004 and by a further 13 percentage points in the IP. During the IP, the Community industry's market share ranged between 10 % and 20 %.

	2002	2003	2004	IP
Market share of Community industry	cannot be disclosed			
<i>Index (2002 = 100)</i>	100	254	206	193

(f) *Growth*

- (56) Between 2003 and the IP, when the Community consumption increased by 64 percentage points, the volume of sales of the Community industry on the Community market increased by only 31 percentage points. The Community industry lost around 4 percentage points of market share, whereas dumped imports gained around 6 percentage points of market share between 2003 and the IP.

(g) *Employment*

- (57) The employment level of the Community industry first increased by 110 % between 2002 and 2003, increased further by 102 percentage points in 2004, but declined by 14 percentage points in the IP. During the IP, the Community industry's employment ranged between 300 and 500 persons.

	2002	2003	2004	IP
Employment (persons)	cannot be disclosed			
<i>Index (2002 = 100)</i>	100	210	312	298

(h) *Productivity*

- (58) Productivity of the Community industry's workforce, measured as output (pieces) per person employed per year, first increased strongly by 46 % from 2002 to 2003, dropped by 5 percentage points in 2004, and decreased by a further 5 percentage points in the IP. During the IP, the Community industry's productivity ranged between 100 pieces and 300 pieces per person.

	2002	2003	2004	IP
Productivity (pieces per employee)	cannot be disclosed			
<i>Index (2002 = 100)</i>	100	146	141	136

(i) *Wages*

- (59) Between 2002 and the IP, the average wage per employee declined by 16 %. Specifically, it decreased by 3 % in 2003, by a further 11 percentage points in 2004 and finally by 2 percentage points in the IP.

	2002	2003	2004	IP
Annual labour cost per employee (000 EUR)	cannot be disclosed			
<i>Index</i> (2002 = 100)	100	97	86	84

(j) *Sales prices*

- (60) Unit prices for Community sales to unrelated customers of Community industry's own production decreased by 4 % between 2002 and the IP, although there has been a constant improvement in the functionalities of the models offered for sale, year after year. Specifically, prices stayed approximately at the same level between 2002 and 2004, but experienced a drop by 4 percentage points in the IP. During the IP, the Community industry's average unit price ranged between 500 and 1 500 euros.

	2002	2003	2004	IP
Unit price EC market (EUR/piece)	cannot be disclosed			
<i>Index</i> (2002 = 100)	100	101	100	96

(k) *Factors affecting Community prices*

- (61) The investigation showed that dumped imports were undercutting the average depressed sales price of the Community industry by 34 to 42 % in the IP. However, on a type-by-type basis, it was found that in some instances prices offered by the exporting producers concerned were significantly lower than the above average undercutting of the Community industry's prices. The combination of this undercutting established on a more individual product type level with the growing market share held by dumped imports certainly increased the price pressure and thus affected the domestic prices of the Community industry.

(l) *Profitability and return on investments*

- (62) During the period considered, the profitability of the own produced sales in the Community of the Community industry, expressed as a percentage of net sales, remained negative throughout the period 2002 to the IP. Losses were very high in 2002, due to the fact that the facility started its operation that year. Profitability improved up to an almost break-even level in 2003, but subsequently deteriorated in 2004 and again reached significant losses in the IP.

	2002	2003	2004	IP
Profitability of EC sales to unrelated (% of net sales)	cannot be disclosed			
<i>Index</i> (2002 = - 100)	- 100	- 5	- 9	- 30
ROI (profit in % of net book value of investments)	cannot be disclosed			
<i>Index</i> (2002 = - 100)	- 100	- 20	- 37	- 123

- (63) The return on investments (ROI), expressed as the profit in percent of the net book value of investments, broadly followed the above profitability trend. It also remained negative through the period considered. It first improved markedly in 2003, but then deteriorated in 2004 and the IP.

(m) *Cash flow and ability to raise capital*

- (64) The net cash flow from operating activities remained also negative through the period considered. From its very low level of 2002, it improved up to a level close to zero, before deteriorating again in 2004 and the IP. Because of its poor return, the Community industry was unable to raise further capital from within the group to which it belongs and had to put on hold its plans for further expansion of production. Indeed, in a multinational group, like the one to which the Community industry belongs, financial resources are generally allocated to the most profitable entities.

	2002	2003	2004	IP
Cash flow (000 EUR)	cannot be disclosed			
<i>Index (2002 = - 100)</i>	- 100	- 8	- 65	- 65

(n) *Investments*

- (65) The Community industry's annual investments in the production of the product concerned declined sharply in 2003 as compared to 2002, which was the year when production commenced and the major investments were undertaken. In 2004 and the IP, the flow of annual investments in the manufacturing of the like product remained very stable.

	2002	2003	2004	IP
Net investments (000 EUR)	cannot be disclosed			
<i>Index (2002 = 100)</i>	100	13	14	14

(o) *Magnitude of dumping margin*

- (66) As concerns the impact on the Community industry of the magnitude of the actual margins of dumping, given the volume and the prices of the imports from the country concerned, this impact cannot be considered to be negligible.

(p) *Recovery from past dumping*

- (67) In the absence of any information on the existence of dumping prior to the situation assessed in the present proceeding, this issue is considered irrelevant.

4.5. Conclusion on injury

- (68) Between 2002 and the IP, the volume of the dumped imports of the product concerned originating in the Republic of Korea increased significantly by 157 % and their share of the Community market increased by around 13 percentage points. The average prices of dumped imports from the Republic of Korea were consistently lower than those of the Community industry during the period considered. Moreover, during the IP, the prices of the imports from the country concerned significantly undercut those of the Community industry. On a weighted average basis, price undercutting was in the IP between 34 % and 42 %, depending on the exporter concerned, while for some models, price undercutting was in some cases even higher.

- (69) A deterioration in the situation of the Community industry has been found over the period considered. If one leaves aside 2002 which was the year when the Community industry started its operation, most of the injury indicators developed negatively between 2003 and the IP: capacity utilisation declined by 16 percentage points, closing stocks rose by 167 percentage points, the Community lost 61 percentage points of market share, productivity declined by 10 percentage points, unit sales prices declined by 5 percentage points, profitability, return on investment and cash flow deteriorated from an already negative starting point.
- (70) Some indicators experienced apparent positive developments between 2003 and the IP. Production volume increased by 100 percentage points, the volume of sales of the Community industry to the Community market rose by 31 percentage points and employment rose by 88 percentage points. These developments are considered normal for a production facility that has recently started its operation and that attempts to utilise its fixed capital to the fullest in order to absorb its fixed costs. However, these increases were insufficient to prevent both the loss of market share, as the market grew even faster, and to achieve a reasonable profit margin.
- (71) In the light of the foregoing, it is provisionally concluded that the Community industry has suffered material injury within the meaning of Article 3 of the basic Regulation.

5. CAUSATION

5.1. Introduction

- (72) In accordance with Article 3(6) and (7) of the basic Regulation, the Commission examined whether dumped imports have caused injury to the Community industry to a degree that enables it to be classified as material. Known factors other than the dumped imports, which could at the same time be injuring the Community industry, were also examined to ensure that possible injury caused by these other factors was not attributed to the dumped imports.

5.2. Effects of the dumped imports

- (73) The significant increase in the volume of the dumped imports by 157 % between 2002 and the IP, and of its corresponding share of the Community market, i.e. by around 13 percentage points, as well as the undercutting found (between 32 % and 42 % during the IP) coincided with the deterioration of the economic situation of the Community industry. Between 2003 and the IP, capacity utilisation declined by 16 percentage points, closing stocks rose by 167 percentage points, the Community lost 61 percentage points of market share, productivity declined by 10 percentage points and unit sales prices declined by 5 percentage points. This development should be seen against the background of the fast growing Community market during the years 2002–IP. In addition, dumped prices were, on average, below those of the Community industry throughout the period considered and exerted a downward pressure on them. The resulting drop in the Community industry's prices, at a time when the costs of production remained flat triggered the observed drop in profitability, return on investment and cash flow from an already negative starting point. It is therefore provisionally considered that the dumped imports had a significant negative impact on the situation of the Community industry.

5.3. Effects of other factors

(a) *Rise in the costs of raw materials*

- (74) One interested party claimed that any injury suffered by the Community industry was linked to the rise observed since 2003 in the price of certain raw materials.

(75) Indeed, the price of certain raw materials, like steel and polyurethane, rose from 2003 onwards. However, it should be noted that for those raw materials procured from US dollar-based suppliers, this effect has been somewhat muted by the appreciation of the euro vis-à-vis the US dollar observed over the same time. In addition, the key raw materials used in the manufacturing process of the like product are internationally quoted commodities and both the Community industry and its Korean competitors are large groups endowed with a similarly large purchasing power. They therefore procure their raw materials at similar prices. If anything, euro-based producers like the Community industry have, given the movements in the Korean won vis-à-vis the US dollar during the period considered, an advantage over their Korean competitors for the share of the procurement sourced from US dollar-based suppliers. In addition, the investigation evidenced that the Community industry's unit production costs first decreased sharply in 2003 over 2002, in connection with the growing volume of activity of the newly built plant and then remained flat over the period 2003-IP. The sharp deterioration of profitability observed between 2003 and the IP is therefore not attributable to any slippage of the costs of production, but rather to the decline in sales prices. Indeed, the Community industry's sales prices dropped by 5 percentage points between 2003 and the IP, as a consequence of price depression and price suppression caused by dumped imports. The rise in raw material prices therefore only played a limited role in the injury suffered by the Community industry, if any, and to an extent that is not such as to break the causal link between the dumped imports and the material injury suffered by the Community industry.

(b) Rise in intra-group sales

(76) One interested party claimed that any injury suffered by the Community industry was linked to the rise observed in the volume of intra-group sales made by the Community industry.

(77) Like any company which is part of a multinational group, the Community industry has made during the period 2002-IP a number of sales to related parties at a transfer price. In 2002, 2003, 2004 and the IP, these intra-company sales represented respectively only 2 %, 5 %, 15 % and 12 % of the Community industry's total sales. Moreover, these sales were 100 % destined to non-EU markets. The sales volume analysed under recital (54) above, the sales prices analysed under recital (60) above and the profitability analysed under recital (62) above refer explicitly to sales to unrelated customers of own produced goods. Therefore, any negative price effect arising from the sales to related customers has been carefully eliminated from the injury analysis. The argument is therefore rejected.

(c) Original Equipment Manufacturer (OEM) imports

(78) One interested party claimed that OEM imports from the country concerned had caused self-inflicted injury to the Community industry.

(79) Contrary to the allegation of the above party, the Community industry did not import the product concerned from the country concerned during the period 2002-IP, be it under an OEM supply agreement or any other channel. The argument is therefore rejected.

(d) Imports from other countries

(80) As indicated under recital (42) above, the Community market is supplied by three origins only: Korean exporting producers, the Community industry and the USA. The volume of total imports (including imports by the Community industry) originating in the USA declined by 49 % in 2003, stayed at this level in 2004 and increased slightly by 4 percentage points in the IP. The corresponding market share held by imports from the USA declined by 66 % in 2003, by a further 9 percentage points in 2004 and stayed at this level in the IP. During the IP, the market share held by US imports (including imports by the Community industry) ranged between 5 and 10 %. These volume and market share developments are influenced by the two following reasons: the complainant's procurement of the like product from its parent company in the USA during the start-up phase and the effects of increasing volumes of the dumped imports from the Korean producers on the Community market.

- (81) The output of the Community industry gathered pace in 2002 and 2003. The complainant therefore drastically reduced its procurement from its mother company in the USA. In 2002, the Community industry procured 62 % of its total sales from its US parent company. This ratio fell sharply to 3 % in 2003 and was 6 % in 2004 and 8 % in the IP. The Community industry's imports from its US parent company represented around 57 % of the total statistical import volumes originating in the USA in 2002, 6 % in 2003, 19 % in 2004 and 23 % in the IP. It is noted that the complainants' imports from the USA were, during the period 2003–IP, limited in volume and that, as shown in the table below, prices of total imports from the US (complainant's own imports and other imports) were made at prices above both Korean and Community industry's prices.
- (82) Given the declining volume, market share and the relatively high prices, it is concluded that imports from the USA, be it by Whirlpool itself or by an independent competitor, did not cause any injury to the Community industry.

	2002	2003	2004	IP
Volume of imports from the USA (pieces)	cannot be disclosed			
<i>Index</i> (2002 = 100)	100	51	51	54
Market share of imports from the USA	cannot be disclosed			
<i>Index</i> (2002 = 100)	100	34	25	25
Prices of imports from the USA (EUR/piece)	1 157	1 138	1 090	1 012
<i>Index</i> (2002 = 100)	100	98	94	87

(e) *Consequence of start-up operations*

- (83) One interested party claimed that any injury felt by the Community industry was due to the start-up operations of the newly built production facility.
- (84) The said interested party further alleged that the first like products manufactured in the facility of the Community industry reached the market some time in April 2003. This is incorrect. The facility started its operation in April 2002 and these products were sold already in 2002. As shown under recital (62) above, the profitability of the Community industry was indeed highly negative in the year of the start-up (2002). However, already in 2003, profitability improved markedly and almost reached a break-even level. In 2004 and the IP, profitability deteriorated again. The argument of this interested party bears no explanation as to the reasons why after, indeed, a foreseeably difficult start-up period in 2002, profitability improved markedly (2003) before deteriorating (2004 and IP). The argument is therefore rejected.

(f) *Effects of sales of other types of refrigerators*

- (85) One interested party claimed that when assessing the injurious situation of the Community industry, attention should be paid also to the effect of sales of other types of refrigerators, as consumers seeking refrigerators have a choice among all types of refrigerators in making their buying decisions.
- (86) It has been determined under recitals (9) to (17) above that the Community market for the product concerned and the like product constitute a market which is autonomous and distinct from the markets of other refrigerators. The issue of the competition between this market and the market of any other product is therefore irrelevant and the argument is rejected. In any event, the analysis of the situation of the Community industry in recitals (48) to (71) above has been made solely on the basis of data relating to side-by-side refrigerators.

(g) *Self-inflicted injury due to erroneous design and marketing decisions*

- (87) One interested party claimed that the injury suffered by the Community industry was not caused by dumping but was rather self-inflicted due to a number of erroneous strategic decisions. In detail, this party mentioned the allegedly wrong door design (rounded doors), expensive outer materials (i.e. stainless steel) and longer product renewal cycle.
- (88) As to the first point, it should be noted that the Community industry has always produced and offered models with both rounded and flat doors. Further, the Community industry's sales figures and market studies show a clear preference of consumers for rounded door models, contrary to the allegations of the above party. Finally, it is noted that the above party itself has recently introduced a rounded door range, a decision at odds with its above allegation.
- (89) As to the second point, the investigation found that the Community industry does not only use stainless steel for the outer finishing of the like product, but also other cheaper materials. In any event, a comparison of the cost of the stainless steel used by the Community industry with the cost of its nearest substitute as used by Korean exporting producers evidenced that the difference would amount to around 1 % of the total costs of production. Against this background, the cost of the stainless steel outer finishing cannot be the only cause for the injury suffered by the Community industry.
- (90) As to the third point, the Community industry implements a product renewal cycle of one to two years, while the above interested party changes models annually. Admittedly, the product renewal cycle of the Community industry is slightly less rapid than that of the above interested party, but it is in line with that of US producers. The above interested party has not provided any material evidence as to why and how a shorter product renewal cycle of one year instead of two years would automatically trigger higher sales volumes and higher profits. Instead, the Community industry has provided evidence that trade partners and retailers do not favour too frequent renewals of the product range, due to the high costs of display and catalogues involved.
- (91) The issue of allegedly erroneous design and marketing decisions therefore only played a marginal role, if any, in the injury suffered by the Community industry, to an extent that is not such as to break the causal link.

(h) *Competition in different product ranges*

- (92) One interested party claimed that (i) it was not competing with the Community industry in the same product range; (ii) drawing conclusions from a comparison of average prices was misleading; and (iii) as a consequence, it could not have caused injury to the Community industry.
- (93) The homogeneity of the scope of the product concerned and of the like product has been defined under recitals (9) to (17) above. Obviously, each market so defined encompasses a number of types, models or qualities. However, these various models share the same basic physical, technical and end-use characteristics and no clear dividing line can be drawn between one segment and the other, as overlaps exist between adjoining segments. Undercutting calculations have been made on a model basis (see recital (47) above), and not simply on an average price basis. Undercutting of the Community industry's prices by the export prices of this exporting producer has been evidenced for virtually all the models compared. The argument is therefore rejected.

5.4. Conclusion on causation

- (94) In conclusion, the above analysis has demonstrated that there was a substantial increase in volume and market share of the imports originating in the country concerned between 2002 and the IP, together with a considerable decrease in their sales prices and a high level of price undercutting during the IP. This increase in market share of the low-priced Korean imports coincided with a decline in the Community industry's market share and in unit sales price, and with the drop in profitability, in return on investments and cash-flow from operating activities.

- (95) On the other hand, the examination of the other factors which could have injured the Community industry revealed that none of these could have had a significant negative impact.
- (96) Based on the above analysis which has properly distinguished and separated the effects of all known factors on the situation of the Community industry from the injurious effects of the dumped imports, it is provisionally concluded that the dumped imports originating in the country concerned have caused material injury to the Community industry within the meaning of Article 3(6) of the basic Regulation.

6. COMMUNITY INTEREST

- (97) The Commission examined whether, despite the conclusions on dumping, injury and causation, compelling reasons existed which would lead to the conclusion that it is not in the Community interest to adopt measures in this particular case. For this purpose, and pursuant to Article 21(1) of the basic Regulation, the Commission considered the likely impact of measures for all parties concerned.

6.1. Interest of the Community industry

- (98) As indicated under recital (39) above, the Community industry is composed of one company, with one production facility in Italy, and employs in the range of 300-500 persons directly involved in the production, sales and administration of the like product. If measures are imposed, it is expected that the sales volumes of the Community industry on the Community market would rise. It is therefore expected that the increase in production, the rise in capacity utilisation and productivity and the resulting likely decrease in unit costs, will allow the Community industry to improve its financial situation and, at the same time, to offer more competitive prices. This would reduce the substantial gap found between Community industry's prices and Korean producers' prices.
- (99) On the other hand, should anti-dumping measures not be imposed, it is likely that the negative trend of the Community industry will continue. The Community industry will likely continue to lose market shares and to experience a deterioration of its profitability. This will in all likelihood lead to cuts in production and investments, closure of certain production capacities and further job reduction in the Community.
- (100) In conclusion, the imposition of anti-dumping measures would allow the Community industry to recover from the effects of injurious dumping found.

6.2. Interest of suppliers of the Community industry

- (101) Two suppliers of the Community industry, supplying two of the principal raw materials consumed by the Community industry, co-operated in the proceeding and expressed their support for the complaint lodged by the Community industry. These two suppliers are representative as the above two raw materials accounted for around 30 % of the Community industry's total procurement of raw materials. The supplies of raw materials and components to the Community industry with respect to the manufacturing of the like product represented on average around 2 % of these two companies' respective total turnover and 22 direct jobs.
- (102) The imposition of measures would allow the co-operating suppliers to increase their turnover, their profitability and their employment.

6.3. Interest of the white goods industry

- (103) Various industrial federations (Conseil Européen de la construction d'appareils domestiques-CECED and Associazione Nazionale Industrie Apparecchi Domestici e Professionali-ANIE) have made written submissions in favour of anti-dumping measures in this particular proceeding.

- (104) Likewise, in order to raise public awareness on the price-depressive effect brought about by dumped imports from the Republic of Korea, major manufacturers of white goods (Electrolux, Bosch-Siemens), although not manufacturers of the like product in the Community, expressed their support for the complaint lodged by the complainant. One of these companies indicated that it had seriously considered starting its own production of the like product in the Community but this plan had been put on hold because of dumped imports originating in the Republic of Korea. It should be noted that both Electrolux and Bosch-Siemens imported the like product from the USA during the IP and were therefore also directly affected by the unfair trade practice of the Korean exporting producers. In each of the above two companies, around 30 to 50 jobs in the Community can be allocated to the import and resale activity of the like product.
- (105) The white goods industry at large would therefore support the imposition of anti-dumping measures.

6.4. Interest of related importers in the Community

- (106) Most of the imports of the product concerned are made through related importers, which are subsidiaries of the three co-operating Korean producers. These related importers oppose any anti-dumping measure. During the IP, the 26 co-operating related importers imported around 96 % of the Community's total import volume of the product concerned originating in the country concerned. The activity of import and resale of the product concerned accounts for around 4 % of these companies' total turnover. In terms of workforce, from a total of around 4 000 persons employed by these related importers, 170 persons are directly involved in the trading and resale of the product concerned in the Community.
- (107) As regards the possible effect of measures on these importers, it should be noted firstly that the investigation has evidenced that the market of the product concerned and like product in the Community is a fast growing market. In addition, the level of duties proposed is moderate, and, as the measures are based on dumping margins, they will not fully close the substantial gap observed between Korean export prices and Community industry's prices. In other words, even when corrected for the dumping found, Korean export prices would still undercut current Community industry's prices. As a consequence of the foregoing considerations, it is not certain that the measures will trigger a decline in the sales volume of the Korean exporting producers. To the contrary, in view of the fast growing market, one could likely observe a levelling off of that sales volume, which should not significantly affect the current situation of the related importers. Moreover, as pointed out in the previous recital, the import of the product concerned in any event only represents around 4 % of these companies' turnover.
- (108) For these reasons, it is provisionally concluded that the imposition of anti-dumping measures is unlikely to have a serious negative effect on the situation of related importers in the Community.

6.5. Interest of unrelated importers in the Community

- (109) During the IP, the only co-operating unrelated importer imported around 2 % of the Community's total import volume of the product concerned originating in the country concerned. This importer therefore imported around 50 % of the volumes that are not imported via related importers from the Republic of Korea. It is deemed representative of the situation of unrelated importers. This co-operating party, which imported the product concerned under an OEM supply agreement from one of the co-operating exporting producers in the Republic of Korea for resale inside the Community under its own brand names, indicated that it wanted to stay neutral with regard to the complaint lodged by the complainant, and that it might consider starting its own production of the like product in the Community, depending upon the results of the present proceeding. The activity of resale of the product concerned accounts for a negligible amount of its total company turnover. In terms of workforce, less than 10 persons are directly involved in the trading and resale of the product concerned.

- (110) As seen under recital (107) above, anti-dumping measures in the present case may not lead to a decline in the sales volume of the product concerned, but rather in a levelling off of that import volume. Given the undetermined position of this unrelated importer in the present proceeding and the negligible share of its turnover concerned by the activity of resale in the Community, it is provisionally concluded that the imposition of anti-dumping measures is likely to have a marginal effect on the situation of unrelated importers in the Community.

6.6. Interest of the retailers and of consumers

- (111) Given the specificity of the market at stake in this proceeding, co-operation was sought from retailers and from consumer associations. However, very little co-operation was obtained. Only two retailers offered co-operation. Neither of them explicitly opposed the complaint. During the IP, the sales volume of side-by-side refrigerators by the two co-operating retailers amounted to around 4 % of the total Community consumption. The turnover generated by the sales of the product concerned and of the like product represented 0,1 % of the total turnover of these retailers and yielded a gross margin of around 10 % over net sales during the IP. Based on relative turnovers, the number of jobs allocated to the product concerned were estimated to around 50 during the IP.
- (112) As developed under recital (107) above, anti-dumping measures in this case may trigger a levelling off of sales volume originating in the country concerned. The price effect of such scenario would likely be as follows. Korean export cif prices at Community frontier would be liable to a duty ranging between 4,4 % and 14,3 %. Between this level of delivery and the final consumer price, various costs including, *inter alia*, the delivery costs to and the mark up of the importers and the delivery costs to and the mark up of the retailers, will have to be added. All in all, these additions may result in a final consumer price that is around 100 % higher than the above cif price. As a result, the impact of the anti-dumping duty in the final consumer price would, in percentage terms, be approximately half of the rate of the anti-dumping duty. Given the dominant market share held by Korean exporting producers, the benchmark selling price on the Community market is and will in all likelihood continue to be set by them. As discussed under recitals (98) and (107) above, the Community industry might be in a position to price more competitively, as a consequence of the imposition of the measures. However, considering its relatively small market share, this will have little effect on the average Community consumer price of this particular product. The price of imports from the USA is unlikely to be affected by the measures proposed. All in all, a moderate price increase in the consumer price of maximum 2 % to 7 % could be observed as a consequence of the imposition of the measures.
- (113) In light of the above and given the overall low degree of co-operation, the situation of retailers and of consumers in the Community is therefore unlikely to be substantially affected by the proposed measures.

6.7. Conclusion on Community interest

- (114) The effects of the imposition of measures can be expected to afford the Community industry the opportunity to regain lost sales and market shares and to improve its profitability. In view of the deteriorating situation of the Community industry, there is a real risk that in the absence of measures, the sole Community producer may close down its production facility and lay-off its workforce. The suppliers of the Community industry would also benefit from the imposition of measures. The white goods industry at large supports measures. Co-operating unrelated importers and retailers stayed neutral in this proceeding. Whilst some limited negative effects may occur in the form of a levelling off in the volumes imported, the extent of these is far outweighed by the expected beneficial outcome for the Community industry. In light of the above, it is provisionally concluded that no compelling reasons exist for not imposing measures in the present case and that the application of measures would be in the interest of the Community.

7. PROPOSAL FOR PROVISIONAL ANTI-DUMPING MEASURES

- (115) In view of the conclusions reached with regard to dumping, injury, causation and Community interest, provisional measures should be imposed in order to prevent further injury to the Community industry by the dumped imports.

7.1. Injury elimination level

- (116) The level of the provisional anti-dumping measures should be sufficient to eliminate the injury to the Community industry caused by the dumped imports, without exceeding the dumping margins found. When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measures should allow the Community industry to obtain a profit before tax that could be reasonably achieved under normal conditions of competition, i.e. in the absence of dumped imports.
- (117) On the basis of the information available, it was preliminarily found that a profit margin of 6 % of turnover could be regarded as an appropriate level that the Community industry could be expected to obtain in the absence of injurious dumping. The investigation found that Whirlpool achieved approximately this profit margin in the USA for sales of side-by-side refrigerators and also achieved this return on other comparable segments in the Community not faced with dumped imports.
- (118) The necessary price increase was then determined on the basis of a comparison, on a transaction by transaction basis, of the weighted average import price, as established for the price undercutting calculations, with the non-injurious price of the like product sold by the Community industry on the Community market. The non-injurious price has been obtained by adjusting the sales price of the Community industry in order to reflect the above mentioned profit margin. Any difference resulting from this comparison was then expressed as a percentage of the total cif import value.

- (119) The above-mentioned price comparison showed the following injury margins:

Daewoo Electronics Corporation	98,5 %
LG Electronics Corporation	74,8 %
Samsung Electronics Corporation	66,3 %

- (120) As the injury elimination level was higher than the dumping margin established, the provisional measures should be based on the latter.

7.2. Provisional measures

- (121) In the light of the foregoing and pursuant to Article 7(2) of the basic Regulation, it is considered that a provisional anti-dumping duty should be imposed at the level of the lowest of the dumping and injury margins found, in accordance with the lesser duty rule.

- (122) Consequently, the provisional anti-dumping duties should be as follows:

Company	Injury elimination margin	Dumping margin	Proposed anti-dumping duty
Daewoo Electronics Corporation	98,5 %	9,1 %	9,1 %
LG Electronics Corporation	74,8 %	14,3 %	14,3 %
Samsung Electronics Corporation	66,3 %	4,4 %	4,4 %
All other companies	98,5 %	14,3 %	14,3 %

- (123) The individual anti-dumping duty rates for the companies specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the countrywide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the Republic of Korea and produced by these companies and thus by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the countrywide duty rate.
- (124) Any claim requesting the application of an individual company anti-dumping duty rate (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, the name change or that change in the production and sales entities. If appropriate, the Regulation will accordingly be amended by updating the list of companies benefiting from individual duty rates.

7.3. Final Provision

- (125) In the interest of sound administration, a period should be fixed within which the interested parties which made themselves known within the time-limit specified in the notice of initiation may make their views known in writing and request a hearing. Furthermore, it should be stated that the findings concerning the imposition of duties made for the purposes of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive measures,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on side-by-side refrigerators, i.e. combined refrigerator-freezers of a capacity exceeding 400 litres, with at least two separate external doors fitted side-by-side, falling within CN code ex 8418 10 20 (TARIC code 8418 10 20 91) and originating in the Republic of Korea.

2. The rate of the provisional anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, of the products described in paragraph 1 and produced by the companies below shall be as follows:

Company	Anti-Dumping duty (%)	TARIC Additional Code
Daewoo Electronics Corporation, 686 Ahyeon-dong, Mapo-gu, Seoul	9,1	A733
LG Electronics Corporation, LG Twin Towers, 20, Yeouido-dong, Yeongdeungpo-gu, Seoul	14,3	A734
Samsung Electronics Corporation, Samsung Main Bldg, 250, 2-ga, Taepyeong-ro, Jung-gu, Seoul	4,4	A735
All other companies	14,3	A999

3. The release for free circulation in the Community of the product referred to in paragraph 1 shall be subject to the provision of a security, equivalent to the amount of the provisional duty.

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

Article 2

Without prejudice to Article 20 of Regulation (EC) No 384/96, interested parties may request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted, make their views known in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

Pursuant to Article 21(4) of Regulation (EC) No 384/96, the parties concerned may comment on the application of this Regulation within one month of the date of its entry into force.

Article 3

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

Article 1 of this Regulation shall apply for a period of six months.

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

Done at Brussels, 28 February 2006.

For the Commission
Peter MANDELSON
Member of the Commission
