COUNCIL REGULATION (EC) No 1015/94

of 29 April 1994

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 (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], hereinafter referred to as 'the Basic Regulation', and in particular Article 12 thereof,

Having regard to the proposal from the Commission submitted after consultation within the Advisory Committee as provided for under the abovementioned Regulation,

Whereas :

A. Provisional measures

(1) The Commission, by Regulation (EEC) No 3029/93 [2] (hereinafter referred to as 'the provisional duty Regulation') imposed a provisional anti-dumping duty on imports into the Community of television camera systems (hereinafter referred to as 'television cameras'), originating in Japan.

The Council, by Regulation (EC) No 301/94 [3], extended this duty for a period not exceeding two months.

B. Subsequent procedure

(2) Following the imposition of the provisional anti-dumping duty, a number of interested parties made submissions to the Commission making known their views on the findings. Those who so requested were also granted an opportunity to be heard by the Commission. A number of users of television cameras also contacted the Commission and made their points of view known in writing as well as orally.

(3) 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 duty. They were also granted a period within which to make representations subsequent to the disclosure.

(4) The oral and written comments submitted by the parties were considered and, where appropriate, the Commission's findings were modified to take account of them.

(5) The investigation overran the normal duration of one year provided for in Article 7 (9) (a) of the Basic Regulation due to the complexity of the product and the investigation.

C. Product under consideration and like product

(6) The main characteristics of the product under consideration were described in detail in recitals 7 to 10 of the provisional duty Regulation. The division of the market of electronic cameras using three CCDs (Charge-Coupled Device) into three segments, i.e. consumer cameras, professional cameras and television cameras has not been disputed by the parties concerned.

(7) Several exporters, however, argued that the scope of the proceeding had been broadened by including so-called professional cameras. The Community industry, from its side, argued taht the duty should also apply to professional cameras because these professional cameras would be competing with television cameras and would be used by broadcast companies.

(8) As outlined in the provisional duty Regulation, it was necessary to determine whether the so-called professional cameras which reached the technical specifications of the notice of initiation could be used for broadcast purposes by comparing in more detail the technical specifications and use of these cameras. Account has been taken of the following criteria : technical description of the camera ; type of transmission system for the signals ; ther interface for recording facilities ; the type and size of CCD ; the type of lens ; the lifetime of the components ; the control possibilities ; the ease of operation and the possibilities for the users to carry out their own maintenance and the use and marketing

[1] OJ No L 209, 2. 8. 1988, p. 1. Regulation as last amended by Regulation (EC) No 522/94 (OJ No L 66, 10. 3. 1994, p. 10).
[2] OJ No L 271, 30. 10. 1993, p. 1.
[3] OJ No L 40, 11. 2. 1994, p. 23.

of these cameras. No one or several of these criteria necessarily gave decisive guidance. This investigation revealed that only those so-called professional cameras which could be used as forming part of a television camera system including most, but not necessarily all, of the components indicated in recital 7 of the provisional duty Regulation can effectively be qualified as broadcast cameras and should, therefore, fall within the scope of any measures. As a result of this, a list of professional cameras was drawn up, which are not qualified as broadcast cameras and can therefore be exempted from the measures. This list is attached to this Regulation as the Annex.

D. Dumping

(9) No exporter contested the method of calculation of dumping as set out in recitals 11 to 17 of the provisional duty Regulation, apart from a number of mathematical discrepancies in the after-sales discounts, ordinary discounts, selling costs and advertising expenses, which have been corrected.

(10) The dumping margins, as finally established and after making the adjustments mentioned in recital 9, are as follows:

— Ikegami Tsushinki Co., Ltd: 82,9 %,

— Sony Corporation: 62,6 %,

— Hitachi Denshi: 52,7 %.

(11) For the producers which refused to reply to the Commission's questionnaires or filed incomplete replies to the questionnaires, the margin of dumping was established on the basis of the facts available, in accordance with Article 7 (7) (b) of the Basic Regulation. Since there was no reason to believe that the producers would have sold to the Community at levels higher than the company with the highest dumping margin, the calculation of dumping was consequently based on the weighted average margin of a camera head with its portable companion camera and a camera control unit (CCU), an operational control panel (OCP), a master set-up unit (MSU) or master control panel (MCP) sold by this company and considered comparable to products sold by non-co-operating exporters. The result of this calculation is a margin of dumping of 96,8 % which should apply to all non-cooperating exporters.

E. Injury

(12) In the provisional duty Regulation the Commission had concluded that the Community television camera industry suffered material injury in particular through losses of sales, price erosion and resulting financial losses with all relevant economic indicators of the Community industry being clearly negative.

(13) One exporter disputed the findings on price undercutting. The exporter claimed that the calculation should not have been based on the sales of camera heads only, but should also have included other parts of the television camera system, such as the OCP, the CCU, the MSU or the MCP.

(14) This argument was accepted and new calculations of undercutting were made which now include, apart from the camera head, all of the parts mentioned in the previous recital.

(15) Another exporter argued that, for the purpose of calculating price undercutting, too many of the models sold by one of the complainants (Thomsom Broadcast) were used and that more models of the other Community producer (BTS) which, according to this exporter has the largest market share in the Community, should be included.

(16) This argument was accepted and sufficient models of both Community producers have now been included in the calculation which is considered to be more representative.

(17) The exporter also claimed that FT (Frame Transfer) cameras should not be compared with IT (Interline Transfer) and FIT (Frame Interline Transfer) cameras on the grounds that the technology and consumer perception would be different.

(18) This claim was not accepted. FT technology is indeed technically different from both IT or FIT technology because the organization of the transfer of the signal is different. This difference however, taken in isolation, is not a reason for concluding that the products are not comparable. Amongst the transfer of the signal the consumer considers a wide range of characteristics and features given the specific application he has in mind for his television camera. Different users will rate the features of a television camera in a different way in relation to their specific use and requirements. It is consequently not possible to limit comparisons to the type of transfer of the signal as requested by the exporter.

(19) All of the abovementioned changes in methodology have affected the Commission's provisional findings on price undercutting. The margin of undercutting as finally established varied between 21 % and 60 % depending on the exporter concerned.

(20) All other findings on injury set out in recitals 18 to 32 of the provisional duty Regulation are confirmed, except for the results of the calculation of price undercutting (recital 21 of the provisional duty Regulation) which are replaced by the findings set out in recital 19 of this Regulation.

F. Causation of injury by dumping

I. *Effect of dumped imports*

(21) In recital 33 of the provisional duty Regulation the Commission concluded that the dumped imports were responsible for the injury as shown by the fact that the Community producers lost 18 % of the Community market between 1989 and the investigation period while the Japanese suppliers gained 18 % of the market in the same period. There is consequently a clear-cut coincidence between the dumping and the injury as already explained in recital 33 of the provisional duty Regulation.

II. *Effect of other factors*

(22) A number of users of television cameras wrote to the Commission after the provisional duty was imposed and claimed that the television camers sold by the Community industry were of a lower quality. The users, however, provided no evidence in support of their allegations.

(23) Although it was found that certain camera systems from certain producers suited the needs of a particular user better than the camera systems from other producers, it did not find a significant overall technical superiority of television cameras of any of the producers. Further contacts with the users of television camera systems confirmed the Commission's provisional findings that the products of the Community industry were of a comparable quality, were similar in performance and were competing directly with the products sold by Japanese producers.

(24) Consequently no other factors were found, other than the dumped imports, which would have been responsible for the injury caused to the Community industry. It is therefore concluded that the dumped exports taken in isolation have caused material injury to the Commission industry.

G. Community interest

(25) In its provisional findings, the Commission considered the interests of the Community industry as well as those of end users (see recitals 38 to 40 of the provisional duty Regulation) and concluded that it was in the interest of the Community to impose a provisional anti-dumping duty to counteract the effect of the unfair behaviour on the Community industry during the investigation.

(26) After the imposition of the provisional anti-dumping duty, representations from a number of users of television camera systems were received which alleged that the measures would not be in their interest because the high level of the duty would increase drastically the prices of the imported cameras. Some users, which had already previously decided to buy Japanese cameras, also pointed out that it would be almost impossible for them to switch immediately from a Japanese supplier to a Community supplier because of the incompatibility of the television camera systems from the various suppliers.

(27) It is entirely a matter for the users to decide whether or not to switch from imported to Community products. If this happens it will merely be a consequence of users fully choosing the Community product once the imported product loses its unfair competitive advantage. In any case, there are already a large number of users which use television cameras from various suppliers, despite compatibility limitations. Moreover, the purpose of anti-dumping measures is not necessarily to cause users to switch from a Japanese supplier to a Community supplier but merely to eliminate unfair trade practices.

(28) It should be borne in mind that the purpose of anti-dumping measures is to remedy the injurious effect of unfair trading practices and to re-establish a fair competitive situation which, as such, is in the general interest of the Community. It should also be pointed out that the users have no right to continue to take advantage of the effect of unfair trade practices in the form of very low prices.

(29) As outlined in recital 40 of the provisional duty Regulation, the investigation revealed that prices of television cameras in the Community had declined over the last four years to such an extent that all Japanese as well as Community suppliers were selling at a loss. If this situation is not halted and if profitable price levels are not restored, the situation of the Community television camera industry will further deteriorate with a strong possibility of shut-down with the consequent loss of a high-tech industry and the disadvantageous effects for users of a reduced number of competitors.

(30) It is consequently concluded that it is in the Community interest to adopt definitive anti-dumping measures to eliminate the injurious effects of the dumped imports.

H. Undertakings

(31) The following three exporters have offered price undertakings in accordance with Article 10 (3) of the Basic Regulation :

— Ikegami Tsushinki Co., Ltd,

— Sony Corporation,

— Hitachi Denshi Ltd.

(32) The Commission, after consultation, considered that the undertakings were not acceptable in particular because of the possibilities of circumventing the minimum prices of the undertaking by means which would be particularly difficult to detect in this case given the peculiarities of the product and the market.

I. Duty

(33) The measures should consequently take the form of a definitive anti-dumping duty.

(34) As regards the level of duty provisionally imposed, the Commission determined that the increase to the export prices of each individual exporter, which would be required to permit the Community industry a reasonable return on sales of its television cameras, exceeded the dumping margins as established. Consequently, the provisional anti-dumping duty corresponded to the individual dumping margins of each exporter as established in recitals 16 and 17 of the provisional duty Regulation in accordance with Article 13 (3) of the Basic Regulation.

(35) Some exporters argued that the Commission should not have restricted its calculation of the level of injury to the camera heads only but should also have included other components of the television camera system.

(36) This argument has already been accepted in recitals 13 to 19 of this Regulation for the purpose of the calculation of price undercutting and is therefore also accepted for the calculation of the price increase required to allow the Community industry to make a reasonable profit. Thus included in the calculation were not only the camera heads but also the CCUs, the OCPs, the MSUs or the MCPs. This new calculation revealed the following price increases necessary to remove the injury caused by dumping, expressed as a percentage of the CIF import prices of the Japanese television cameras :

— Ikegami Tsushinki Co., Ltd : 98,9 %,

— Sony Corporation : 81,3 %,

— Hitachi Denshi Ltd : 89,2 %.

(37) For the producers which refused to reply to the Commission's questionnaires or filed incomplete replies to the questionnaires the level of price increase necessary to eliminate the injury was established on the basis of the facts available, in accordance with Article 7 (7) (b) of the Basic Regulation. Since there was no reason to believe that the producers would have sold to the Community at levels higher than the company with the highest dumping margin the Commission consequently based its calculation of the level of injury on the weighted average margin of a comparable camera head with its portable companion camera and a CCU, an OCP, an MSU or MCP sold by this company. This margin amounted to 108,3 %.

(38) Since the level of injury thus established exceeds the margins of dumping as finally established the duties are based on the margins of dumping.

(39) Representations from Member States and from the Community industry indicated that, given the particular conditions of the television camera market, the risk that the anti-dumping duty on television camera systems might be evaded and thus rendered ineffective could be high.

(40) The Council is of the opinion that such a possibility in this particular case requires special attention. It is noted that the Commission will keep the situation of the market under close examination with a view to prevent any undermining of the remedial effect of this anti-dumping duty.

J. Retroactive duties

(41) The Community producers requested the imposition of retroactive anti-dumping duties on the grounds that importers were aware that the exporters were practising dumping and that there would

be material injury caused by sporadic dumping in the form of massive imports of television cameras in a relatively short period prior to the imposition of the provisional anti-dumping duty.

(42) In the absence of sporadic dumping, as defined in Article 13 (4) of the Basic Regulation, there were no grounds to impose retroactive anti-dumping duties in this case. The Council consequently decided not to impose retroactive anti-dumping duties on television camera systems originating in Japan.

K. Collection of provisional duties

(43) In view of the size of the dumping margins found and the seriousness of the injury caused to the Community producers, the Council considers it necessary that the amounts secured by way of provisional anti-dumping duties should be collected, either in full or to a maximum of the duty definitively imposed in those cases where the definitive duty is less than the provisional duty. The duty should be definitively collected for all models of television camera systems originating in Japan not included in the list attached to this Regulation as the Annex,

HAS ADOPTED THIS REGULATION :

Article 1

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

2. 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 the recording unit in the same, inseparable, housing ;

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

(e) professional cameras listed in the Annex. (Taric additional code : 8786).

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 definitive anti-dumping duty shall be 96,8 % 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 :
82,9 % (Taric additional code : 8741),

— Sony Corporation :
62,6 % (Taric additional code : 8742),

— Hitachi Denshi Ltd :
52,7 % (Taric additional code : 8743).

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

Article 2

The amounts secured by way of provisional anti-dumping duty imposed by Commission Regulation (EEC) No 3029/93 on the products not listed in the Annex attached to this Regulation shall be definitively collected at the rates of the duty definitively imposed, except for Hitachi Denshi Ltd for which the provisional anti-dumping duty of 49,9 % shall be collected.

Article 3

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 Brussels, 29 April 1994.

For the Council

The President

Th. PANGALOS

ANNEX

List of professional camera systems not qualified as broadcast camera systems which are exempted from the measures

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	DXF-3000CE DXF-325CE DXF-501CE DXF-M3CE DXF-M7CE DXF-40CE DXF-40ACE DXF-50CE	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	VF15-21/22 VF-4523	MA-200/230	RCU-240	—	CA-340 CA-300 CA-230
HITACHI	SK-H5 SK-H501 DK-7700 DK-7700SX HV-C10 HV-C11 HV-C10F Z-ONE (L) Z-ONE (H) Z-ONE Z-ONE A (L) Z-ONE A (H) Z-ONE A (F) Z-ONE A Z-ONE B (L) Z-ONE B (H) Z-ONE B (F) Z-ONE B 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	GM-5 (A) GM-5-R2 (A) GM-5-R2 GM-50	RU-C1 (B) RU-C1 (D) RU-C1 RU-C1-S5 RU-C10 (B) RU-C10 (C) RC-C1 RC-C10 RU-C10 RU-Z1 (B) RU-Z1 (C) RU-Z1 RC-C11			

Company name	Camera heads	Viewfinder	Camera control unit	Operational control unit	Master control unit (*)	Camera adaptors
HITACHI *(cont'd)*	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					
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-VF65BE WV-VF40E WV-VF65BE WV-VF39E WV-VF65BE WV-VF40E WV-VF65BE WV-VF40E	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-AD700SE WV-AD700ASE WV-AD700ME WV-AD250E WV-AD500E
JVC	KY-35E KY-27ECH KY-19ECH KY-17FITECH KY-17BECH KY-F30FITE KY-F30BE	VF-P315E VF-P550E VF-P10E VP-P115E VF-P400E VP-P550BE	RM-P350EG RM-P200EG RM-P300EG RM-LP80E RM-LP821E RM-LP35U RM-LP37U	—	—	KA-35E KA-B35U KA-M35U KA-P35U KA-27E KA-20E KA-P27U KA-P20U KA-B27E KA-B20E KA-M20E KA-M27E

(*) Also called Master setup unit (MSU) or Master control panel (MCP).