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).