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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1950/97

of 6 October 1997

imposing a definitive anti-dumping duty on imports of sacks and bags made of polyethylene or polypropylene originating in India, Indonesia and Thailand and collecting definitively the provisional duty imposed

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1], hereinafter referred to as 'the Basic Regulation', and in particular Article 9 thereof,

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

Whereas:

I. PROVISIONAL MEASURES

(1) By Commission Regulation (EC) No 45/97 [2] (hereinafter referred to as 'the Provisional Duty Regulation') provisional duties were imposed on imports into the Community of sacks and bags falling within CN codes 6305 32 81 and 6305 33 91 and originating in India, Indonesia and Thailand. The provisional anti-dumping duty was extended for a maximum period of three months by Commission Regulation (EC) No 1168/97 [3].

II. SUBSEQUENT PROCEDURE

(2) Following the imposition of provisional anti-dumping measures, several interested parties submitted comments in writing.

(3) The parties who so requested were granted an opportunity to be heard by the Commission.

(4) The Commission continued to seek and verify all the information it deemed necessary for the purpose of its definitive findings.

(5) Parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-dumping duties and the definitive collection of amounts secured by way of provisional duties. They were also granted a period within which to make representations subsequent to this disclosure.

(6) The oral written comments submitted by the interested parties were considered and, where deemed appropriate, taken into account in the definitive findings.

III. PRODUCT CONCERNED AND LIKE PRODUCT

(7) Some exporters contested the finding in the Provisional Duty Regulation that leno bags were considered as product concerned. They reiterated the arguments set out in recital 8 of the Provisional Duty Regulation. In this respect it should be noted that the fact that leno bags are not completely interchangeable with all the other types of the product concerned is not required in order to consider them as single product. Rather, it is sufficient that these product types have the same basic physical characteristics and the same basic uses. This is clearly the case for leno bags as compared with other types of polyolefin bags subject to investigation. The provisional conclusions concerning the description of the product concerned are therefore confirmed.

(8) In addition, the allegation made by these exporters that the Community industry did not produce leno bags is unfounded. While it is recalled that it is not necessary for a product type to be produced by the

[1] OJ L 56, 6. 3. 1996, p. 1. Regulation as amended by Regulation (EC) No 2331/96 (OJ L 317, 6. 12. 1996, p. 1).
[2] OJ L 12, 15. 1. 1997, p. 8.
[3] OJ L 169, 27. 6. 1997, p. 14.

Community industry in order to be covered by the scope of an anti-dumping proceeding, the investigation has revealed, nevertheless, that three of the cooperating Community producers also manufacture and sell leno bags. Therefore, the Community industry does produce the like product as defined by Article 1 (4) of the Basic Regulation.

(9) One importer requested that flexible intermediate bulk containers of fabric weighing 120 g/m² or less (so-called big bags) should not be covered by the proceeding. In this respect it was submitted that, until the beginning of 1995, big bags could only be produced by using fabrics weighing 120 g/m² or more. However, in the meantime, technological progress has meant that fabric weighing only 100 g/m² can now be used for the production of big bags. Moreover, the importer in question pointed out that big bags weighing 120 g/m² or less are easily identifiable because they fall under a separate CN code.

(10) This request could not be accepted. First, the complaint covered all bags made of polyethylene or polypropylene strip, not knitted or corcheted, of a fabric weighing 120 g/m² or less. It did not distinguish between big bags and other types of bag. Second, big bags and other types of bag subject to the investigation have the same basic physical/chemical characteristics and the same uses, i.e. they are made of the same raw material and used for packaging and transporting goods. In this respect it should be noted that even if a specific type of the product concerned did not exist or was not widely used during the investigation period, the definition of the product also covers product types which have been developed subsequently provided these types have the same basic physical/chemical/technological characteristics and the same uses.

(11) The Provisional Duty Regulation mentioned, in recital 6 thereof, that the product concerned falls within CN codes 6305 32 81 and 6305 33 91. However, the Commission became aware that the sacks and bags concerned in the present investigation can be classified under CN codes 3923 21 00, 9323 29 10 and 3923 29 90 while still meeting the description of the product concerned if made from a fabric which is either woven from a strip wider than 5 mm or laminated on both sides to an extent visible to the naked eye. Therefore, sacks and bags falling under the description of the product concerned and classified under CN codes other than those provisionaly disclosed should also be covered by the present investigation. Therefore, the conclusions set out in the Provisional Duty Regulation concerning the definition of the product concerned and the like product are confirmed.

IV. DUMPING

1. Normal value

(a) *India*

(12) Three Indian exporting producers have objected to the methodology used to determine whether their sales had been made in the ordinary course of trade. They argued that since the cost of raw materials increased sharply during the period of investigation, the monthly cost of production, rather than the annual cost, should have been used to determine the volume of sales made at a loss. Considering that raw materials constitute the most important element of the total costs of production for the product concerned, the volume of sales below unit cost was recalculated on the basis of the monthly cost of production for the companies which provided such information.

(13) Several Indian exporting producers objected to the way in which Article 2 (4) of the Basic Regulation has been applied by the Commission. They requested that the weighted average sales prices should have been compared with the weighted average costs of the product types concerned without eliminating those sales which were made at a loss. Although some prices were below cost at the time of sale, the average selling price of the product concerned was above the weighted average cost.

It should be noted that it is consistent practices, in accordance with the third paragraph of Article 2 (4) of the Basic Regulation, only to base normal value on all sales, including those made at a loss, if the following two conditions are cumulatively met, i.e.

— the weighted average cost of production is lower than the weighted average selling price for a given product, and

— the domestic sales volume made at a loss is less than 20 % of the total sales volume.

As any other approach would be in conflict with Article 2 (4), the request made by the Indian exporters therefore had to be refused.

(14) One Indian exporting producer which sold the product concerned in insufficient quantities on its domestic market and which exported product types which were sold by other producers/exporters in the country concerned, argued that the calculation of normal value should have been constructed rather than based on the prices charged by other producers in India.

In accordance with Article 2 (1) of the Basic Regulation, normal value is normally based on domestic prices. If an exporter does not make sufficient domestic sales in the ordinary course of trade, normal value must be established on the basis of other exporters' sales prices for the comparable product, because it can be assumed that the use of other exporters' prices produces a more accurate normal value than construction from the cost of production. Only in the absence of representative domestic sales by other producers, or if such sales prices are not suitable, will normal value be constructed in accordance with Article 2 (3) of the Basic Regulation. However, the exporter in question did not advance any argument as to why the use of other exporters' prices should not have been suitable.

(b) *Indonesia*

(15) An Indonesian exporting producer claimed that the weighted average of the normal values established for the other Indonesian producers should not be applied to him since it was not representative for a certain type of bag and suggested that this product type be excluded from the calculation of normal value, or that the normal value be constructed. This claim could not be accepted for the same reasons as set out in recital 10 of the Provisional Duty Regulation.

(c) *Conclusion*

(16) The other findings made in recitals 14 to 24 of the Provisional Duty Regulation concerning the determination of normal value are hereby confirmed.

2. **Export price**

(17) No new arguments have been brought forward concerning the determination of export prices. The findings set out in recital 20 of the Provisional Duty Regulation are therefore confirmed.

3. **Comparison**

(a) *India*

(18) Four Indian exporting producers contested the inclusion of bank charges in the cost of credit for the adjustment of the export prices. They claimed that these charges were not taken into account by them when determining the export prices charged. It should be noted that in these cases the bank charges are intrinsically linked to the cost of credit and as such must therefore be taken into consideration when determining the cost of credit. Therefore, the claim could not be accepted.

(19) A majority of producers/exporters claimed that insufficient allowance had been granted for duty drawback on the grounds that all domestically purchased raw materials bore import duties for which a duty drawback allowance should have been granted and that they would receive duty drawback whenever they exported the product concerned, irrespective of whether the raw materials used originated in the domestic markets of the countries concerned or were imported from third countries.

In this respect it should be noted that the producers/exporters failed to submit conclusive evidence to substantiate the claim that all polyethylene and prolypropylene used for the production of sacks and bags, including those sold domestically, contained imported raw materials for which duties were paid in accordance with Article 2 (10) (b) of the Basic Regulation. Therefore, as was set out in recital 24 of the Provisional Duty Regulation, adjustment for duty drawback has been granted only where it was found that the like product and the materials physically incorporated therein sold by the producers/exporters in question on their domestic markets and intended for consumption within those countries, did bear import charges.

(b) *Indonesia*

(20) The Indonesian exporting producers claimed that an allowance for duty drawback should be granted on the basis of past practice and the fact that the exemption of duties for polyethylene and polypropylene resin used in the production of exported bags is allegedly reflected in the fact that import charges are borne by resin physically incorporated in the bags sold on the domestic market.

The exporting producers failed to submit conclusive evidence to demonstrate that all polyethylene and polypropylene resins used for the production of sacks and bags, including those sold domestically, contained imported raw materials for which duties were paid in accordance with Article 2 (10) (b) of the Basic Regulation. Therefore, the adjustment for duty drawback has not been granted.

(c) *Thailand*

(21) The Thai exporting producers claimed that, in view of the significant price differences between the raw materials originating, on the one hand, on the domestic market and used for domestic sales of the product concerned and, on the other hand, those originating on the export market and used for exports to third countries, an allowance should be granted pursuant to Article 2 (10) (k) of the Basic Regulation. The Thai exporting producers argued that the duty drawback system operated in Thailand resulted in a significant difference between the raw material costs for the exported product and those for the product sold domestically and thus affected price comparability between domestic sales prices and export sales prices.

It should be noted that the adjustment requested is related to duty drawback and import charges and is exhaustively governed by Article 2 (10) (b) of the Basic Regulation. However, the exporting producers failed to submit conclusive evidence to demonstrate that all polyethylene and polypropylene used for the production of sacks and bags, including those sold domestically, contained imported raw materials for which duties were paid in accordance with Article 2 (10) (b) of the Basic Regulation.

4. Dumping margin

(a) *General*

(22) In the absence of any other new arguments concerning the determination of the dumping margin, the methodology set out in recitals 25 to 36 of the Provisional Duty Regulation is hereby confirmed.

(b) *India*

(23) One Indian exporting producer contested the conclusions of recital 27 of the Provisional Duty Regulation, which were that only one dumping margin should be established for two related companies. It was alleged that the company is a distinct economic entity, with separate production, administration and marketing, manufacturing a different product.

However, in view of the facts set out in the Provisional Duty Regulation, most of which were not disputed by the company, and in order to avoid the risk of circumvention of the anti-dumping measures, the decision to establish only one dumping margin for the two Indian producers/exporters in question was maintained.

(24) The weighted average dumping margins definitively established for the cooperating Indian producers/exporters, expressed as a percentage of the free-at-Community-frontier price are as follows:

— Gilt Pack	0,0 %
— Neo Sack Ltd	0,0 %
— Buildmet Private Ltd	15,6 %
— Kanpur Plastipack	4,3 %
— Polyspin Export Ltd and Polyspin Private Ltd	13,8 %
— Shankar Packaging Ltd	6,1 %.

(25) The dumping margin definitively established for Indian exporters other than those cooperating in this investigation, expressed as a percentage of the free-at-Community-frontier price, is 36,0 %.

(26) The Plastics and Linoleums Export Promotion Council in India contested the observation in recital 29 of the Provisional Duty Regulation that there was a high level of non-cooperation. Taking into account the fact that the cooperating exporters accounted for approximately 57 % of total exports, it follows that 43 % of the exporters did not cooperate. In line with consistent practice this is considered a high level of non-cooperation. This request could therefore not be accepted, and the methodology set out in recital 29 of the Provisional Duty Regulation was consequently maintained.

(c) *Indonesia*

(27) The dumping margins found for Indonesian producers/exporters as set out in recitals 31 to 33 of the Provisional Duty Regulation are hereby definitively confirmed. Accordingly the dumping margins expressed as a percentage of the free-at-Community-frontier price are as follows:

(i) for cooperating producers/exporters included in the sample:

— PT Budi Indoplast Indah	56,0 %
— PT Hardo Soloplast	28,4 %
— PT Kemilau Indah Permana Ltd	31,0 %
— PT Poliplas Indah Sejahtera	38,0 %
— PT Simoplas	23,5 %

(ii) for cooperating producers/exporters not included in the sample: 28,3 %

(iii) for Indonesian producers/exporters other than those cooperating in this investigation: 56,0 %.

(d) *Thailand*

(28) One Thai exporting producer objected to the comparison of the weighted average normal value with the export price on a transaction-by-transaction basis, pointing out that there were only a few transactions which differed considerably from the weighted average sales price, and that these few transactions concerned prices that were significantly higher than the weighted average export price. A review of the calculations confirmed this and the weighted average normal value was therefore compared with the weighted average export price. The method of comparison was also reviewed for the other Thai exporters and, since a similar situation was found for two other companies, it was decided to compare the weighted average normal value with the weighted average export price for these companies as well.

(29) The weighted average dumping margins definitively established for the cooperating Thai producers/exporters, expressed as a percentage of the free-at-Community-frontier price are as follows:

— Bangkok Polysack Co. Ltd	13,2 %
— CP Poly-Industry Public Co. Ltd	43,2 %
— Laemthong Industry Co. Ltd	60,8 %
— Pacific Polysack Co. Ltd	47,8 %
— Thai Coating Industrial Public Co. Ltd	21,5 %
— Thai Plastic Products Co. Ltd	15,8 %.

The dumping margin definitively established for Thai exporters other than those cooperating in this investigation, expressed as a percentage of the free-at-Community-frontier price, is 60,8 %.

(e) *New exporters in India*

(30) Three Indian companies which did not export the product concerned to the Community during the investigation period requested to be treated as newcomers. The Commission, after having examined that all the conditions provided for in Article 11 (4) of the Basic Regulation were met, concluded that the weighted average dumping margin found for the cooperating Indian companies, i.e. 10,5 %, should be used for these three newcomer companies.

V. COMMUNITY INDUSTRY

(31) The Plastics and Linoleums Export Promotion Council in India (PLEPCI) questioned the standing of the complainants on the grounds that, from the eight original complainants, only four of them and another one, which joined the complainant later on, responded to the Commission's questionnaire and claimed that the Commission did not provide a basis for its conclusion on the representativeness of the complaining industry as set out in recital 37 of the Provisional Duty Regulation.

(32) This criticism was not supported by any substantiated evidence that the Commission's conclusions in this regard were wrong. As mentioned in recital 37 of the Provisional Duty Regulation, it had been examined in the course of the investigation whether the cooperating complainant Community producers still represented a major proportion of the total Community production of the product concerned within the meaning of Article 4 (1) of the Basic Regulation. This examination has shown that the cooperating producers, listed in recital 4 of the Provisional Duty Regulation, represented around 75 % of the estimated total Community production of the like product. Consequently, the qualification of the complaining industry as the Community industry for the purposes of the present proceeding, as stated in recital 37 of the Provisional Duty Regulation, is confirmed.

VI. INJURY

(33) PLEPCI questioned the fact that no figure for the number of employees dependent on the production of the product concerned was specified in the Provisional Duty Regulation and requested clarification on the decrease in employment of 16,9 % mentioned in recital 51 of that Regulation. In response to this claim, it can simply be noted that the employment figure was established on the basis of replies to the questionnaires from the Community industry. Employment in the Community for the production of the like product fell from 767 in 1992 to 637 during the investigation period, namely by 16,9 %.

(34) In the absence of any other argument concerning the injury suffered by the Community industry, the Council confirms the injury findings and the conclusion that this industry has suffered material injury within the meaning of Article 3 of the Basic Regulation, as stated in recitals 38 to 52 of the Provisional Duty Regulation, in particular in view of the negative trends in production, capacity utilization, market share, prices, profitability, investments and employment during the whole period covered by the injury examination.

VII. CAUSATION OF INJURY

(35) PLEPCI claimed that the Commission had established a decrease of 3,9 % in the weighted average selling price of the Community industry during the period under examination but had failed to explain the role played in this negative price evolution by the decrease in the price of raw materials for the production of the like product, arguing that raw material prices fell by more than one third between 1991 to 1993. In addition, it contended that there is a coincidence between the dramatic fall of raw material prices in 1993 and the losses incurred by the Community industry during that year.

(36) During the course of the investigation, the available information did not show that the alleged evolution in prices of the raw materials played a significant role in the trend in selling prices in the Community market between 1992 and the first quarter of 1995, namely for the whole period under examination. As PLEPCI did not provide convincing evidence or information which would demonstrate otherwise, this claim cannot be taken into further consideration.

(37) Furthermore, it should be noted that, contrary to the statement made by PLEPCI, any decrease in the cost of raw material should have had, somehow or other, a positive impact on the profitability of the Community industry, considering in particular the fact that raw materials can represent up to one third of the total Community industry cost of production of the product concerned. The findings reported in recital 49 of the Provisional Duty Regulation, however, demonstrate that this was not the case.

(38) PLEPCI also requested clarification on the findings of the Commission as regards stocks, sales and production of the complainant producers between 1994 and the investigation period, contending that it was inconsistent to state that the volume of sales and production by the Community industry had increased while stocks decreased during the same period.

As regards this argument, it is confirmed that stocks decreased slightly between 1994 and the investigation period. This is explained by the fact that sales made by this industry in the Community market were by and large stable (−46 tonnes), whereas sales intended for export outside the Community increased accordingly during the same period of time.

(39) Finally, PLEPCI argued that the imports under investigation could not be considered to have caused any material injury suffered by the Community industry because between 1994 and the investigation period the prices and market share of the Community producers had increased, whereas the importers under investigation were found to have lost a share of the market due to a slight increase in their import price.

(40) In this respect, it has to be pointed out that the examination of injury covered the period from 1 January 1992 to 31 March 1995, namely a period of over three years. Therefore, any particular trend within a part of this period should be seen in the light of the global trend during the whole period under examination. As the conclusions of PLEPCI are based only on a limited period within the injury examination period, regardless of the global trend during the whole period concerned, its argument has only a limited value.

(41) It is confirmed that the Community industry market share increased by 0,2 % and that prices increased slightly during the investigation period compared with 1994. Nevertheless, the Community industry lost market share and its sales prices decreased during the period considered for the examination of injury, i.e. 1992 to the end of the investigation period as stated in recitals 47 and 48 of the Provisional Duty Regulation. Furthermore, although the imports in question lost 1,8 % of the market share while their prices increased by 2,5 % in the investigation period compared with 1994, it should be recalled that from 1992 to the investigation period, namely the whole period under examination for the assessment of injury, their market share gained 13,8 percentage points or increased by 46 % and their import price decreased by 3,3 %. Their argument, therefore, could not be accepted.

(42) As no new material arguments were received in connection with the findings in recitals 53 to 72 of the Provisional Regulation, the provisional conclusion on the causation of material injury to the Community industry is confirmed.

VIII. COMMUNITY INTEREST

(43) It should be recalled from recital 73, *et seq.*, of the Provisional Duty Regulation that an appreciation of the various interests, including the interests of the Community industry, users and importers, was made, and that there were no compelling reasons against the introduction of anti-dumping measures. Rather it was concluded that the Community's reasonable interests require that the Community industry be protected against the unfair trading practices of dumped imports originating in India, Indonesia and Thailand.

(44) As no new arguments were received in connection with the Community interest analysis made in the Provisional Duty Regulation, the provisional findings are hereby confirmed.

IX. ANTI-DUMPING MEASURES

(45) Based on the above conclusions on dumping, injury, causal link and Community interest, it was considered what form and level of anti-dumping measures would have to be taken in order to remove the trade-distorting effects of injurious dumping and to restore effective competitive conditions to the Community market.

(46) Since the level of prices at which the injurious effects of the imports would be removed was higher than the dumping margin of all the countries concerned in the investigation, the dumping margin was used in order to determine the level of the measures.

(47) On the above basis, definitive duties, in the form of *ad valorem* duties, should be imposed.

(48) Pursuant to Article 11 (4) of the Basic Regulation, a new exporter's review to determine individual dumping margins cannot be initiated in this proceeding with regard to Indonesia, as sampling was used in the original investigation. However, in order to ensure equal treatment between any new exporters and the companies cooperating in this investigation, it is considered that provision should be made for the weighted average duty imposed on the latter companies to be applied to any new exporters which would otherwise be entitled to a review pursuant to Article 11 (4).

X. COLLECTION OF THE PROVISIONAL DUTIES

(49) In view of the magnitude of the dumping margins found for the exporting producers and in the light of the seriousness of injury caused to the Community industry, it is considered necessary that the amounts secured by way of provisional anti-dumping duties for transactions involving the product concerned should be definitively collected at the level of the definitive duties,

HAS ADOPTED THIS REGULATION:

Article 1

1. Definitive anti-dumping duties are hereby imposed on imports of woven sacks and bags of a kind used for the packaging of goods not knitted or crocheted, obtained from a polyethylene or polypropylene strip or the like of woven fabrics, weighing 120 g/m² or less and originating in India, Indonesia and Thailand. The product as described falls within CN codes 6305 32 81, 6305 33 91, ex 3923 21 00 (Taric code: 3923 21 00*10), ex 3923 29 10 (Taric code: 3923 29 10*10) and ex 3923 29 90 (Taric code: 3923 29 90*10).

2. For the purpose of this Regulation, the rate of duty applicable to the net free-at-Community-frontier price before duty shall be as follows:

(a) 36,0 % for sacks and bags originating in India (Taric additional code 8900) with the exception of imports manufactured by the following companies, which shall be subject to the following rates of duty:

India:

	Rate of duty (%)	*Taric additional code*
Buildmet Private Ltd	15,6	8944
Gilt Pack	0,0	8945
Kanpur Plastipack	4,3	8946
Neo Sack Ltd	0,0	8947
Polyspin Export Ltd and Polyspin Private Ltd	13,8	8948
Shankar Packaging Ltd	6,1	8949
Aditya Bags (India) Limited	10,5	8424
TPI India Limited	10,5	8424
Virgo Polymers (India) Limited	10,5	8424;

(b) 56,0 % for sacks and bags originating in Indonesia (Taric additional code 8900) with the exception of imports manufactured by the following companies, which shall be subject to the following rates of duty:

Indonesia:

	Rate of duty (%)	*Taric additional code*
P.T. Adhi Kara Suryatama	28,3	8950
P.T. Aster Dharma Industri	28,3	8950
P.T. Hardo Soloplast	28,4	8951
P.T. Kemilau Indah Permana Ltd	31,0	8952
P.T. Peiasnal	28,3	8950
P.T. Poliplas Indah Sejahtera	38,0	8953
P.T. Simoplas	23,5	8954
P.T. Wirapetro	28,3	8950;

(c) 60,8 % for sacks and bags originating in Thailand (Taric additional code 8900) with the exception of imports manufactured by the following companies, which shall be subject to the following rates of duty:

Thailand:

	Rate of duty (%)	*Taric additional code*
Bangkok Polysack Co. Ltd	13,2	8955
CP Poly-Industry Public Co. Ltd	43,2	8956
Thai Coating Industrial Public Co. Ltd	21,5	8958
Thai Plastic Products Co. Ltd	15,8	8959
Pacific Polysack Co. Ltd	47,8	8994.

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

4. Where any Indonesian party provides sufficient evidence to the Commission that it did not export the goods described in Article 1 (1) during the investigation period, that it is not related to any exporter or producer subject to the measures imposed by this Regulation and that it has exported the goods concerned after the investigation period, or that it has entered into an irrevocable contractual obligation to export a significant quantity to the Community, the Council, acting by simple majority on a proposal submitted by the Commission, after consulting the Advisory Committee, may amend Article 1 (2) (b) by attributing to that party the duty applicable to cooperating producers/exporters not in the sample, i.e. 28,3 %.

Article 2

The amount secured by way of provisional anti-dumping duty under the Provisional Duty Regulation shall be definitively collected at the duty rate definitively imposed.

Amounts secured in excess of the definitive rate of anti-dumping duty and related to imports of sacks and bags shall be released.

Article 3

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

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

Done at Luxembourg, 6 October 1997.

For the Council

The President

J. POOS

COUNCIL REGULATION (EC) No 1951/97

of 6 October 1997

amending Regulation (EEC) No 2552/93 for the purpose of imposing a definitive anti-dumping duty on imports of artificial corundum originating 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 Community [1], hereinafter referred to as 'the Basic Regulation', and in particular Article 11 (6) thereof,

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

Whereas:

A. PREVIOUS PROCEDURE

(1) Following a complaint lodged by the European Chemical Industry Council (CEFIC), the Commission, by Regulation (EEC) No 2690/84 [2], imposed provisional anti-dumping duties on imports of artificial corundum originating *inter alia* in the People's Republic of China. Subsequently the Commission, by Decision 84/650/EEC [3], accepted an undertaking given by the China National Import and Export Corporation and repealed the provisional duties previously imposed.

(2) Following a request by CEFIC, a review of the aforementioned measures was carried out which led to Decision 91/512/EEC [4] by which the Commission accepted undertakings given six Chinese companies authorized by the Chinese Chamber of Commerce to export artificial corundum to the Community.

(3) It was subsequently found that other exports were being made from China by other exporters and trade organizations previously unknown to the Commission which led to the imposition, by Council Regulation (EEC) No 2552/93 [5], of a definitive residual anti-dumping duty of 30,8 % on imports of artificial corundum originating in the People's Republic of China, with the exception of imports sold for export to the Community by the six Chinese companies from which price undertakings had been accepted.

(4) Subsequently, the Commission established that the abovementioned undertakings had been violated. The anti-dumping duty was consequently extended to the six Chinese companies concerned by Council Regulation (EC) No 2556/94 [6], with the result that an anti-dumping duty of 30,8 % was applied as from 22 October 1994 to all imports of artificial corundum originating in the People's Republic of China.

B. REVIEW INVESTIGATION

(5) On 27 July 1995, a request for a review was lodged by CEFIC on behalf of Community producers representing a major proportion of the Community production of artificial corundum. This request was made pursuant to Article 12 of Council Regulation (EC) No 3283/94 [7], which was subsequently replaced by the Basic Regulation, on the grounds that the existing definitive anti-dumping duty on imports of artificial corundum originating in the People's Republic of China had not resulted in sufficient movement in resale prices in the Community, the duty having been compensated by a further decrease in the Chinese export prices. Consequently the Community industry was allegedly suffering further injury from the Chinese dumped imports.

(6) As a period of more than four years had elapsed since the adoption of measures following the last review in 1991 and in the light of evidence that indicated changed circumstances regarding both dumping and injury, the Commission considered it appropriate to initiate an interim review covering dumping and injury pursuant to Article 11 (3) of the Basic Regulation.

[1] OJ L 56, 6. 3. 1996, p. 1. Regulation as amended by Regulation (EC) No 2331/96 (OJ L 317, 6. 12. 1996, p. 1).
[2] OJ L 255, 25. 9. 1984, p. 9.
[3] OJ L 340, 28. 12. 1984, p. 82.
[4] OJ L 275, 2. 10. 1991, p. 27.
[5] OJ L 235, 18. 9. 1993, p. 1. Regulation as last amended by Regulation (EC) No 709/95 (OJ L 73, 1. 4. 1995, p. 1).
[6] OJ L 270, 21. 10. 1994, p. 24.
[7] OJ L 349, 31. 12. 1994, p. 1. Regulation as amended by Regulation (EC) No 355/95 (OJ No L 41, 23. 2. 1995, p. 2).

(7) On 12 January 1996, by a notice published in the *Official Journal of the European Communities* [1], the Commission announced the review of Regulation (EEC) No 2552/93, pursuant to Article 11 (3) of the Basic Regulation.

(8) The Chinese producers claimed that the request for review contained evidence relating exclusively to the evolution of resale prices in the Community market, while no meaningful information was provided about the complainants' current market situation, as would normally be the case in a complaint giving rise to full investigation of dumping and injury.

In this respect, it should be noted that the complaint contained sufficient evidence of both a sharp increase in the volume and market share of the Chinese imports of artificial corundum combined with a decrease in the Chinese export prices and of a corresponding decline of the Communtiy producers' market share.

(9) The Commission officially advised the producers, exporters and importers known to be concerned, and gave the parties directly concerned the opportunity to make their views known in writing and to request a hearing.

(10) The Commission sent questionnnaires to parties known to be concerned and received replies to its questionnaires from the complainant producers and two other producers in the Community, eight Chinese exporters and three importers in the Community. Concerning the market economy country, to be used as analogue country for the purpose of establishing normal value for the People's Republic of China, the Commission received replies from three producers in Brazil and one producer in the United States of America (USA).

(11) The Commission sought and verified all information it deemed necessary for the purposes of a determination and carried out investigations at the premises of the following companies:

(a) *Community producers:*

— Péchiney Electrométallurgie, France,

— Universal Abrasives, United Kingdom,

— H.C. Starck, Germany;

(b) *Importers in the Community:*

(i) related importer

— Sinabrasive Import-Export GmbH., Ratingen, Germany;

(ii) unrelated importers

— Smyris Abrasive s.r.l., Pero, Italy,

— Mineralien-Werke Kuppenheim GmbH., Kuppenheim, Germany.

(12) The following Chinese exporters fully replied to the questionnaire.

— China Abrasives Import and Export Corporation, Zhengzhou, PRC,

— CMEC Guizhou Corporation Ltd, Guizhou, PRC,

— Guangdong Machinery & Equipment Import & Export, Guangzhou, PRC,

— Guiyang Xinsheng Abrasives & Abrasive Tools Factory, Guiyang, PRC,

— Mount Tai Abrasives Company, Shandong, PRC,

— Shandong Machinery & Equipment Import & Export Corp., Qingdao, PRC,

— The 7th Grinding Wheel Factory Import & Export Corp., Guizhou, PRC,

— White Dove (Group) Corporation Ltd, Zhengzhou, PRC.

(13) As Brazil has been used as the analogue country for the purpose of establishing normal value, as explained in recitals 25 to 28, the Commission conducted an investigation at the premises of three Brazilian producers of artificial corundum. Their names are not mentioned in this Regulation for reasons of confidentiality.

(14) The investigation of dumping covered the period from 1 January 1995 to 31 December 1995 (hereinafter referred to as the 'investigation period'). The period for the determination of injury covered the years 1992 to 1995. The geographical scope of the investigation was the Community as constituted at the time of the initiation, thus including all 15 Member States.

(15) All parties concerned were informed of the essential facts and considerations on the basis of which it was intended to recommend the amendment of the existing measures. They were also granted a period within which to make representations subsequent to these disclosures.

(16) Since the interim review in respect of imports from China was not concluded before the end of the five-year period of application of the measures concerned (that it to say on 26 July 1996), the interim review has also covered, in accordance with Article 11 (7) of the Basic Regulation, the circum-

[1] OJ C 7, 12. 1. 1996, p. 5.

stances set out in Article 11 (2) of the said Regulation (the circumstances to be examined in the context of an expiry review, i.e. likelihood of continuation or recurrence of dumping and injury). This is why the investigation has exceeded the normal period of one year as provided for in Article 6 (9) of the Basic Regulation.

C. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

1. Description of the product under consideration

(17) The product concerned by this review is fused aluminium oxide, also known as artificial corundum falling from 1 January 1997 onwards within CN codes 2818 10 10 and 2818 10 90. It is principally produced in two basic varieties, for which the chemical formula is identical (A1203):

— brown artificial corundum, consisting of 94 to 97 % aluminium oxide,

— white artificial corundum, consisting of 97,5 % to 99,5 % aluminium oxide.

Small quantities of pink artificial corundum which has a content of aluminium oxide similar to the white artificial corundum are also produced and sold in the Community. Hence the term 'white artificial corundum' will be intended hereafter to include pink artificial corundum as well.

(18) The raw material for the production of brown artificial corundum is bauxite in natural or calcined form, while for the production of white artificial corundum, calcined alumina is used, which is a processed form of bauxite. Artificial corundum is manufactured by melting the raw material in electric-arc furnaces at temperatures higher than 2 000 °C.

Artificial corundum, due to its specific characteristics, notably hardness, is mainly used in the production of abrasive materials such as grinding wheels, cutting wheels, sandpaper and in the production of refractory materials.

The production process generates a certain amount of lower quality artificial corundum containing less than 94 % of aluminium oxide. Its use is limited to the production of resin-bonded grinding wheels and to sand-blasting purposes.

(19) In the Community, the product is sold mainly in the form of grains for mixture (less than 10 mm) and in grains for grit size (crystalline powder). These latter are normally classified following international standards (FEPA in the Community). However, artificial corundum is also sold in the form of lumps of variable sizes of more than 100 mm.

These different forms in which the product in question is sold correspond to different steps of the final stage of the production process. For the purpose of the investigation, both white and brown artificial corundum have been classified in the following four categories, according to the form in which the product is sold:

— lumps,

— grains for mixture (size range: 0 to 10 mm),

— grains for grit size macro (FEPA standard: 8 to 220),

— grains for grit size micro (FEPA standard: 240 to 1 200).

(20) The Chinese producers submitted that brown and white artificial corundum are two distinct products, with different qualitites and characteristics which make them not interchangeable for the production of specific abrasive end-products. Accordingly, these producers claimed that brown and white artificial corundum should be treated separately for the purpose of the anti-dumping investigation.

It should be noted, however, that the arguments put forward by the Chinese producers refer exclusively to the use of artificial corundum for manufacturing abrasive end-products, and not to the production of refractory masses which constitutes the other main end use of artificial corundum and for which the interchangeability of white and brown artificial corundum was not put into question.

Furthermore, it has been found that brown and white artificial corundum are made from the same raw material, i.e. bauxite, and through the same basic production process. Moreover, they both have the same basic chemical and physical characteristics and final applications. They are both used for the production of abrasives and refractory materials, are to a certain degree interchangeable as regards both these uses; hence no clear dividing line can be established between basic varieties as far as their use is concerned. Therefore, for the purpose of this investigation, the various forms of artificial corundum have been considered as a single product. This approach confirms the one adopted in the previous investigation.

2. Like product

(21) The Commission found that the artificial corundum produced and sold in the Community and in Brazil, which was chosen as the analogue country, on the one hand, and that imported from China an the other, were made from the same raw material and were manufactured by using the same basic technology. Moreover, it was found that Community and Brazilian corundum were comparable in their essential physical and chemical characteristics, applications and uses to that imported from the people's Republic of China.

(22) In this context, the Chinese producers argued that the artificial corundum imported from China in lump form is not in any sense comparable with the artificial corundum in grain form marketed by the Community producers.

In this respect, it was found however, that lumps and grains correspond to two subsequent final steps of the production process of artificial corundum. Indeed, lumps can be easily processed into grains and this operation is often carried out by the importers/traders with little effect on the market price of the product. Furthermore, Chinese exports of artificial corundum in the form of lumps represented only 25 % of total exports of the product in question to the Community, the rest being exported in the form of grains. This mix of sales was similar to that of the Community producers.

(23) On the basis of all the above, it is considered that artificial corundum produced and sold in the Community and Brazil, as well as that imported from the People's Republic of China, are like products within the meaning of Article 1 (4) of the Basic Regulation.

D. DUMPING

(24) The continued existence of dumping was verified to ascertain firstly whether there were still grounds for continuation of measures against artificial corundum originating from the People's Republic of China and, if so, whether the alleged changed circumstances with regard to the dumping margin required the existing measures to be adapted accordingly.

1. Normal Value

(25) In establishing normal value, account was taken of the fact that the People's Republic of China is considered to be non-market economy country. Therefore, in accordance with Article 2 (7) of the Basic Regulation, the determination of normal value had to be based on a market economy third country. In this respect, the USA and Brazil were envisaged in the notice of initiation of the review as appropriate market economy countries for the determination of normal value. The Chinese producers submitted that Brazil was inappropriate because only one major producer operates in that market and alumina, the raw material for the production of white artificial corundum, is allegedly purchased at inflated prices from its major competitor in the domestic market or sourced from Australia. Consequently, it was argued that prices of artificial corundum in Brazil are abnormally high, and therefore exports to the Community from this country have ceased.

(26) The Commission requested the two known USA producers of artificial corundum to cooperate in this review, but only one of them agreed to answer the questionnaire. A request for cooperation was also made to the three known producers in Brazil which all agreed to provide the information requested in the questionnaire.

(27) The domestic sales of the product concerned by the three Brazilian producers during the investigation period have been found to represent about 80 % of the total exports from China to the Community. The relative size of these three producers was such that none of them appeared to have a dominant position on the Brazilian market. Furthermore, imports into Brazil from third countries have been estimated to represent about 20 % of the domestic market. Hence, Brazil is considered to be a sufficiently open and competitive market for artificial corundum. Bauxite, the main raw material, is easily available in an area close to the plants and no relevant supply from Australia has been recorded. No evidence was found of alumina being sold at inflated prices by any of the three producers to the other. Finally, Brazilian exports of artificial corundum to the Community during 1995 were almost 3 000 tonnes, which is a significiant volume. In the light of the above, and taking into account the number of co-operating producers in the USA and Brazil, the latter country is considered to be an appropriate market economy country for the purpose of establishing normal value for the Chinese exports to the Community.

(28) Normal value has been determined for each product type of artificial corundum exported from China to the Community during the investigation period. Normal value per product type was generally established on the basis of the prices paid or payable by independent customers in Brazil for sales of the like product made in sufficient quantities and in the ordinary course of trade. Where it was found that no, or insufficient, sales of a given product type were made in Brazil by any of the producers investigated, normal value for this type was constructed on the basis of its costs of production in Brazil, plus a reasonable amount for selling, general and administrative expenses and for profits, in accordance with Article 2 (3) of the Basic Regulation. The amounts of these expenses and profit have been determined on the basis of the actual amounts applicable to production and sales, in the ordinary course of trade, of the like product for the producer in question in the Brazilian market, in accordance with Article 2 (6) of the Basic Regulation.

2. **Export Price**

(29) Exports of the product concerned to the Community by the Chinese producers which replied to the Commission's questionnaire represented about 76 % of total imports from China during the investigation period as recorded in Eurostat statistics. The export price was generally established on the basis of the price actually paid or payable for the product sold for export from the People's Republic of China to independent customers in the Community, in accordance with Article 2 (8) of the Basic Regulation.

(30) One Chinese producer provided information about the export price which was found to be false. This information has been disregarded and, in accordance with Article 18 of the basic Regulation, the export prices of the producer in question were determined on the basis of the information provided by its unrelated importers in the Community.

(31) Two other Chinese producers sold for export to a related importer in the Community, but only in one case did the importer cooperate, and it was possible to construct the export price on the basis of the resale price at which the imported product was first resold to an independent buyer. From the resale price, all costs between importation and resale incurred by the importer, as well as a reasonable amount for profit, were deducted, so as to establish a reliable export price, in accordance with Article 2 (9) of the Basic Regulation. The amount for profit has been calculated by reference to those realised by the cooperating independent importers. As to the other Chinese producer, it was considered non-cooperating.

(32) With regard to exports made by either the aforementioned non-cooperating Chinese producer or those who did not manifest themselves, the export price had to be established pursuant to Article 18 of the Basic Regulation on the basis of the facts available. It was considered that the figures reported by Eurostat, duly adjusted to deduct the volume and value of the imports into the Community from the cooperating Chinese producers, provided the most appropriate basis, and the export price has been determined accordingly.

3. **Comparison**

(33) Normal value and export price have been compared for each product type at FOB level. For the purpose of ensuring a fair comparison between normal value and export price, account was taken and, where appropriate, adjustments made in accordance with Article 2 (10) of the Basic Regulation, for differences affecting price comparability.

(34) While a considerable proportion of domestic sales in Brazil was made to end-users, i.e. grinding wheel producers and refractory producers, the major part of the Chinese exports to the Community was made to traders. However, no clear price difference has been found in Brazil between sales to traders and sales to end-users. Hence, no adjustment has been made with regard to differences in levels of trade.

(35) Adjustments for other factors affecting price comparability have been made. Ocean freight, insurance costs for transport and credit costs were deducted, where appropriate, from the export price, in order to express it at a Chinese border FOB level.

(36) In the case of normal value, adjustments for inland transport to harbour and loading costs have been made in order to bring the normal value, initially established at an ex-factory level, to an FOB Brazilian border level. Adjustments for credit costs have also been made where appropriate.

(37) The Chinese producers submitted that artificial corundum in grain form originating in China must undergo further processing by the importer in order to be made fit for sale in the Community market. The Commission found that the Chinese product actually underwent a number of processes including resieving, removal of iron and finally packing before being sold to the end-user. Moreover, sometimes the product needed to be dried and/or made more cubic (block shaped). The costs relating to these operations have been deducted from normal value for the purpose of comparability with the export price of the Chinese product.

(38) Regarding other alleged physical differences which are claimed to result in a lower quality of the Chinese product, no evidence has been provided to substantiate such allegations. Hence, no further adjustment was granted in this respect.

4. **Dumping margin**

(39) In accordance with Article 2 (11) of the Basic Regulation, the weighted average normal value per product type of artificial corundum was compared to the weighted average export price of the corresponding type. This comparison showed the existence of dumping, the dumping margins per type being equal to the amount by which the normal value exceeded the export price.

(40) Seven Chinese exporters asked that individual dumping margins should be determined for them. However, some exporters did not provide any documentary evidence to support their claim; some others provided only the business licence. This document was not considered sufficient to support the claim of these exporters to be indepedent of the State. Consequently, their request could not be accepted. It is therefore considered appropriate, in accordance with previous Community practice, to establish one country-wide dumping margin.

(41) This margin has been calculated by comparing the overall weighted average normal value to the overall weighted average export price. The amount of this dumping margin, expressed as a percentage of the CIF Community frontier export price duty unpaid, has been established to be 88,7 %.

E. COMMUNITY INDUSTRY

(42) The complaining Community producers which took part in the investigation account for almost 50 % of the total Community production of artificial corundum. The other known producers did not fully cooperate in the investigation, but expressed their support for the review of the measures in force.

Given the above, the complaining Community producers which cooperated with the investigation are considered to constitute the Community industry within the meaning of Article 4 (1) of the Basic Regulation for the purpose of the investigation.

F. INJURY

1. Community consumption

(43) The consumption of artificial corundum in the Community increased by 70 272 tonnes from 1992 (272 913 tonnes) to the end of the investigation period (343 185 tonnes). This represents an overall increase of 25 %. This increase was constant as from 1993, after a slight decrease in 1992 to 1993 by 2,4 %.

2. Volume and prices of the dumped imports

2.1. *Volume and market share of imports*

(44) The volume of imports from China increased continuously and more than quadrupled during the period examined, from 13 403 tonnes in 1992 to 54 836 tonnes in 1995. The market share of these imports followed a similar progressive trend: 4,9 % in 1992, 6,6 % in 1993, 9,7 % in 1994 and 16 % in 1995, gaining a further 11 % of market share since 1992.

2.2. *Prices of the dumped imports*

(45) For the investigation period, the undercutting calculations were made separately for brown and white artificial corundum and each type was classified in four categories according to the grain mix. For the purposes of comparison, an adjustment was made to the exporters' prices of grain (ex-Community frontier) to take account of customs duty and anti-dumping duty plus an allowance in respect of processing costs incurred by importers in the Community (based on information collected during the investigation). The Community producers' prices were considered at ex-works level. Comparisons were made at comparable levels of trade. The comparison showed a weighted average undercutting margin of 21,7 % for all types of artificial corundum during the investigation period.

For the period between 1991 and 1994, while undertakings were in force, the investigation confirmed that the Chinese prices (Eurostat basis) were on average below the Community industry's prices and, indeed, below the undertaking prices. Moreover, the *ad valorem* duty of 30,8 % imposed in June 1994 was largely absorbed by a subsequent 24 % decrease in the export price between 1994 and 1995.

2.3. *Conclusion*

(46) The allegation made in the request for review was fully confirmed. The volume and market share of Chinese imports have substantially increased in the period examined and the replacement of the undertakings by a duty has resulted in a further fall in export prices.

3. Situation of the Community industry

3.1. *Production, production capacity, utilization rate*

(47) The production of the Community industry increased regularly, with the exception of 1993, from 91 056 tonnes in 1992 to 102 821 tonnes in 1995. However, this increase in production of 11 500 tonnes (12,9 %) should be seen in relation to an increase in consumption of 70 000 tonnes (25 %) during the same period.

(48) The production capacity of the Community industry remained stable, at 140 700 tonnes for the period examined.

(49) The capacity utilization rate on average for the Community industry decreased from 66 % in 1992 to 60 % in 1993 and increased thereafter up to 73 % in 1995, since production increased and the production capacity did not significantly change.

3.2. *Sales volume and market share of the Community industry*

(50) The sales of the complaining Community producers increased constantly in the period considered (with the exception of 1993) from 87 488 tonnes in 1992 to 93 531 tonnes in 1995 (increase by 6,9 %). However, this development of sales volume compared to the much more significant increase of the apparent Community consumption led to a decrease in the market share held by the Community industry from 32,1 % in 1992 to 27,3 % in 1995.

3.3. *Stocks*

(51) Stocks of artifical corundum held by the Community industry increased regularly from 11 842 tonnes in 1992 to 17 160 in 1995 (increase by 45 %).

3.4. *Price evolution*

(52) The prices of the Community industry have been depressed over the past years. The Community producers had to adapt their prices to the downward pressure exterted by the Chinese dumped imports. Prices decreased on average by 8 % from 1992 to 1994, albeit there was a slight recovery (less than 2 % on average) after 1994.

3.5. *Profitability*

(53) The Commission found that during the period considered, the artificial corundum Community industry has recorded poor financial results. The worst financial results were recorded in 1994 (−23,6 % on a weighted average basis) where prices were at their lowest. In 1995, (investigation period) losses decreased on a weighted average basis to −13,9 %, partly as a consequnce of an increase in this period of the Community industry's production of special types of the product designed for specific applications. However, on average, losses were prevalent throughout the period.

3.6. *Employment*

(54) The employment levels of the Community industry fluctuated during the period under consideration, representing in 1995 similar levels to 1992 (around 750 persons).

4. Conclusion on injury

(55) In spite of the measures in force, an overall assessment of the main economic indicators leads to the conclusion that the artificial corundum Community industry continues to show clear signs of economic difficulties. The production and sales of the complainants increased in the examined period; however, this increase did not reflect the increase in consumption with a consequent loss in market share on 4,8 % between 1992 and 1995. Financial losses were prevalent throughout the period examined and indeed the Community industry was unable to recover from the price pressure and financial difficulties encountered when the proceeding was reviewed in 1991. It is therefore concluded that the Community industry continued to suffer material injury during the period examined.

5. Causation of injury

5.1. *Dumped imports*

(56) The extent to which the injury suffered by the Community industry had continued to be caused by the dumped imports was examined. It was found that the injury consisted mainly in financial losses resulting from depressed prices together with a loss in market share in an expanding market. In this context, it is noted that the market share of the Chinese imports substantially increased at the same time as the Community industry's market share decreased. Moreover, the Chinese prices significantly undercut those of the Community industry. It was therefore concluded that the Chinese imports largely contributed to the continued injury sustained by the Community industry.

5.2. *Other imports*

(57) The effect of imports from other third countries in determining the injury suffered by the Community industry were analyzed.

Measures of artificial corundum were in force until 26 July 1996 for a number of countries, namely Hungary, Poland, the Czech Republic, Brazil, the Republic of Slovenia, the Russian Federation and Ukraine. No expiry review of these measures was requested by the Community industry which considered that the imports from the abovementioned countries no longer constituted a threat to this industry.

On the basis of Eurostat data, the investigation confirmed that during the period examined, imports from the abovementioned countries remained relatively stable in terms of market share (slight increase for Russia and Ukraine). Moreover, the prices of imports originating in these countries were in all cases consistently higher than the Chinese prices and indeed there were no indications that such imports were being dumped.

5.3. *Structure of the industry*

(58) The Commission examined whether the difficulties faced by the industry could be attributed to structural problems. It was found that considerable efforts of rationalization have been made by the Community industry, allowing this industry to develop the production of a significant range of types of artificial corundum, including special types, and to be competitive with regard to the product concerned. Moreover, this industry has made significant investments, in particular to comply with environmental requirements, and is overall modernized.

5.4. *Conclusion on causation*

(59) No other factors were found which could have had a particular impact on the situation of the Community industry. It is therefore concluded that the imports from China, because of their increased volumes and low prices have, in isolation, continued to cause material injury to the Community industry.

6. Likelihood of continuation of dumping and injury

(60) In the light of the above analysis and in order to assess the effect of the expiry of the measures in force, the following was considered:

(61) — since measures were first imposed in 1984, the Community artificial corundum industry has undergone considerable restructuring, with some companies closing down and others merging. Furthermore, the industry has tended to develop the production of more specialized types of artificial corundum, in particular that of white artificial corundum. In spite of these restructuring efforts, the present review has shown that continued dumping and price undercutting has jeopardized the possibility of the industry's recovery, with low financial results incurred by all producers. Should measures be allowed to lapse, this could only worsen the difficulties faced by this industry,

(62) — as regards the issue of dumping, it is noted that the measures in force have, in recent times, generally been insufficient to prevent dumping from continuing with a consequent substantial increase in the volume of the imports concerned. The market share of Chinese imports increased from 5 % in 1992 to 16 % in 1996. Moreover, it is noted that the undertakings in force between 1991 and 1994 were not adhered to, and the *ad valorem* duty subsequently imposed in 1994 as a result has been largely absorbed by a significant decrease in the export price. In the light of the behaviour of the exporters concerned and the rate of increase of Chinese imports, the indications are that dumping is likely to continue, causing further injury in the absence of effective measures.

(63) It follows from the foregoing that an expiry of the measures would be likely to increase the injurious effects of dumping and, consequently, further weaken the situation of the Community industry. A continuation of the measures appears therefore warranted, but they have to be adapted in the light of findings on dumping and injury based on the results of this investigation, in order to ensure that the measures are appropriate in the circumstances found.

G. COMMUNITY INTEREST

1. The Community artificial corundum industry

(64) The Community artificial corundum industry was in the investigation period composed of large companies located in different Member States. Artificial corundum represents an important branch of their activities for which constant investment has been made in the recent years in order, in particular, to ensure compliance of production methods with environmental requirements. Furthermore, this industry is able to supply a wide range of types of artificial corundum, including a number of specialities which are designed for specific applications, in particular in the steel and car manufacturing industries. The maintenance of this industry is therefore, from the viewpoint of variety and capacity for specialization, in the interest of users in the Community. In this context, it is noted that although not all types of the product have been imported from China, the investigation has shown that the continued imports at low prices of certain types of corundum are putting at risk the viability of the Community industry as a whole and that a further deterioration could be expected in the absence of effective measures.

(65) One association of abrasive producers pointed out that the anti-dumping measures have been in force for a considerable period. This association claimed that in the recent past a number of producers had closed down and others merged, with the result that the number of suppliers on the side of the Community industry had been considerably reduced and might therefore no longer justify the continued imposition of the measures.

In this respect, it is noted that the present producers of artificial corundum account for a significant production capacity, which would allow the supply of approximately 90 % of the artificial corundum consumption in the investigation period. Furthermore, the industry has undergone considerable restructuring over the past years in an attempt to rationalize production; however, these efforts have been largely undermined by the continuous and increasing presence of the dumped imports. In particular, it is noted that the duty imposed in 1994 was almost entirely absorbed, thus undermining any useful effects of the measures to the industry.

(66) It was also claimed that the Community producers had a dominant position due to recent consolidations in the market and that this position would jeopardize the conditions of competition on the Community market. It should be noted that the merger referred to, which concerned one complainant producer and another producer in Austria was authorized pursuant to the Community competition legislation. Furthermore, given the existence of other Community producers in the market (a total of four producers following the said merger) and the presence of imports from a number of countries, this claim does not appear to be justified.

2. **The user industry**

(67) It is recalled that Community users of artificial corundum are mainly the manufacturers of abrasives (such as grinding and cutting wheels and disks, sandpaper and abrasive paper) and the refractory products industry (refractory masses for furnaces and safes).

The abrasive applications account for 70 % of the Community consumption and refractory applications for 30 %.

(68) No users contacted the Commission following the publication of the notice of initiation. The Commission has nonetheless sent questionnaires to a number of known major users of artificial corundum in the Community which represented a variety of possible uses of the product either imported from China or Community-produced. Several replies were received from companies and from one association of users.

(69) The information provided was mostly of a general nature and to a large extent incomplete, containing insufficient indications on the impact of measures. On the basis of all the information provided for both abrasive and refractory uses, it appears that the potential impact of the anti-dumping measures would vary considerably according to the content of artificial corundum in the end-products which, in turn, depends on the applications in both the abrasive and refractory industries. Indeed, the cost of artificial corundum in the final production cost of the end-products was estimated to range in the abrasive industry from 5 % to 25 % and in the refractory industry from 8 % to 40 %. However, any potential effect of a duty would be minimized by the fact that all users provide themselves with artificial corundum from a large number of countries as well as from the Community industry.

Considering that users purchase artificial corundum from different sources, and taking into account the level of consumption of Chinese artificial corundum in the Community in the investigation period, it was estimated that the average impact of an increase in the rate of duty on the costs of these industries' products would be for the abrasive industry 1,2 % and for the refractory industry 3 %.

(70) Furthermore, there appear to be users for whose specific applications artificial corundum from China could not be used. These users reported that they were dependent on Community industry supplies.

(71) One manufacturer of abrasive products commented that the duty could result in an encouragement to the Chinese producers no longer to trade artificial corundum but to manufacture and export finished products instead. However, no evidence was provided that this would be a probable consequence of maintaining the anti-dumping duties and it would in any event not be a sufficient reason in itself for not imposing duties.

(72) It was also submitted that some users of artificial corundum were suffering from the adverse effects of competition both on the Community market and the third country markets from third country competitors which could purchase raw materials not subject to anti-dumping measures. Given the wide diversity of applications of the product concerned, the general nature of these allegations, which were not sustained by substantiated evidence, were too imprecise to show to what extent such negative effects would affect the users

concerned. In any event, it is to be recalled that the investigation has proved that the existing anti-dumping duty has been absorbed by the Chinese exporters and that the measures in force previous to *ad valorem* duties were not adhered to. As a consequence, any alleged decrease in fair competition cannot be attributed to the anti-dumping duties in force. That argument has therefore to be rejected.

(73) It was also claimed by two abrasive users of artificial corundum that anti-dumping duties on artificial corundum from China would lead to relocation of production and job losses.

In the present case, one of the two companies which claimed that relocation could take place because of anti-dumping measures has already relocated part of its production to a third country, justifying this notably by the lower labour costs outside the Community; the other user admitted that relocation was an alternative to high costs of production and expenses related to importation and was a common trend among its competitors, irrespective of anti-dumping measures.

Given, in addition, that anti-dumping duties can hardly be blamed for being responsible for relocation decisions taken previously, since it was clearly established during the investigation that the anti-dumping duty has been absorbed completely by the Chinese exporters and has not had the expected effect on prices, this argument has to be rejected.

(74) A shortage of supply of certain types of artificial corundum was also alleged by one user which had contacted one Community producer which could not at that time deliver all the requested quantities. Another user, on the contrary, wrote that no shortage of supply took place to his knowledge. No other user raised this argument, which has consequently to be rejected.

(75) One user claimed that, in the context of trade globalization, no anti-dumping duties should be imposed.

It is recalled that anti-dumping measures are imposed in order to maintain fair conditions of trade and competition in accordance with Community legislation adopted in conformity with the World Trade Organisation rules. Given that this is not contested by the user in question, the allegation was not considered to be valid.

(76) It must also be noted that some users expressly indicated that anti-dumping measures would have a favourable effect on them since, quality and proximity being reported to be the decisive factors for the choice of the supplier of artificial corundum by certain types of user, the defence of the situation of the Community industry would provide such advantages in the future and therefore be in these users' interest.

(77) Finally, it is considered that, although anti-dumping duties should allow the prices of the Community industry to increase, any increase would be limited by the high level of competition in the Community market and the number of alternative sources. Overall, the amended measures should therefore not result in any significant adverse effect on users.

3. Conclusion on Community interest

(78) In the light of the above, it is considered that there are no compelling reasons for not maintaining the measures in the present case. Furthermore, it should be noted that the Community industry has made considerable investments and that this restructuring has led to improved efficiency. It is therefore concluded that the Community interest calls for anti-dumping measures to be maintained in order to eliminate the injurious effects of dumped imports and that the measures should be amended in accordance with the present findings.

H. MEASURES

(79) When calculating the adequate amount of duty, the Council has noted that the injury caused to the Community industry consists mainly of substantial financial losses due to depressed prices resulting from price undercutting. It is thus necessary that the measures taken allow the Community industry to improve its financial situation in the future.

(80) In this respect, an injury elimination level has been calculated, based on the weighted average cost of production per product type of the Community producers plus a profit of 5 % considered reasonable for this type of industry. This injury elimination level was then compared to the weighted average import prices on a CIF basis, duties paid, for the same product types as used for the undercutting calculations and adjusted to take account of import and processing costs incurred by the importers.

Since the result of this comparison showed a higher injury level than the dumping margin established, the duty should be based on the dumping margin found, i.e. 88,7 % in accordance with Article 7 (2) of the Basic Regulation.

(81) In order to ensure the effectiveness of the measures and minimize the risk that the duty be evaded by price manipulation, it is considered appropriate to express the duty as a fixed amount of ECU per tonne.

The amount of the duty has been calculated on the basis of the dumping level mentioned above and amounts to ECU 204 per tonne,

HAS ADOPTED THIS REGULATION:

Article 1

Article 1 of Regulation (EEC) No 2552/93 shall be replaced by the following:

'Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of artificial corundum, falling within CN codes 2818 10 10 and 2818 10 90 originating in the People's Republic of China.

2. The rate of the duty applicable to the net free-at-Community-frontier price, before customs clearance, shall be ECU 204 per tonne.

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

Article 2

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 Luxembourg, 6 October 1997.

For the Council

The President

J. POOS

COUNCIL REGULATION (EC) No 1952/97

of 7 October 1997

amending Regulation (EC) No 1015/94 imposing a definitive anti-dumping duty on imports of television camera systems originating in Japan

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1] and in particular Article 12 (3) thereof,

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

Whereas:

A. PROCEDURE

1. Measures in force

(1) In April 1994, the Council, by Regulation (EC) No 1015/94 [2], imposed definitive anti-dumping duties on imports of television camera systems (hereinafter TCS) originating in Japan. The rate of the definitive anti-dumping duties amounted to 62,6 % for Sony Corporation (hereinafter Sony) and 82,9 % for Ikegami Tsushinki Co. Ltd (hereinafter Ikegami). The investigation that led to the imposition of these measures is hereinafter referred to as the initial investigation.

(2) In October 1995, the Council, by Regulation (EC) No 2474/95 [3], amended the abovementioned Regulation (EC) No 1015/94, in particular as regards the like product definition and as regards certain models of professional cameras explicitly exempted from the scope of the definitive anti-dumping duties.

2. Requests for reviews

(3) In February 1996, the Committee for Appropriate Measures to Establish Remedial Anti-dumping (Camera) lodged a request for a review pursuant to Article 12 of Regulation (EC) No 384/96 (hereinafter the 'Basic Regulation'). The complainant alleged that the abovementioned anti-dumping measures concerning TCS from Japan had led to no movement, or insufficient movement, in resale prices or subsequent selling prices in the Community as far as sales of TCS by Sony and Ikegami and their sales subsidiaries in Europe were concerned. To this effect, the complainant submitted sufficient information on resale prices of Sony's and Ikegami's sales subsidiaries in the Community before and after imposition of the anti-dumping duties.

(4) Subsequent to the above request, the Commission received requests from several Japanese producers/exporters of camera systems to exempt certain models of professional camera systems from the scope of the anti-dumping duties applicable to TCS originating in Japan.

B. REVIEW INVESTIGATION PURSUANT TO ARTICLE 12 OF THE BASIC REGULATION

1. Initiation of the investigation pursuant to Article 12

(5) On 10 April 1996, the Commission announced by a notice published in the *Official Journal of the European Communities* [4] the initiation of a review investigation pursuant to Article 12 of the Basic Regulation concerning imports of certain TCS originating in Japan and commenced an investigation. Since the evidence submitted in the complaint was limited to Sony and Ikegami only, the scope of the investigation was limited to these two companies.

(6) The Commission officially advised Sony and Ikegami, the representatives of the exporting country and the complainant Community producers of the initiation of the review. Interested parties were given the opportunity to make their views known in writing and to request a hearing. Sony and Ikegami made submissions in writing.

(7) The Commission sent questionnaires to Sony and Ikegami. Questionnaires for their related subsidiaries in the Community were attached to these questionnaires. The Commission received replies from both companies and from their related importers within the time limit set.

[1] OJ L 56, 6. 3. 1996, p. 1. Regulation as amended by Regulation (EC) No 2331/96 (OJ L 317, 6. 12. 1996, p. 1).
[2] OJ L 111, 30. 4. 1994, p. 106. Regulation as amended by Regulation (EC) No 2474/95 (OJ L 255, 25. 10. 1995, p. 11).
[3] OJ L 255, 25. 10. 1995, p. 11.
[4] OJ C 104, 10. 4. 1996, p. 9.

(8) Ikegami and its related importer informed the Commission that they would not allow for on-the-spot verifications of their reply. Consequently, in accordance with Article 18 of the Basic Regulation, Ikegami was considered to be a non-cooperating party and was informed accordingly. Findings for Ikegami were based on best facts available.

(9) The Commission sought and verified all the information it considered necessary for its investigation and carried out investigations at the premises of the following companies:

(a) *Producers/exporters in Japan:*

— Sony Corporation, Tokyo,

(b) *Importers related to the producers/exporters:*

— Sony United Kingdom Limited,

— Sony Deutschland GmbH,

— Sony Belgium NV.

(10) The Community producers of TCS are BTS Broadcast Television Systems GmbH, Griesheim, Germany (a subsidiary of Philips), and Thomson Broadcast Systems, Cergy St. Christophe, France. No submissions in addition to the complaint were received from these producers.

(11) The Commission considered that for the purpose of this investigation it was appropriate to resort to two different investigation periods. The first investigation period covered the period from 1 January 1993 until 31 March 1996. This investigation period was used to establish whether the anti-dumping measures led to sufficient movement in resale prices in the Community.

(12) The second investigation period covered the period from 1 April 1995 until 31 March 1996, i.e. the 12 months preceding the initiation of this investigation. This period was used for the re-assessment of the ex-works export prices and for the re-calculation of the dumping margin.

(13) For the purpose of the determination whether the resale prices in the Community moved sufficiently, the geographical scope of the investigation was the Community of 12 for sales in the period prior to 31 December 1994 and the Community of 15 for sales taking place after that date. For the purpose of the re-calculation of the dumping margin, the geographical scope of the investigation was the Community of 15.

(14) Owing to the volume and the complexity of the data gathered and examined and due to the fact that the current investigation is the first under Article 12 of the Basic Regulation, the investigation exceeded the normal time period of six months provided for in Article 12 (4) of the Basic Regulation.

2. Product concerned

(15) The product covered by the request and for which the investigation was re-opened is TCS defined in Article 1 (2) and (3) of Regulation (EC) No 1015/94. TCS as further described in Article 1 of Regulation (EC) No 2474/95 may consist of a combination of the following parts imported either together or separately: camera heads, camera adaptors, viewfinders, camera control units, operational control panels and master control panels.

(16) The investigation covered TCS imported as finished products originating in Japan, i.e. the same product that was investigated in the initial investigation. TCS assembled in the Community do not fall within the scope of this investigation.

3. Movement of resale prices in the Community

(a) *Calculation of the resale price level expected after imposition of the anti-dumping duties*

(17) In order to establish whether the measures have led to sufficient movement in resale prices or subsequent selling prices in the Community in accordance with Article 12 (1) and (2) of the Basic Regulation; the Commission first determined the resale price level that could have been expected in the Community after imposition of the anti-dumping duties.

(18) In this respect, the Commission relied on resale prices established during the initial investigation which led to the adoption of Regulation (EC) No 1015/94. These prices were duly corrected for differences in costs between the initial and the present investigation period incurred between the ex works level Japan and the sale to the first independent buyer in the Community (in particular changes in the selling, general and administrative (SGA) costs of the European sales subsidiaries). In order to allow for a fair comparison, the SGA costs were quantified separately for the initial and the current investigation period in absolute amounts and the difference between the two amounts was added or deducted as appropriate. For Ikegami, the Commission relied on best evidence available, i.e. as far as SGA costs in the current investigation period are concerned on those reported in Ikegami's audited accounts.

(19) Subsequently, the anti-dumping duty imposed by Regulation (EC) No 1015/94 was quantified on the basis of the free-at-Community-frontier price basis in the initial investigation period, and the resulting 'amount of anti-dumping duty due' was added to the abovementioned resale prices. The result of this calculation corresponds to the resale price level to be reasonably expected after imposition of the measures — hereinafter 'benchmark price'.

(b) *Actual resale prices after imposition of the duties*

(20) In a second step the Commission established the net resale prices of the product actually charged to the first independent buyer in the Community by the two companies concerned and their related importers after imposition of the anti-dumping duties (31 October 1993). For Ikegami the Commission relied on the prices reported by Ikegami's customers.

(21) In the case of Sony, certain resale transactions which took place after the imposition of the anti-dumping duties were excluded from the scope of the investigation since it was established that the products were already released into free circulation prior to the imposition of the anti-dumping duties. The Commission considered that the prices of these sales could not be affected by the imposition of the duties since no anti-dumping duty was due upon importation ('sales from old stocks').

(c) *Comparison*

(22) In order to allow for a fair comparison of the expected and the actual resale price level in the Community after imposition of anti-dumping duties, the calculation was carried out on a model-by-model and Member State-by-Member State basis. No interested party provided information showing that there was a need for any adjustments for factors affecting price comparability such as changes in delivery or payment terms.

(23) In its reply to the disclosure letter, Sony claimed, however, that the comparison should have been carried out by using the currencies in which the respective resales in the Community took place. This claim could not be granted. In this respect, it should be recalled that the exporters' resale prices in the Community were reported or established in different currencies. It was, therefore, considered necessary to convert the various currencies reported or established into one common currency in order to allow for an overall evaluation of the companies' resale prices in the Community.

(24) For the current investigation the most appropriate currency was found to be the Japanese yen, the currency of the exporters. In this respect, the Council noted, in particular, that the accounts of the Japanese producers/exporters are kept in Japanese yen and consequently their cost calculations and their worldwide price and profitability policy are based on Japanese yen. In addition, the Council took into consideration that, in accordance with standard practice, dumping calculations are carried out in the currency of the exporter (here Japanese yen, used in the initial investigation). For reasons of consistency and administrative convenience, it was therefore considered appropriate to make use of the same currency for the sufficient price-movement calculation. Finally, the Council noted that, in a previous absorption investigation in Regulation (EC) No 2937/95 [1] with respect to electronic weighing scales originating in Singapore, a similar request was not granted and that no compelling reasons were advanced as to why the Council should change its policy in the framework of this investigation.

(25) But even if the claim had been granted, the findings for the two companies would not have been significantly different for this investigation. In this respect, it should be noted that the Commission has verified in an additional test what effect the use of different European currencies would have had. This additional test showed that — if the German mark were to be used as currency of calcultion (in this respect it should be noted that Sony and its European subsidiaries use this currency for internal transactions as far as TCS are concerned) — on average there was also insufficient movement of the Community resale prices when compared to the expected resale price level. In addition, it was established that in almost all Member States a considerable number of transactions expressed in the currency of resale was found where the actual resale price was below the benchmark price. The Council therefore concludes that no compelling reasons were advanced which would make the use of Japanese yen as currency of calculation inappropriate for this investigation.

(26) Sony claimed, furthermore, that certain transactions should be excluded from the scope of the investigation, since the products sold on the Community market were second-hand products, i.e. products returned from customers or used in trade fairs or showrooms, etc. According to Sony sales of these products were 'not in the ordinary course of trade'. This request could not be granted since Sony could not provide the Commission with conclusive evidence that it had not sold second-hand goods on its domestic market during the initial investigation period, sales which had lowered its normal value. On the contrary, the investigation revealed that the company had sold a significant number of products at very low prices (more than 25 % below average prices) on its domestic market during the initial investigation period. During the verifications at the premises of Sony, the Commission requested the

[1] OJ L 307, 20. 12. 1995, p. 30.

company to explain these low prices and for only one out of the nine transactions selected by the Commission was Sony able to advance a reasonable explanation. Consequently, the Commission concluded that second-hand products were included in the calculation of the normal value in the initial investigation and should, for reasons of consistency and price comparability, also be included in the current investigation. In addition, the investigation revealed that Sony and its sales subsidiaries had reported certain transactions on the Community market as being a sale of second-hand products for which no evidence could be provided that this was actually the case.

(d) *Insufficient movement of resale prices*

(27) Finally, the Commission calculated the difference between the 'current net resale prices', and the 'benchmark prices' in absolute terms in order to establish whether there was sufficient movement in resale prices after imposition of the measures. The calculation showed for both companies that resale prices for almost all products subject to the investigation had not moved sufficiently.

(28) The shortfall in price movement was then qualified as a percentage of the current net resale prices. It was found that the current net resale prices for the two companies remained below the benchmark prices, on weighted average basis, with the following, margins:

— Sony: 31,6 %

— Ikegami: 140,6 %.

The Commission concluded that the shortfall in the movement of resale prices in the Community was considerable. Under these circumstances, the Commission did not consider it necessary to investigate any further whether the subsequent selling prices in the Community moved sufficiently.

(e) *Other factors affecting the average resale prices of TCS after imposition of the anti-dumping duties*

(29) No other arguments were brought forward by interested parties, nor were any other factors found by the Commission during its investigation explaining why resale prices of the parties concerned did not move to the extent that could reasonably be expected after the imposition of the anti-dumping duties as explained above. In particular, no producer/exporter claimed that due to a decrease in normal value the expected resale price level in the Community would also decrease.

(f) *Conclusion*

(30) The Council concludes that for the products within the scope of the investigation, the anti-dumping measures have not led to sufficient movement in the resale prices in the Community within the meaning of Article 12 (2) of the Basic Regulation.

4. Recalculation of the dumping margins

(31) In order to establish the new dumping margin as required pursuant to Article 12 (2) of the Basic Regulation, the Commission carried out a dumping calculation in accordance with Article 2 of the Basic Regulation by applying the same methodology used in the initial investigation.

(a) *Normal Value*

(32) Since none of the companies alleged a change in normal values pursuant to Article 12 (5) of the Basic Regulation, normal values as established in the initial investigation were used for the calculation of the dumping margins.

(b) *Export prices*

(33) As provided for in Article 12 (2) of the Basic Regulation the Commission reassessed the companies' export prices in accordance with Article 2 (8) and (9) of the Basic Regulation. In this respect, the Commission noted that both companies made their imports of the product concerned through companies which are related to the producers in Japan. It was therefore decided, in accordance with the provisions of Article 2 (9) of the Basic Regulation, to construct the export prices on the basis of the price at which the imported product was first resold to an independent buyer in the Community, with adjustments being made for all costs incurred between importation and resale (including anti-dumping duties paid and a reasonable margin for profit). In this respect, the same profit margin used in the initial investigation for the sales subsidiaries in the Community was taken into account. For the calculation of Ikegami's export prices, the Commission relied on the resale prices as reported by Ikegami's customers, on the SGA costs as reported in Ikegami's audited accounts and on data verified during the initial investigation in particular as regards cif values used for the calculation of duties paid.

(34) For Sony, the investigation revealed that in the same way as in the initial investigation financial settlement of certain inter-company sales was made through a related finance company. The Commission considered that the costs of this related finance company were costs normally borne by an importer and that they should be deducted for the purpose of constructing the export price.

(c) *Comparison*

(35) In order to allow for a fair comparison of normal value and export prices, in accordance with Article 2 (10) of the Basic Regulation, the comparison was made at a net ex factory level.

(d) *Dumping margin*

(36) The comparison of normal value with reassessed export prices showed the existence of a higher dumping margin for both companies as compared with the initial investigation. The weighted average dumping margins, expressed as a percentage of the free-at-Community-frontier price are as follows:

— Sony	108,3 %
— Kegami	200,3 %.

5. New level of duties

(37) Since the investigation has shown, that as the measures in force have led to no movement or insufficient movement in resale prices in the Community, dumping margins having increased, the measures should be amended in accordance with reassessed export prices.

In the course of the investigation it was considered whether it would be appropriate to limit the new duty rates to a level lower than the recalculated dumping margins, with the aim of ensuring that for no model would the new duties lead to a resale price exceeding the respective benchmark price as calculated before.

However, on balance, such a limitation of duties would not be appropriate since the dumping margins were calculated on a weighted average basis. Consequently, only a duty rate equal to the new dumping margin can — on a weighted average basis — lead to a non-dumped price level in the Community. In fact, it appeared that, in particular, producers practising price discrimination between various models or national markets would have benefited from the limitation of the duties, which appeared unwarranted. Therefore the new duty levels were established at the level of the new dumping margins.

C. INVESTIGATION CONCERNING NEW MODELS OF PROFESSIONAL CAMERA SYSTEMS

1. Procedure

(38) As mentioned above in recital 4, the Commission received during its investigation pursuant to Article 12 of the Basic Regulaton requests from several Japanese producers to add certain models of professional cameras to the Annex to Regulation (EC) No 1015/94 which contains a list of professional camera systems exempted from the scope of the anti-dumping duties applicable to TGS originating in Japan. The Commission informed the Community industry accordingly.

2. Models under investigation

(39) Applications were received for the following products:

(a) *Sony*

— Camera series DXC-327BP which was presented as a successor to DXC-327AP; this new camera series is sold in the following configurations: DXC-327BPF, DXC-327BPK, DXC-327BPL, DXC-327BPH,

— camera series DXC-D30P, which was presented as a successor to DXC-637P; this new camera series is sold in the following configurations: DXC-D30PF, DXC-D30PK, DXC-D30PL, DXC-D30PH, DSR-130PF, DSR-130PK, DSR-130PL, PVW-D30PF, PVW-D30PK, PVW-D30PL,

— viewfinder DXF-701CE which was presented as a successor to DXF-601CE;

(b) *JVC*

— Camera KY-D29ECH which was presented as a successor to KY-27CECH,

— viewfinder VF-P116 which was presented to be used only in connection with cameras exempted from the scope of the anti-dumping duties;

(c) *Olympus*

— Camera OTVSX which was presented as a camera to be used mainly for medical services;

(d) *Ikegami*

— Camera LK-33 which was presented as a camera primarily used for medical services,

— camera HDL-30MA which was presented as a camera mainly used as a microscope.

3. Comments received from the Community producers

(40) The Commission provided the Community producers of TCS with technical details of all new models listed above. The Community producers informed the Commission that the models concerned can be classified as as professional cameras and thus can be excluded from the scope of the anti-dumping measures.

4. Conclusion

(41) The Council concludes that the abovementioned models can therefore be added to the Annex to Regulation (EC) No 1015/94 and thus be exempted from the anti-dumping measures concerning imports of TCS originating in Japan,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1015/94 is hereby amended as follows:

1. The rates of the definitive anti-dumping duty for Sony Corporation and Ikegami Tsushinki are hereby amended. The new rates of the anti-dumping duty, free-at-Community-frontier price, duty unpaid, are:

— Sony Corporation: 108,3 % (Taric code 8742)
— Ikegami Tsushinki Co. Ltd: 200,3 % (Taric code 8741).

2. The Annex shall be replaced by the Annex hereto.

Article 2

This Regulation shall enter into force on the day following that of 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 Luxembourg, 7 October 1997.

For the Council
The President
J.-C. JUNCKER

ANNEX

Company name	Camera heads	Viewfinder	Camera control unit	Operational control unit	Master control unit (*)	Camera adaptors
Sony	DXC-M7PK DXC-M7P DXC-M7PH DXC-M7PK/1 DXC-M7P/1 DXC-M7PH/1 DXC-327PK DXC-327PL DXC-327PH DXC-327APK DXC-327APL DXC-327AH DXC-537PK DXC-537PL DXC-537PH DXC-537APK DXC-537APL DXC-537APH EVW-537PK EVW-327PK DXC-637P DXC-637PK DXC-637PL DXC-637PH PVW-637PK PVW-637PL DXC-D30PF DXC-D30PK DXC-D30PL DXC-D30PH DSR-130PF DSR-130PK DSR-130PL PVW-D30PF PVW-D30PK PVW-D30PL DXC-327BPF DXC-327BPK DXC-327BPL DXC-327BPH	DXF-3000CE DXF-325CE DXF-501CE DXF-M3CE DXF-M7CE DXF-40CE DXF-40ACE DXF-50CE DXF-601CE DXF-40BCE DXF-50BCE DXF-701CE	CCU-M3P CCU-M5P CCU-M7P	RM-M7G	—	CA-325P CA-325AP CA-325B CA-327P CA-537P CA-511 CA-512P CA-513
Ikegami	HC-340 HC-300 HC-230 HC-240 HC-210 HC-390 LK-33 HDL-30MA	VF15-21/22 VF-4523 VF15-39	MA-200/230	RCU-240	—	CA-340 CA-300 CA-230 CA-390

Company name	Camera heads	Viewfinder	Camera control unit	Operational control unit	Master control unit (*)	Camera adaptors
Hitachi	SK-H5	GM-5 (A)	RU-C1 (B)			CA-Z1
	SK-H501	GM-5-R2 (A)	RU-C1 (D)			CA-Z2
	DK-7700	GM-5-R2	RU-C1			CA-Z1SJ
	DK-7700SX	GM-50	RU-C1-S5			CA-Z1SP
	HV-C10		RU-C10 (B)			CA-Z1M
	HV-C11		RU-C10 (C)			CA-Z1M2
	HV-C10F		RC-C1			CA-Z1HB
	Z-ONE (L)		RC-C10			CA-C10
	Z-ONE (H)		RU-C10			CA-C10SP
	Z-ONE		RU-Z1 (B)			CA-C10SJA
	Z-ONE A (L)		RU-Z1 (C)			CA-C10M
	Z-ONE A (H)		RU-Z1			CA-C10B
	Z-ONE A (F)		RC-C11			
	Z-ONE A		RU-Z2			
	Z-ONE B (L)		RC-Z1			
	Z-ONE B (H)		RC-Z11			
	Z-ONE B (F)		RC-Z2			
	Z-ONE B		RC-Z21			
	Z-ONE B (M)					
	Z-ONE B (R)					
	FP-C10 (B)					
	FP-C10 (C)					
	FP-C10 (D)					
	FP-C10 (G)					
	FP-C10 (L)					
	FP-C10 (R)					
	FP-C10 (S)					
	FP-C10 (V)					
	FP-C10 (F)					
	FP-C10					
	FP-C10 A					
	FP-C10 A (A)					
	FP-C10 A (B)					
	FP-C10 A (C)					
	FP-C10 A (D)					
	FP-C10 A (F)					
	FP-C10 A (G)					
	FP-C10 A (H)					
	FP-C10 A (L)					
	FP-C10 A (R)					
	FP-C10 A (S)					
	FP-C10 A (T)					
	FP-C10 A (V)					
	FP-C10 A (W)					
	Z-ONE C (M)					
	Z-ONE C (R)					
	Z-ONE C (F)					
	Z-ONE C					
	HV-C20					
	HV-C20M					
	Z-ONE-D					
	Z-ONE-D (A)					
	Z-ONE-D (B)					
	Z-ONE-D (C)					

Company name	Camera heads	Viewfinder	Camera control unit	Operational control unit	Master control unit (*)	Camera adaptors
Matsushita	WV-F700 WV-F700A WV-F700SHE WV-F700ASHE WV-F700BHE WV-F700ABHE WV-F700MHE WV-F350 WV-F350HE WV-F350E WV-F350AE WV-F350DE WV-F350ADE WV-F500HE (*) WV-F-565HE	WV-VF65BE WV-VF40E WV-VF39E WV-VF65BE (*) WV-VF40E (*) WV-VF42E	WV-RC700/B WV-RC700/G WV-RC700A/B WV-RC700A/G WV-RC36/B WV-RC36/G WV-RC37/B WV-RC37/G WV-CB700E WV-CB700AE WV-CB700E (*) WV-CB700AE (*) WV-RC700/B (*) WV-RC700/G (*) WV-RC700A/B (*) WV-RC700A/G (*) WV-RC550/G WV-RC550/B	—	—	WV-AD700SE WV-AD700ASE WV-AD700ME WV-AD250E WV-AD500E (*)
JVC	KY-35E KY-27ECH KY-19ECH KY-17FITECH KY-17BECH KY-F30FITE KY-F30BE KY-27CECH KH-100U KY-D29ECH	VF-P315E VF-P550E VF-P10E VP-P115E VF-P400E VP-P550BE VF-P116	RM-P350EG RM-P200EG RM-P300EG RM-LP80E RM-LP821E RM-LP35U RM-LP37U RM-P270EG	—	—	KA-35E KA-B35U KA-M35U KA-P35U KA-27E KA-20E KA-P27U KA-P20U KA-B27E KA-B20E KA-M20E KA-M27E
Olympus	Camera OTV-SX					

(*) Also called master set-up unit (MSU) or master control panel (MCP).

COMMISSION REGULATION (EC) No 1953/97

of 8 October 1997

fixing the representative prices and the additional import duties for molasses in the sugar sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the market in sugar [1], as last amended by Regulation (EC) No 1599/96 [2],

Having regard to Commission Regulation (EC) No 1422/95 of 23 June 1995 laying down detailed rules of application for imports of molasses in the sugar sector and amending Regulation (EEC) No 785/68 [3], and in particular Articles 1 (2) and 3 (1) thereof,

Whereas Regulation (EC) No 1422/95 stipulates that the cif import price for molasses, hereinafter referred to as the 'representative price', should be set in accordance with Commission Regulation (EEC) No 785/68 [4]; whereas that price should be fixed for the standard quality defined in Article 1 of the above Regulation;

Whereas the representative price for molasses is calculated at the frontier crossing point into the Community, in this case Amsterdam; whereas that price must be based on the most favourable purchasing opportunities on the world market established on the basis of the quotations or prices on that market adjusted for any deviations from the standard quality; whereas the standard quality for molasses is defined in Regulation (EEC) No 785/68;

Whereas, when the most favourable purchasing opportunities on the world market are being established, account must be taken of all available information on offers on the world market, on the prices recorded on important third-country markets and on sales concluded in international trade of which the Commission is aware, either directly or through the Member States; whereas, under Article 7 of Regulation (EEC) No 785/68, the Commission may for this purpose take an average of several prices as a basis, provided that this average is representative of actual market trends;

Whereas the information must be disregarded if the goods concerned are not of sound and fair marketable quality or if the price quoted in the offer relates only to a small quantity that is not representative of the market;

whereas offer prices which can be regarded as not representative of actual market trends must also be disregarded;

Whereas, if information on molasses of the standard quality is to be comparable, prices must, depending on the quality of the molasses offered, be increased or reduced in the light of the results achieved by applying Article 6 of Regulation (EEC) No 785/68;

Whereas a representative price may be left unchanged by way of exception for a limited period if the offer price which served as a basis for the previous calculation of the representative price is not available to the Commission and if the offer prices which are available and which appear not to be sufficiently representative of actual market trends would entail sudden and considerable changes in the representative price;

Whereas where there is a difference between the trigger price for the product in question and the representative price, additional import duties should be fixed under the conditions set out in Article 3 of Regulation (EC) No 1422/95; whereas should the import duties be suspended pursuant to Article 5 of Regulation (EC) No 1422/95, specific amounts for these duties should be fixed;

Whereas application of these provisions will have the effect of fixing the representative prices and the additional import duties for the products in question as set out in the Annex to this Regulation;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and the additional duties applying to imports of the products referred to in Article 1 of Regulation (EC) No 1422/95 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 9 October 1997.

(1) OJ L 177, 1. 7. 1981, p. 4.
(2) OJ L 206, 16. 8. 1996, p. 43.
(3) OJ L 141, 24. 6. 1995, p. 12.
(4) OJ L 145, 27. 6. 1968, p. 12.

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

Done at Brussels, 8 October 1997.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

fixing the representative prices and additional import duties applying to imports of molasses in the sugar sector

CN code	Amount of the representative price in ECU per 100 kg net of the product in question	Amount of the additional duty in ECU per 100 kg net of the product in question	Amount of the duty to be applied to imports in ECU per 100 kg net of the product in question because of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 (2)
1703 10 00 (1)	7,88	—	0,33
1703 90 00 (1)	11,36	—	0,00

(1) For the standard quality as defined in Article 1 of amended Regulation (EEC) No 785/68.

(2) This amount replaces, in accordance with Article 5 of Regulation (EC) No 1422/95, the rate of the Common Customs Tariff duty fixed for these products.

COMMISSION REGULATION (EC) No 1954/97

of 8 October 1997

fixing the export refunds on white sugar and raw sugar exported in its unaltered state

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 1 June 1981 on the common organization of the markets in the sugar sector [1], as last amended by Regulation (EC) No 1599/96 [2], and in particular point (a) of the first subparagraph of Article 19 (4) thereof,

Whereas Article 19 of Regulation (EEC) No 1785/81 provides that the difference between quotations or prices on the world market for the products listed in Article 1 (1) (a) of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Regulation (EEC) No 1785/81 provides that when refunds on white and raw sugar, undenatured and exported in its unaltered state, are being fixed account must be taken of the situation on the Community and world markets in sugar and in particular of the price and cost factors set out in Article 17a of that Regulation; whereas the same Article provides that the economic aspect of the proposed exports should also be taken into account;

Whereas the refund on raw sugar must be fixed in respect of the standard quality; whereas the latter is defined in Article 1 of Council Regulation (EEC) No 431/68 of 9 April 1968 determining the standard quality for raw sugar and fixing the Community frontier crossing point for calculating cif prices for sugar [3], as amended by Regulation (EC) No 3290/94 [4]; whereas, furthermore, this refund should be fixed in accordance with Article 17a (4) of Regulation (EEC) No 1785/81; whereas candy sugar is defined in Commission Regulation (EC) No 2135/95 of 7 September 1995 laying down detailed rules of application for the grant of export refunds in the sugar sector [5]; whereas the refund thus calculated for sugar containing added flavouring or colouring matter must apply to their sucrose content and, accordingly, be fixed per 1 % of the said content;

Whereas the world market situation or the specific requirements of certain markets may make it necessary to vary the refund for sugar according to destination;

Whereas, in special cases, the amount of the refund may be fixed by other legal instruments;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92 [6], as last amended by Regulation (EC) No 150/95 [7], are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93 [8], as last amended by Regulation (EC) No 1482/96 [9];

Whereas the refund must be fixed every two weeks; whereas it may be altered in the intervening period;

Whereas it follows from applying the rules set out above to the present situation on the market in sugar and in particular to quotations or prices for sugar within the Community and on the world market that the refund should be as set out in the Annex hereto;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81, undenatured and exported in the natural state, are hereby fixed to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 9 October 1997.

[1] OJ L 177, 1. 7. 1981, p. 4.
[2] OJ L 206, 16. 8. 1996, p. 43.
[3] OJ L 89, 10. 4. 1968, p. 3.
[4] OJ L 349, 31. 12. 1994, p. 105.
[5] OJ L 214, 8. 9. 1995, p. 16.
[6] OJ L 387, 31. 12. 1992, p. 1.
[7] OJ L 22, 31. 1. 1995, p. 1.
[8] OJ L 108, 1. 5. 1993, p. 106.
[9] OJ L 188, 27. 7. 1996, p. 22.

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

Done at Brussels, 8 October 1997.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

to the Commission Regulation of 8 October 1997 fixing the export refunds on white sugar and raw sugar exported in its unaltered state

Product code	Amount of refund
	— ECU/100 kg —
1701 11 90 9100	36,00 (1)
1701 11 90 9910	33,53 (1)
1701 11 90 9950	(2)
1701 12 90 9100	36,00 (1)
1701 12 90 9910	33,53 (1)
1701 12 90 9950	(2)
	— ECU/1 % of sucrose × 100 kg —
1701 91 00 9000	0,3914
	— ECU/100 kg —
1701 99 10 9100	39,14
1701 99 10 9910	40,20
1701 99 10 9950	40,20
	— ECU/1 % of sucrose × 100 kg —
1701 99 90 9100	0,3914

(1) Applicable to raw sugar with a yield of 92 %; if the yield is other than 92 %, the refund applicable is calculated in accordance with the provisions of Article 17a (4) of Regulation (EEC) No 1785/81.

(2) Fixing suspended by Commission Regulation (EEC) No 2689/85 (OJ L 255, 26. 9. 1985, p. 12), as amended by Regulation (EEC) No 3251/85 (OJ L 309, 21. 11. 1985, p. 14).

COMMISSION REGULATION (EC) No 1955/97

of 8 October 1997

fixing the maximum export refund for white sugar for the 10th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1408/97

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector [1], as last amended by Regulation (EC) No 1599/96 [2], and in particular the second subparagraph of Article 17 (5) (b) thereof,

Whereas Commission Regulation (EC) No 1408/97 of 22 July 1997 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar [3], requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EC) No 1408/97 a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question;

Whereas, following an examination of the tenders submitted in response to the 10th partial invitation to tender, the provisions set out in Article 1 should be adopted;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

For the 10th partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1408/97 the maximum amount of the export refund is fixed at ECU 43,284 per 100 kilograms.

Article 2

This Regulation shall enter into force on 9 October 1997.

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

Done at Brussels, 8 October 1997.

For the Commission

Franz FISCHLER

Member of the Commission

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[1] OJ L 177, 1. 7. 1981, p. 4.
[2] OJ L 206, 16. 8. 1996, p. 43.
[3] OJ L 194, 23. 7. 1997, p. 16.

COMMISSION REGULATION (EC) No 1956/97

of 8 October 1997

derogating from and amending Regulation (EEC) No 2456/93 laying down detailed rules for the application of Council Regulation (EEC) No 805/68 as regards the general and special intervention measures for beef

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal [1], as last amended by Regulation (EC) No 2222/96 [2], and in particular Articles 6 (7) and 22a (3) thereof,

Whereas, because of the current reduced demand for beef and veal on certain Community markets, prices continue to be low; whereas the situation calls for support measures for certain qualities;

Whereas, to that end, certain derogations should be made from Commission Regulation (EEC) No 2456/93 [3], as last amended by Regulation (EC) No 1304/97 [4], in respect of invitations to tender opened in the fourth quarter of 1997;

Whereas, in order for intervention to provide a full response to the serious situation on the market, the list of eligible qualities laid down for the United Kingdom and Ireland should be extended;

Whereas, as demand is low at this time of year for certain lower-value cuts, including the flank, buying in for intervention of forequarters of the 'Pistola' type, which include the abovementioned flank, should also be authorized; whereas the conditions for the acceptance of forequarters should be specified;

Whereas, following the buying in of forequarters, the price of such products should be defined on the basis of carcase prices;

Whereas, by way of an exception, the maximum weight provided for in Article 4 (2) (h) of Regulation (EEC) No 2456/93 has not applied; whereas there should be a gradual return to the weight limit originally laid down;

Whereas the present difficult situation in the beef and veal sector makes it appropriate, temporarily, to maintain the revised amount of the increase applicable to the average market price used to define the maximum buying-in price;

Whereas, in the light of experience, the rules on carcases, half-carcases and quarters should be amended to take account of certain rules on the identification of bone-in meat intended for boning with a view to them being taken over;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

Article 1

1. Notwithstanding the first subparagraph of Article 4 (1) of Regulation (EEC) No 2456/93, the additional products not included in Annex III to that Regulation which may be bought into intervention shall be as follows:

UNITED KINGDOM

Great Britain

— Category C, class U3 and class U4,

— Category C, class O3 and class O4.

Northern Ireland

— Category C, class O3 and class O4.

IRELAND

— Category C, class O4.

The difference between the intervention price for the quality R3 and that for quality O4 shall be ECU 30 per 100 kilograms.

The coefficient to be used for converting tenders submitted for quality R3 into tenders for quality O4 shall be 0,914 (middle class);

2. Notwithstanding Article 4 (2) of Regulation (EEC) No 2456/93:

(a) carcases and half-carcases of castrated animals reared in the United Kingdom which are more than 30 months old may not be bought in;

(1) OJ L 148, 28. 6. 1968, p. 24.
(2) OJ L 296, 21. 11. 1996, p. 50.
(3) OJ L 225, 4. 9. 1993, p. 4.
(4) OJ L 177, 5. 7. 1997, p. 8.

(b) the following may be bought in:

— forequarters five-rib straight cut from the carcases or half-carcases referred to in that paragraph; the price of forequarters shall be derived from the carcase price using the coefficient 0,80,

— forequarters with the flank attached obtained from a five-rib 'Pistola' cut from the carcases or half-carcases referred to in that paragraph and intended for boning in accordance with Title II: the price of forequarters shall be derived from the carcase price using the coefficient 0,68.

3. Notwithstanding Article 4 (2) (h) of Regulation (EEC) No 2456/93, the maximum weight of carcases as referred to in the above provision shall be 360 kilograms.

4. Notwithstanding Article 14 (1) of Regulation (EEC) No 2456/93:

(a) the increase applicable, in accordance with the first sentence, to the average market price shall be ECU 14 per 100 kilograms carcase weight;

(b) the increase applicable, in accordance with the second sentence, to the average market price shall be ECU 7 per 100 kilograms carcase weight.

5. Notwithstanding Article 17 of Regulation (EEC) No 2456/93, where take-over is limited to forequartes, the latter must be presented together with the corresponding hindquarters in order to be accepted by the intervention agency, so that the maximum weight, presentation and classification of the carcases from which they originate may be verified.

However, where preliminary inspection of the forequarters and hindquarters has been conducted under the conditions referred to in paragraph 3 of that Article, the forequarters accepted during that inspection may be presented without the hindquarters for definitive take-over at the intervention centre after being transported there in a sealed means of transport.

6. Notwithstanding point 2 (c) of Annex V to Regulation (EEC) No 2456/93, for the purposes of this Regulation, forequarters shall mean:

— cut from the carcase after cooling in accordance with the conditions laid down in point 5,

— five-rib straight cut, or

— five-rib Pistola cut with flank attached.

7. Notwithstanding the first paragraph of point 1.2.8 'Intervention flank' of Annex VII to Regulation (EEC) No 2456/93, where the forequarter is obtained as the result of a Pistola cut, the entire flank shall be separated from the Pistola forequarter at the level of the fifth rib.

Article 2

The final sentence of paragraph 3 of Annex V to Regulation (EEC) No 2456/93 is hereby replaced by the following:

'Notwithstanding Article 17 (5) of this Regulation, the pleura must be undamaged.'

Article 3

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

Article 1 shall apply to invitations to tender opened during the months of October, November and December 1997.

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

Done at Brussels, 8 October 1997.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 1957/97

of 8 October 1997

establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables [1], as last amended by Regulation (EC) No 2375/96 [2], and in particular Article 4 (1) thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy [3], as last amended by Regulation (EC) No 150/95 [4], and in particular Article 3 (3) thereof,

Whereas Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto;

Whereas, in compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 9 October 1997.

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

Done at Brussels, 8 October 1997.

For the Commission
Franz FISCHLER
Member of the Commission

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[1] OJ L 337, 24. 12. 1994, p. 66.
[2] OJ L 325, 14. 12. 1996, p. 5.
[3] OJ L 387, 31. 12. 1992, p. 1.
[4] OJ L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 8 October 1997 establishing the standard import values for determining the entry price of certain fruit and vegetables

(ECU/100 kg)

CN code	Third country code (1)	Standard import value
0702 00 40	052	96,8
	999	96,8
0709 90 79	052	74,3
	999	74,3
0805 30 30	388	56,3
	524	45,9
	528	57,5
	999	53,2
0806 10 40	052	100,5
	064	62,9
	400	213,0
	999	125,5
0808 10 92, 0808 10 94, 0808 10 98	060	57,5
	064	44,6
	091	48,2
	400	67,1
	404	75,2
	528	57,7
	800	141,5
	999	70,3
0808 20 57	052	95,0
	064	87,1
	400	79,0
	999	87,0

(1) Country nomenclature as fixed by Commission Regulation (EC) No 68/96 (OJ L 14, 19. 1. 1996, p. 6). Code '999' stands for 'of other origin'.