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(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 3029/93

of 29 October 1993

imposing provisional anti-dumping duties on imports of television camera systems originating in Japan

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community (1) thereinafter referred to as 'the Basic Regulation', and in particular Article 11 thereof,

After consultation with the Advisory Committee as provided for under the above Regulation,

Whereas :

A. PROCEDURE

(1) In December 1992, the Commission received a complaint lodged by the Committee for Appropriate Measures to Establish Remedial Anti-Dumping (CAMERA) on behalf of all Community producers of the product concerned, concerning the imports of television camera systems originating in Japan. The complaint contained evidence, considered sufficient to justify the initiation of an anti-dumping proceeding, that the imports had been dumped and had caused material injury to the Community industry.

(2) The Commission accordingly announced, by a notice published in the *Official Journal of the European Communities* (2), the initiation of a proceeding concerning imports of television camera systems originating in Japan, and commenced an investigation.

(3) The Commission officially advised the exporters and importers known to be concerned, representatives of the exporting country and the complainants. Interested parties were given the opportunity to make known their views in writing and to request a hearing.

(4) The exporters, the related importers and the complainants made their views known in writing.

(5) The Commission sought and verified all information it deemed to be necessary for the purposes of a preliminary determination of dumping and injury, and carried out investigations at the premises of the following :

(a) *Community producers :*

— BTS Broadcast Television Systems GmbH, Darmstadt, Germany and Breda, Netherlands,

— Thomson Broadcast, Cergy Saint-Christophe and Rennes, France ;

(b) *Producers in Japan :*

— Hitachi Denshi Ltd, Tokyo,

— Sony Corporation, Tokyo,

— Ikegami Tsushinki Co. Ltd, Tokyo,

— Matsushita Electric Industrial Co. Ltd and Matsushita Communication Industrial Co. Ltd, Yokohama ;

(c) *Related importers :*

— Sony Broadcast Communications Limited, Basingstoke, United Kingdom,

— Sony (UK) Limited, Staines, United Kingdom,

— Sony France, Paris, France,

— Sony Italia SpA, Cinisello Balsamo, Italy,

— Sony Deutschland GmbH, Cologne, Germany,

— Sony España SA, Barcelona, Spain,

— Ikegami Electronic (Europe) GmbH, Neuss, Germany,

— Hitachi Denshi (Europa) GmbH, Rodgau, Germany.

(1) OJ No L 209, 2. 8. 1988, p. 1.
(2) OJ No C 67, 10. 3. 1993, p. 8.

(6) The investigation of dumping covered the period from 1 July 1991 to 31 December 1992 ('the investigation period').

B. PRODUCT UNDER INVESTIGATION

(7) **Description of the product**

The investigation covered television camera systems consisting of :

— a camera head with three sensors (12 millimetre or more charge-coupled device pick-up devices) with more than 400 000 pixels each, which can be connected to a rear adaptor, and having a specification of the signal-to-noise ratio of 55 dB or more at normal gain ; either in one piece, with the camera head and the adaptor in one housing, or separate,

— a view finder (diagonal, of 38 mm or more),

— a base station or camera control unit (CCU) connected to the camera by a cable,

— an operational control panel (OCP) for camera control (i.e. for colour adjustments, lens opening or iris) of single cameras,

— a master control panel (MCP) or master set-up unit (MSU) with selected camera indication, for the overview and for adjustment of several remote cameras,

imported either together or separately.

It is not always required that the television camera systems consist of all of the above components.

Those different components of a television camera system do not function separately and cannot be used outside the camera system of a particular producer.

Lenses, video-tape recorders and camera heads with a recording unit in the same housing are not covered by the proceeding.

(8) The exporters (including Matsushita which had not fully cooperated) argued that professional camera systems should be excluded from the scope of the investigation because their connectability to the other elements of the television camera system was limited, they would be of lower quality and would normally not be sold for use as broadcast cameras.

The Community producers in turn urged the Commission to include those cameras within the scope of the proceeding, arguing that their performance was very similar to that of broadcast cameras, and that they could be used as part of a television camera system and be connected to and controlled by the system despite the fact that certain functions were missing. Moreover, the Community industry argued that the exclusion of those products would allow the exporters to substitute only slightly amended and upgraded professional cameras for their broadcast products.

According to the Commission's investigation it was established that the market for electronic cameras using CCD's (charge-coupled device) to convert light into an analogue electrical signal can be divided into three segments :

— consumer cameras — so-called camcorders which normally use one CCD for all colours, which are designed to be used by private consumers for producing home videos,

— so-called professional 3 CCD cameras which use 3 CCD's for the colours red, green and blue, which have a much higher resolution than camcorders and which are mainly used for industrial and educational purposes, and

— broadcast cameras, which like the professional cameras use 3 CCD's for red, green and blue, but which are designed to be used under particular conditions of broadcasters or production companies which produce for later broadcasting.

The distinction between the three segments is, for most of the products clear. However, there are certain products which are positioned at the border between the different segments. From the technical description in the opening notice of this case, it is clear that consumer products are not covered by the proceeding. Also, most of the professional cameras clearly do not fall under the scope of the proceeding because they do not reach the technical performances in terms of resolution or signal-to-noise ratio (see recital 7). However, for each of the product ranges of the exporters, some professional products could be identified as falling under the technical description in the opening notice. This is due to the fact that often the same optical and electronical components are used for those cameras, and their technical performance is therefore comparable to those of broadcast cameras.

Given the technical complexity of the arguments made, the Commission decided, for the purpose of the preliminary investigation, not to exclude those professional cameras which matched the technical specifications as described in the opening notice, from the scope of the investigation. An investigation into the possibility of distinguishing, with sufficient certainty, between professional and broadcast products revealed that professional cameras had slightly different features, and were often designed and built in a way which was less concentrated on reliability and on facilities for servicing by customers. However, it became clear that the most sophisticated models of the professional camera group could be used to replace the lower end of the broadcast camera segment. Although the technical performance of the professional cameras is slightly inferior to those of broadcast cameras there are many occasions and purposes where broadcasters could decide to use professional cameras on cost-saving grounds.

In this situation, it appeared justified only to exclude from the scope of the proceeding professional cameras which did not reach the technical specifications as described in the opening notice or which could not be used as broadcast cameras.

(9) The cameras sold on the Japanese market and those exported to the Community are alike, apart from differences in the television standards between Japan and the Community which only had a negligible effect on the cost of production.

(10) The Commission's investigation revealed that viewfinders could also be imported under the CN codes 8528 10 31, 8528 10 41 and 8528 10 49 which had not been mentioned in the notice of initiation.

C. DUMPING

(11) Normal value

For all exporters normal value was established for the vast majority of models in accordance with the provisions of Article 2 (3) (a) of the Basic Regulation — that is, on the basis of the comparable prices actually paid or payable for the product intended for consumption in the country of origin. It was established that these sales took place in sufficient quantities and that they were made in the ordinary course of trade. The Commission also established that some models of television camera systems exported to the Community were either sold at a loss on the domestic market or not sold at all in Japan. Normal value for these models has been established on the basis of Article 2 (3) (b) of the Basic Regulation, namely the constructed value. This constructed value included each company's own cost of manufacture plus its own domestic selling, general and administration expenses, to which the profit margin realized on profitable sales of other models made by each company in Japan was added.

(12) Export price

In all cases the imports of the product concerned were made by companies which were related to the producers in Japan. It was therefore, and in accordance with the provisions of Article 2 (8) (b) of the Basic Regulation, decided to construct the export prices on the basis of the price at which the imported product was first resold to an independent buyer, with allowance being made for all costs incurred between importation and resale and for a profit margin of 5 % which was considered reasonable for the purpose of the provisional determination in the absence of any information from independent importers.

(13) One of the exporters sold all of its television camera systems via a network of related importers in the Community. The Commission's investigation revealed that some sales were not made direct between the exporter and the various related importers in the Community but were made via a related company located in Switzerland which, in turn, sold to the related importers in the Community. The Commission had reason to believe that the costs of the related company in Switzerland were costs normally borne by an importer and that, although those costs were paid by a party outside the Community, they should be deducted for the purpose of constructing the export price.

(14) The Commission established that one related importer had reported lower costs for personnel expenses, sales promotion and travel and transport expenses than was, in reality, the case. The company in question had used unrepresentative allocation methods which resulted in low expenses allocated to television camera systems while high expenses were allocated to products not subject of this proceeding. The exporter also falsely attributed certain costs to the various products it was selling. In one case it wrongly allocated the costs of a trade-show to sales of television camera systems in the Community by using misleading allocation keys. The Commission consequently considered that this company had supplied it with false and misleading information and, in accordance with Article 7 (7) (b) of the Basic Regulation, disregarded this information and amended the allocations made by the company in question by using turnover as a basis.

(15) **Comparison**

The comparison of the normal value with the export prices on a transaction-by-transaction basis was made at an ex-factory level and at the same level of trade.

Adjustments were claimed for differences in salesmen's salaries, overseas transport, packing, insurance, handling, warranty, and payment terms. Some of the adjustments, however, were partially rejected because they appeared not to be directly related to the sales under consideration.

(16) **Dumping margins**

The comparison of normal values with export prices shows the existence of a weighted average dumping margin for all the cooperating companies. The margins, expressed as a percentage of the cif value are as follows :

— Ikegami Tsushinki Co. Ltd :	86,4 %
— Sony Corporation :	70,8 %
— Hitachi Denshi Ltd :	49,9 %.

(17) One exporter, Matsushita, did not reply to essential parts of the Commission's questionnaire. It only supplied information on the number of cameras exported during the period of investigation and on the technical specifications of its cameras. The dumping margin for Matsushita was consequently determined on the basis of the facts available, in accordance with Article 7 (7) (b) of the Basic Regulation. Since the Commission had received information that a considerable number of sales of television camera systems had been made by this company at very low prices during the investigation period, it was considered appropriate to calculate the margin on the basis of the weighted average margin of a comparable camera head of a studio camera, together with its portable companion camera sold by the exporter, with the highest margin of dumping which was considered comparable to the products sold by the non-cooperating exporter. On that basis the margin of dumping amounted to 97 %.

Furthermore, as regards the other non-cooperating exporters, it was considered that a dumping margin lower than 97 % would provide an incentive to avoid the payment of duties and constitute a bonus for non-cooperation. Accordingly, the margin of 97 % has also been assigned to those companies.

D. INJURY (1)

I. Volume of dumped imports, their increase in particular in relation to production and consumption

(18) On the basis of the sales of related importers in the Community (see recital 12), the imports of television camera systems expressed in terms of number of camera heads increased substantially by 74 % between 1989 and 1990 and decreased by nearly 10 % between 1990 and the period of investigation. During the same period the sales by the Community industry decreased by almost 9 % between 1989 and 1990 and by another 20 % between 1990 and the period of investigation.

(19) In terms of market share the Commission established that the Japanese producers had increased their share of the Community market from 52 % in 1989 to 68 % in 1990 and further to 70 % during the investigation period while, simultaneously, the Community industry's market share had fallen from 48 % in 1989 to 32 % in 1990 and further to 30 % during the investigation period.

II. Prices of the imports, in particular in relation to prices of the Community products

(20) A comparison, at the same level of trade, of prices of imports ex-related importer's warehouse with the prices ex-works of the Community industry shows persistent price undercutting by these imports. A substantial proportion of sales were made at prices which did not cover costs.

(21) In percentage terms and on a weighted average basis, the price undercutting during the reference period varied between 40 % and 64 %, depending on the exporter concerned.

(22) One exporter argued that the Commission should establish the level of the injury on the basis of an assessment of individual public tenders whereby all suppliers of television camera systems compete with each other.

(23) The Commission found, however, that public tenders did not provide a comprehensive picture of the pricing behaviour of the companies in question. The sales covered by public tender represented only a part of the sales of television camera systems in the Community, and were not open to all suppliers ; furthermore it was found that offers made were often influenced by pressure from the buyers. Moreover, final offers by all competitors which did not select the order could not be reliably established. Furthermore, using tenders would mean a comparison of actual prices with offers, which would be misleading. In view of these considerations, it was considered inappropriate and unnecessary in this case to use the proposed methodology, since the Commission had all the necessary information available on actual sales of television camera systems during the investigation period.

(1) The development of sales, production and stocks has been expressed in percentage terms in order to avoid the disclosure of business secrets in accordance with Article 8 of the Basic Regulation.

III. Situation of the Community industry

(a) *Production capacity utilization rate and stocks*

(24) Overall Community production of television camera systems decreased by almost 7 % between 1989 and 1990 and by a further 27 % between 1990 and the investigation period.

(25) Capacity utilization by the different Community producers increased slightly from 63 % in 1989 to 67 % in 1990 but dropped to 53 % during the investigation period.

(26) The level of stocks of the Community industry increased significantly by 70 % between 1989 and 1990 and again by 117 % between 1990 and the investigation period.

(b) *Sales and market shares*

(27) Sales by the Community industry on the Community market decreased by almost 9 % between 1989 and 1990 and again by 20 % between 1990 and the investigation period.

(28) While consumption showed an increase of 28 % between 1989 and 1990 and dropped by 13 % between 1990 and the investigation period, the market share held by the Community industry fell from 48 % in 1989 to 32 % in 1990 and further to 30 % during the investigation period, a decrease of 18 % between 1989 and the investigation period.

(c) *Prices*

(29) On a weighted average basis, average prices of the sales of the Community industry on the Community market decreased continuously, declining by 28 % between 1989 and the investigation period.

(d) *Profitability*

(30) Average profitability of the Community industry, expressed as a percentage of turnover, decreased constantly by more than 400 % between 1989 and the investigation period, during which time the Community producers suffered heavy losses.

These negative results were reached in spite of investments made by the Community industry in order to reduce costs, and a reduction of the workforce by nearly 18 %.

(e) *Investment*

(31) The Community industry kept its investments at a constant level over the last four years, despite the sharp reduction in sales.

IV. Conclusion as to injury

(32) The Community industry, in the face of increasing imports of camera systems originating in Japan at low and continuously decreasing prices, cut its production capacity. Despite this, it had a lower utilization rate because sales decreased further than expected which, together with their stock increase, caused massive losses. Under these circumstances, and since, in this particular case, the trends of all other relevant economic indicators are largely negative, it is concluded that the Community industry is clearly suffering material injury.

E. CAUSE OF INJURY

(a) Effect of dumped imports

(33) In its examination of the extent to which the material injury suffered by the Community was caused by the effects of the dumped imports, it should be noted that in the absence of any other supplier, the Community market of television camera systems is shared by Japanese and Community suppliers. There is consequently no doubt that the dumped imports are responsible for the injury, since the Community producers lost 18 % of the Community market between 1989 and the investigation period while the Japanese suppliers, over the same period, gained 18 % of the market. There is a clear coincidence between the dumping and the material injury caused to the Community industry, as is witnessed by the deterioration of almost all economic factors mentioned in recitals 24 to 31.

(b) Other factors

(34) The Commission examined whether the injury suffered by the Community industry could have been caused by other factors than the dumped imports. In the absence of imports from any other source and given the increase in Community consumption, no injury could have been caused by these factors. The Commission investigated whether inferior technical performance of the television camera systems sold by the Community producers could have been a cause of the injury found. In this context, it should be noted that none of the Japanese exporters claimed that its cameras were of superior quality or performance. In addition, the Commission contacted a number of broadcasting companies to inquire into the technical comparability of the various competing televi-

sion camera systems. It was confirmed that both Japanese and Community products were of a high standard and that, although systems from a particular producer could sometimes suit a particular user slightly better because of specific features, the products of both the Japanese and Community producers were very similar and competed directly with each other.

(35) One exporter alleged that the poor marketing performance of the Community industry and an insufficient after-sales service were the cause of the injury suffered by the Community industry.

(36) This allegation was unsubstantiated and the Commission could not find any evidence that the injury caused to the Community industry could have been caused, even in part, by these factors.

(37) The Commission, therefore, found no information which would suggest that factors other than the dumped imports had been responsible for the injury to the Community industry. It must therefore be concluded that the expansion in volume and market share, together with the low dumped prices of the Japanese exports, have been a reason for the exceptionally poor situation of the Community industry. The dumped exports taken in isolation have therefore caused material injury to the Community industry.

F. COMMUNITY INTEREST

(38) The Commission's investigation has revealed that Japanese exporters have sold their camera systems in the Community at substantial losses, while in general substantial profits have been made on sales in Japan. The dumping by the Japanese exporters at prices well below costs has taken place during the period of worldwide competition on new television standards (such as the new High Definition Television (HDTV)). In this context the behaviour of the Japanese exporters can only be interpreted as a strategy to drive its competitors out of the market. If this strategy should continue, it is likely that the Community producers would, in view of their high losses, cease production. In the absence of any comparative advantage for the Japanese exporters, this strategy has been facilitated by the fact that they have been able to charge prices up to 100 % higher on the Japanese domestic market, where only Japanese companies are present.

(39) The disappearance of a Community production of television camera systems would not only mean a major loss of technology with regard to the camera system itself but would also mean that upstream and downstream industries and technologies would be seriously affected. On the one hand there would be no further justification for maintaining an independent CCD (charge-coupled device) development and production, and on the other hand, without the camera technology the Community producers would lose the ability to equip television studios as a whole and would consequently lose competitiveness with regard to the introduction of new technologies or standards.

(40) As far as the consumers are concerned, the Commission's findings show that prices charged to the broadcasting companies, which are by far the most important users of this product, have declined over the last four years. The users have consequently taken full advantage of the low, loss-making prices which have prevailed on the Community market. The imposition of an anti-dumping duty on the imports of television camera systems from Japan would probably cause those prices to be adjusted upwards. However, this short-term effect must be weighed against the longer-term, potentially disadvantageous prospect of supply being from Japanese producers only. It is not inappropriate to take the present situation in Japan as an example of a market in which there are domestic suppliers only.

The investigation has revealed that prices for television camera systems in Japan are up to 100 % higher than in the Community. Accordingly, a commercial defence measure which would safeguard a variety of sources of supply in the Community, should have positive long-term effects as regards the number of competitors and consequently on user prices. It is therefore in the interest of the Community to re-establish fair competitive conditions on the Community market to counteract the unfair pricing behaviour which in this case has caused considerable injury to the Community industry.

G. PROVISIONAL DUTY

(41) When considering the measures necessary to remove the injury caused by the dumped imports and to restore fair competitive conditions, the Commission had to consider that the Community industry as a whole is not profitable in the present circumstances. Accordingly, the Commission calculated the level of prices at which the Community industry would be able to cover its costs and to obtain a reasonable return on sales.

(42) In the present circumstances, and given that this particular 'high technology' industry required substantial R&D expenditure, it was considered that 10 % could be regarded as a minimum rate of return on turnover. A minimum import price was consequently calculated which would permit the Community industry to raise its prices to a profitable level.

(43) The Commission has found that since this minimum import price, considered necessary to remove the injurious effects of the dumping, exceeds the normal value, the provisional anti-dumping duty as provided for in Article 13 (3) of the Basic Regulation should be based on the margin of dumping.

(44) A period should be fixed within which the parties known to be concerned may make their views known and request a hearing. A one-month period is considered appropriate for this purpose. Furthermore, it should be stated that all findings made for the purpose of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive duty which the Commission may propose,

HAS ADOPTED THIS REGULATION :

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of television camera systems falling within CN codes ex 8525 30 99 (Taric code : 8525 30 99*10), ex 8537 10 91 (Taric code : 8537 10 91*91), ex 8537 10 99 (Taric code : 8537 10 99*91), ex 8529 90 98 (Taric code : 8529 90 98*98), ex 8543 80 80 (Taric code : 8543 80 80*97), ex 8528 10 31 (Taric code : 8528 10 31*10), ex 8528 10 41 (Taric code : 8528 10 41*10) and ex 8528 10 49 (Taric code : 8528 10 49*10) originating in Japan.

2. The television camera systems may consist of a combination of the following parts, imported either together or separately :

(a) a camera head with three sensors (12 mm or more charge-coupled device pick-up devices) with more than 400 000 pixels each, which can be connected to a rear adaptor, and having a specification of the signal-to-noise ratio of 55 dB or more at normal gain ; either in one piece, with the camera head and the adaptor in one housing, or separate ;

(b) a view finder (diagonal, of 38 mm or more) ;

(c) a base station or camera control unit (CCU) connected to the camera by a cable ;

(d) an operational control panel (OCP) for camera control (i.e. for colour adjustment, lens opening or iris) of single cameras ;

(e) a master control panel (MCP) or master set-up unit (MSU) with selected camera indication, for the overview and for adjustment of several remote cameras.

3. The duty does not apply to :

(a) lenses ;

(b) video tape recorders ;

(c) camera-heads with a recording unit in the same, inseparable, housing ;

(d) professional cameras which cannot be used for broadcast purposes.

4. When the television camera system is imported with the lens the free-at-Community-frontier value used in applying the anti-dumping duty shall be that of the television camera systems without the lens. If this value is not specified on the invoice the importer shall declare the value of the lens at the time of release for free circulation and shall submit appropriate evidence and information on that occasion.

5. The rate of the provisional anti-dumping duty shall be 97 % of the net, free-at-Community-frontier price, before duty (Taric additional code : 8744) except for the following companies for which the rate shall be as follows :

Ikegami Tsushinki Co. Ltd : (Taric additional code : 8741),	86,4 %
Sony Corporation : (Taric additional code : 8742),	70,8 %
Hitachi Denshi Ltd : (Taric additional code : 8743).	49,9 %

6. The provisions in force concerning customs duties shall apply.

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

Article 2

Without prejudice to Article 7 (4) (b) and (c) of Regulation (EEC) No 2423/88 the parties concerned may make known their views in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

Article 3

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

Subject to Articles 11, 12 and 13 of Regulation (EEC) No 2423/88, Article 1 of this Regulation shall apply for a period of four months, unless the Council adopts definitive measures before the expiry of that period.

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

Done at Brussels, 29 October 1993.

For the Commission
Leon BRITTAN
Vice-President