



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 1531/2002 imposing a definitive anti-dumping duty on imports of colour television receivers originating, inter alia, in the People's Republic of China

(presented by the Commission)

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

This proposal concerns the application of Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community, as last amended by Council Regulation (EC) No 461/2004 of 8 March 2004 ('the basic Regulation') in the proceeding concerning imports of colour television receivers originating, *inter alia*, in the People's Republic of China.

- **General context**

This proposal is made within the context of the implementation of the basic Regulation and is the result of an investigation carried out in line with the substantive and procedural requirements laid out in the basic Regulation.

- **Existing provisions in the area of the proposal**

By Regulation (EC) No 1531/2002, the Council imposed definitive anti-dumping measures on imports of colour television receivers originating, *inter alia*, in the People's Republic of China. In parallel, by Decision 2002/683/EC, the Commission accepted a joint undertaking from 7 different companies offered in conjunction with the China Chamber of Commerce for Import and Export of Machinery and Electronic Products (CCCME).

- **Consistency with other policies and objectives of the Union**

Not applicable.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

The interested parties concerned have already had the possibility to defend their interests during the investigation, in line with the provisions of the basic Regulation.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

This proposal is the result of the implementation of the basic Regulation.

The basic Regulation does not foresee a general impact assessment but contains an exhaustive list of conditions that have to be assessed.

3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

By Regulation (EC) No 1531/2002, the Council imposed definitive anti-dumping duties on imports of colour television receivers originating, *inter alia*, in the People's Republic of China. The exception is where this product is exported by the companies Haier Electrical Appliances Corp., Ltd, Hisense Import & Export Co., Ltd, Konka Group Co., Ltd, Sichuan Changhong Electric Co., Ltd, Skyworth Multimedia International (Shenzhen) Co., Ltd, TCL King Electrical Appliances (Hui Zhou) Co., Ltd and Xiamen Overseas Chinese Electronic Co., Ltd, from which the Commission, by Decision 2002/683/EC, has accepted a joint undertaking offered in conjunction with the China Chamber of Commerce for Import and Export of Machinery and Electronics Products ('CCCME').

One company has now been found to have breached the undertaking and therefore the Commission has withdrawn acceptance thereof. It should be noted that pursuant to Regulation (EC) No 1531/2002 a breach by any of the companies or the CCCME shall be considered as a breach of the undertaking by all signatories.

In view of this, it is also necessary to amend Regulation (EC) No 1531/2002 so as to remove the exemption to the anti-dumping duties currently enjoyed by the afore mentioned companies.

- **Legal basis**

Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community, as last amended by Council Regulation (EC) No 461/2004 of 8 March 2004.

- **Subsidiarity principle**

The proposal falls under the exclusive competence of the Community. The subsidiarity principle therefore does not apply.

Proportionality principle

The proposal complies with the proportionality principle for the following reasons.

The form of action is described in the above-mentioned basic Regulation and leaves no scope for national decision.

Indication of how financial and administrative burden falling upon the Community, national governments, regional and local authorities, economic operators and citizens is minimized and proportionate to the objective of the proposal is not applicable.

- **Choice of instruments**

Proposed instruments: Regulation.

Other means would not be adequate for the following reason(s).

Other means would not be adequate because the basic Regulation does not foresee alternative options.

4) BUDGETARY IMPLICATION

The proposal has no implication for the Community budget.

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amending Regulation (EC) No 1531/2002 imposing a definitive anti-dumping duty on imports of colour television receivers originating, *inter alia*, in the People's Republic of China

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community¹ ('the basic Regulation'), and in particular Articles 8 and 9 thereof,

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

Whereas:

A. PREVIOUS PROCEDURE

- (1) In August 2002, by Regulation (EC) No 1531/2002², the Council imposed a definitive anti-dumping duty on imports of colour television receivers ('the product concerned') originating, *inter alia*, in the People's Republic of China ('the PRC').
- (2) In parallel, the Commission, by Decision 2002/683/EC³, accepted a joint undertaking ('the undertaking') offered by Haier Electrical Appliances Corp., Ltd, Hisense Import & Export Co., Ltd, Konka Group Co., Ltd, Sichuan Changhong Electric Co., Ltd, Skyworth Multimedia International (Shenzhen) Co., Ltd, TCL King Electrical Appliances (Hui Zhou) Co., Ltd and Xiamen Overseas Chinese Electronic Co., Ltd, ('the Companies') in conjunction with the China Chamber of Commerce for Import and Export of Machinery and Electronics Products ('CCCME').
- (3) As a result, imports into the Community of the product concerned of PRC origin, produced by the Companies, and of a type covered by the undertaking ('the product covered by the undertaking'), were exempted from the definitive anti-dumping duties.

¹ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12.)

² OJ L 231, 29.8.2002, p. 1.

³ OJ L 231, 29.8.2002, p. 42.

B. FAILURE TO COMPLY WITH THE UNDERTAKING

- (4) The undertaking offered by the Companies obliges them to, *inter alia*, export the product covered by the undertaking to the first independent customer in the Community at or above certain minimum import price levels ('MIPs') and to respect certain quantitative ceilings laid down in the undertaking. These price levels and ceilings eliminate the injurious effects of dumping.
- (5) For the purposes of ensuring compliance with the undertaking, CCCME and the Companies also agreed to provide all information considered necessary by the Commission and to allow on-spot verification visits at their premises in order to verify the accuracy and veracity of data submitted in the said quarterly reports.
- (6) As noted in recital 239 of Regulation (EC) No 1531/2002, the undertaking specifically provides that a breach by any of the Companies or the CCCME shall be considered as a breach of the undertaking by all signatories. Failure to co-operate with the European Commission in monitoring the undertaking is considered as a breach of the undertaking.
- (7) In this regard, the Commission requested to carry out on-spot verification visits at the premises of CCCME and of the two companies with the largest reported volume of sales of the product concerned, namely Xiamen Overseas Chinese Electronic Co., Ltd and Konka Group Co., Ltd. The Commission sent pre-verification letters to CCCME, Xiamen Overseas Chinese Electronic Co., Ltd and Konka Group Co., Ltd with an indication of the dates for the on-spot verification. The CCCME and Xiamen Overseas Chinese Electronic Co., Ltd confirmed the acceptance of the verification visit requested by the Commission. However, Konka Group Co., Ltd refused to accept a verification visit, thereby breaching the undertaking.
- (8) Commission Decision (EC) No 2006/[INSERT]/EC⁴ sets out in more detail the nature of the breach found.
- (9) In view of the breach, acceptance of the undertaking offered by the Companies in conjunction with the CCCME has been withdrawn by Commission Decision No 2006/[INSERT]/EC. A definitive anti-dumping duty should therefore be imposed forthwith on imports of the product concerned exported to the Community by the companies concerned.
- (10) In accordance with Article 8(9) of the basic Regulation, the rate of the anti-dumping duty must be established on the basis of the facts established within the context of the investigation which led to the undertaking. As the investigation in question was concluded by a final determination as to dumping and resulting injury by Regulation (EC) No 1531/2002, it is considered appropriate that the definitive anti-dumping rate is set at the level and in the form imposed by that Regulation, namely 44,6% of the net, CIF free-at-Community-frontier price, before duty.

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OJ (TO BE INSERTED)

C. AMENDMENT OF REGULATION (EC) No 1531/2002

(11) In view of the above, Regulation (EC) No 1531/2002 should be amended accordingly,
HAS ADOPTED THIS REGULATION:

Article 1

Article 3, Annex I and Annex II of Regulation (EC) No 1531/2002 are hereby repealed

Articles 4 and 5 of Regulation (EC) No 1531/2002 should be renumbered as Articles 3 and 4.

Article 2

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

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

Done at Brussels,

For the Council
The President