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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 2584/98

of 27 November 1998

amending Regulation (EC) No 710/95 imposing a definitive anti-dumping duty on imports of colour television receivers originating in Malaysia, the People's Republic of China, the Republic of Korea, Singapore 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 Articles 11(2) and (3) thereof,

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

Whereas:

A. PREVIOUS PROCEDURE

(1) By Regulation (EEC) No 1048/90 [2], the Council imposed a definitive anti-dumping duty on imports of small-screen colour television receivers, i.e. those with a diagonal screen size of more than 15,5 cm but no greater than 42 cm, originating in the Republic of Korea (hereinafter referred to as Korea), hereinafter referred to as SCTVs.

(2) By Regulation (EEC) No 2093/91 [3], the Council imposed a definitive anti-dumping duty on imports of SCTVs originating *inter alia* in the People's Republic of China (hereinafter referred to as the PRC).

(3) By Regulation (EC) No 710/95 [4], the Council imposed a definitive anti-dumping duty on imports of colour television receivers with a diagonal screen measurement exceeding 15,5 cm (hereafter referred to as CTVs) and originating in Malaysia, the PRC, Korea, Singapore and Thailand. Although this proceeding established that there were no longer grounds for differentiating between colour television receivers according to their screen size and was therefore initiated in respect of all CTVs, including SCTVs, since anti-dumping measures were already in force in respect of SCTVs originating in Korea and the PRC, the scope of the investigation and the definitive anti-dumping duties imposed by Regulation (EC) No 710/95 as regards the PRC and Korea were limited to colour televisions with a diagonal screen measurement exceeding 42 cm, i.e. large-screen CTVs.

B. REVIEW INVESTIGATIONS

(4) Following the publication, in October 1994, of a notice of the impending expiry, of the anti-dumping duty in force with regard to SCTVs originating in Korea [5], in December 1994 the Commission received a request for a review lodged by the Association of European Consumer Electronics Manufacturers (EACEM) on behalf of Community producers representing a major proportion of the total production of the product concerned in the Community. The request contained evidence of increased dumping, based on a comparison of the prices of the product concerned sold in Korea and the Korean export prices to the Community. Moreover, EACEM submitted that if the measures were allowed to lapse, dumping would continue and increase even further. As regards injury, the request presented evidence of substantial price undercutting by Korean exports and insufficient profitability of the Community industry.

[1] OJ L 56, 6. 3. 1996, p. 1. Regulation as last amended by Regulation (EC) No 905/98 (OJ L 128, 30. 4. 1998, p. 18).
[2] OJ L 107, 27. 4. 1990, p. 56. Regulation as amended by Regulation (EEC) No 2900/91, (OJ L 275, 2. 10. 1991, p. 24).
[3] OJ L 195, 18. 7. 1991, p. 1.
[4] OJ L 73, 1. 4. 1995, p. 3.
[5] OJ C 303, 29. 10. 1994, p. 3.

(5) In May 1995, EACEM lodged a request for an interim review pursuant to Article 11(3) of Regulation (EC) No 3283/94 [1], since then replaced by the basic Regulation, of the anti-dumping measures applicable to SCTVs originating in the PRC, on behalf of the same Community producers.

The request contained evidence of increased dumping based on a comparison of constructed normal value established in Singapore (which was suggested as an analogue country) with the Chinese export prices of the product concerned to the Community. As regards injury, EACEM presented evidence of substantial price undercutting by the Chinese imports and insufficient profitability of Community producers.

(6) It should further be noted that Regulation (EC) No 710/95 concluded that both SCTVs and large-screen CTVs should be considered as forming one single product. It was therefore considered that a review should not be restricted to those colour television receivers covered by Regulations (EEC) No 1048/90 and (EEC) No 2043/91, but should also cover colour television receivers falling under Regulation (EC) No 710/95.

(7) In April and in August 1995, respectively, the Commission announced, by two notices published in the *Official Journal of the European Communities* [2], the initiation of the abovementioned review investigations pursuant to Article 11(3) of the basic Regulation.

(8) As both interim reviews were in progress at the end of the period of application of measures with regard to SCTVs, and following the provisions of Article 11(7) of the basic Regulation, the reviews also covered the circumstances set out in Article 11(2) thereof, i.e. those of an expiry review.

(9) The Commission officially advised the producers, exporters and importers known to be concerned, the representatives of the exporting country and the complainant Community producers of the initiation of the investigation. Interested parties were given the opportunity to make their views known in writing and to request a hearing within a set time limit.

(10) The Commission sent questionnaires to parties known to be concerned. It received replies to its questionnaires from two Korean companies (hereinafter referred to as the 'two cooperating Korean producers/exporters'), 10 importers in the Community related to producers/exporters and four Community producers.

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

(a) *Complainant Community producers*

— Bang & Olufsen A/S, Struer, Denmark,

— Grundig AG, Fürth, Germany, and its factories and/or subsidiaries in Germany, Austria, Spain and Italy,

— Philips Industrial Activities, Bruges, Belgium; Philips SpA., Monza, Italy, Philips Electronic Grand Publique, Dreux, France, and Philips sales subsidiaries in Italy, Spain, France and Germany,

— Thomson Multimedia, Courbevoie, France, and its factories and/or subsidiaries in France, Spain, Germany and Italy;

(b) *Exporters/producers*

— LG Electronics Inc., Seoul (Republic of Korea),

— Samsung Electronics Co., Ltd, Seoul (Republic of Korea);

(c) *Importers related to exporters/producers*

— LG Deutschland GmbH, Willich (Germany),

— LG Goldstar France SA, Lognes (France),

— Samsung Electronics GmbH, Sulzbach (Germany),

— Samsung Electronics (UK) Ltd, Surbiton (United Kingdom),

— Samsung Electronics France SA, Roissy (France),

— Samsung Electronics Svenska AB., Uppland (Sweden).

(12) The period of investigation for the determination of dumping was from 1 January 1994 to 31 March 1995 (hereinafter referred to as 'the investigation period'). The examination of injury covered the period from 1 January 1991 to 31 March 1995.

(13) Interested parties were informed in writing of the essential facts and considerations on the basis of which it was intended to recommend amending the existing measures. The parties were also granted a reasonable period within which to make representations subsequent to the disclosure. The oral and written comments presented by the parties were considered and, where appropriate, the findings were modified to take account of them.

[1] OJ L 349, 31. 12. 1994, p. 1.
[2] OJ C 105, 26. 4. 1995, p. 2, concerning Korea and OJ C 203, 8. 8. 1995, p. 4, concerning the PRC.

C. **PRODUCT**

1. **Product under consideration**

(14) The product covered by these review investigations is colour television receivers, with integral tube, with a diagonal measurement of the screen exceeding 15,5 cm.

The investigation was opened for products falling within CN codes ex 8528 10 52, 8528 10 54, 8528 10 56, 8528 10 58, ex 8528 10 62 and 8528 10 66. Subsequently, the CN codes for the product in question were changed by Commission Regulation (EC) No 2448/95 of 10 October 1995 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff [1]. The product for which the proceeding was opened is now covered by CN codes ex 8528 12 52, 8528 12 54, 8528 12 56, 8528 12 58, ex 8528 12 62 and 8528 12 66.

(15) Regulation (EC) No 710/95 confirmed that all CTVs with integral tube, with a diagonal screen measurement exceeding 15,5 cm, with the exception of those mentioned in recital 16 of this Regulation, should be considered as one product. Thus, SCTVs and large-screen CTVs, regardless of whether the width/height ratio was 1,5:1 or 16:9, are considered as one product.

The present investigation was initiated *inter alia* on the grounds that, as in the case of imports of CTVs originating in Malaysia, Singapore and Thailand, uniform treatment, both with regard to the level as well as to the duration of the measures, should be accorded to all CTVs originating in the PRC and in Korea falling under the abovementioned Regulations, because these CTVs should be considered as forming one single product. During the investigation carried out subsequently no submissions were received to contradict the finding that the CTVs, as defined above and covered by the present investigations, should be considered as one single product. Indeed, the CTVs subject to investigation have similar basic physical and technical characteristics, serve the same function, are interchangeable to a considerable extent, compete directly with each other and cannot be differentiated on the market as distinct products.

(16) The measures adopted by Regulation (EC) No 710/95 did not cover D2MAC sets and high definition television (HDTV) since these products, which introduced qualitative technical changes in CTVs, were at that time still in the development stage and were not available to the public except in very limited circumstances. Regulation (EC) No 710/95 confirmed however that the situation of these two products should be re-examined on the basis of information relating to dumping and injury with a view to determining whether such non-application of measures would be justified should a review of measures be carried out. The application for review did not contain a request to include such products in the scope of the review and the notice of initiation consequently excluded them from the scope of this investigation. In addition, no submission was received in the course of the investigation requesting the inclusion of D2MAC sets and HDTV in the scope of the investigation. It was therefore concluded that the circumstances in this respect had not changed in relation to the previous investigation and that the investigation should not cover these two types of CTVs.

(17) In these circumstances, all CTVs as defined in recitals 14 to 16 should be considered as forming a single product for the purposes of this proceeding.

2. **Like product**

(18) The investigation showed that the CTVs manufactured and sold in the Community by the Community industry closely resembled the CTVs exported from the PRC and Korea. They are therefore alike within the meaning of Article 1(4) of the basic Regulation.

The same holds true with regard to CTVs produced and sold in Singapore which served as a reference country for the purpose of establishing normal value for exports originating in the PRC. This conclusion was reached despite differences in broadcasting and reception systems which exist between, on the one hand, some Member States, and, on the other hand, the remaining Member States as well as Singapore.

As far as CTVs produced and sold in Korea as compared to Korean CTVs exported to the Community are concerned, these also were found to be alike within the meaning of Article 1(4) of the basic Regulation since they have an identical use and have the same basic technical characteristics, differing only in broadcasting and reception systems. It was found that CTVs manufactured in Korea, sold domestically and exported to the Community and CTVs manufactured and sold in the Community by Community producers are alike in their physical characteristics and uses. They are therefore considered as a like product in accordance with Article 1(4) of the basic Regulation.

[1] OJ L 259, 30. 10. 1995, p. 1.

D. **DUMPING**

1. **Normal value**

(a) *Korea*

(19) The investigation confirmed the findings contained in Regulation (EC) No 710/95, as regards the technical differences between CTVs exported to the Community and those sold on the Korean market. The models sold on the Korean domestic market employed different broadcasting and reception systems compared to models exported to the Community. Furthermore, the exported models, on the one hand, and the domestic models, on the other, showed a wide variety of differences and combinations of features. Therefore, it was concluded that the physical differences between CTVs exported from Korea and those sold domestically were such that the use of domestic sales would not permit a proper comparison. In accordance with Article 2(3) of the basic Regulation, it was therefore decided to establish normal values on the basis of constructed values for each model of the product concerned exported to the Community.

(20) Constructed values were calculated by adding to the manufacturing costs incurred by the exporters/producers when producing the model in question, a reasonable amount for selling, general and administrative expenses (hereinafter referred to as SGA expenses) and profit. The amount for SGA expenses and profit was established, pursuant to the first sentence of Article 2(6) of the basic Regulation, on the basis of domestic sales of all types of the like product in the ordinary course of trade, made by each of the two Korean exporters/producers in question.

(b) *PRC*

(i) Choice of the market economy third country

(21) Since for the purpose of this investigation the PRC could not be considered as a market economy country, normal value had to be determined on the basis of the price or constructed value in a market economy third country. In the notice of initiation it was stated that the Commission envisaged using Singapore as an appropriate market economy third country and all interested parties were given the opportunity to comment on this. The comments received were, when substantiated, duly taken into account.

(22) Firstly, the Commission found that although Korea was selected as a market economy third country for the purpose of the original investigation concerning Chinese SCTVs, which led to the adoption of Regulation (EEC) No 2093/91, Singapore was chosen as market economy third country in the most recent investigation concluded by Regulation (EC) No 710/95. The vast majority of Chinese imports are not SCTVs but large-screen CTVs which were dealt with by Regulation (EC) No 710/95. Thus, as far as the selection of a reference country was concerned, the selection of Singapore meant that the same methodology was applied for the most significant part of Chinese exports as in the investigation which led to one of the anti-dumping measures under review.

(23) Secondly, the volume of total sales of CTVs in Singapore is higher than the volume of Chinese exports of CTVs to the Community. Moreover, CTV sales destined for local consumption by the only cooperating producer in Singapore, Philips Singapore Pte Ltd, were well above the 5 % threshold compared to Chinese exports to the Community.

(24) Thirdly, it was found that Singapore's CTV market is competitive. There are five CTV producers in Singapore which also sell on their domestic market. Their domestic sales compete with imports from various countries, in particular Japan. Imports of CTVs are not subject to a customs duty and there are no further restrictions on access to the Singapore market. The fact that the cooperating producer in the market economy third country is related to one of the applicant Community producers which requested the initiation of the review does not invalidate the choice of Singapore because the investigation has shown that the relationship did not influence the information on which the findings concerning dumping were based. In this respect, it should be noted that, as explained below, normal value was mostly based on domestic sales prices of the company concerned in Singapore which, given the above, were the result of normal market forces.

(25) Fourthly, the products produced and sold in Singapore and Chinese exports to the Community, with the exception of exports to France and the United Kingdom, have the same broadcasting and reception system. According to the information available, as far as other features are concerned, the CTVs produced and sold in Singapore are also

comparable with those exported from the PRC to the Community. The differences in the broadcasting and reception system do not, in any case, affect the comparability of the products in question as these differences have only an insignificant impact on their cost of production and market value.

(26) In the light of the foregoing and in accordance with Article 2(7) of the basic Regulation, it is concluded that Singapore is an appropriate market economy third country.

(ii) Calculation of the normal value

(27) As no Chinese exporters or importers of the product concerned cooperated, for the purpose of establishing normal value, it was not possible to select models in the market economy third country which corresponded exactly to the types of the product concerned imported into the Community. It was therefore decided to establish one normal value for each CN code covered by the review investigation with the exception of CN codes 8528 12 62 and 8528 12 66. As far as CN code 8528 12 62 is concerned, it was found that the volume of imports reported by Eurostat was very small and that the only cooperating producer in the market economy third country did not produce or sell a model falling within this CN code on its domestic market. In view of the fact that the quantity imported and reported under this CN code accounted for only 4,7 % of total imports of the product concerned, it was decided that the investigation of the other models could already be considered to be representative for the Chinese imports concerned. With regard to CTVs falling within CN code 8528 12 66, it was found that these imports represented less than 0,01 % of total imports from the PRC and could therefore have no effect on the calculation of the dumping margin.

(28) In view of the wide variety of CTV models produced and sold by the cooperating producer in the market economy third country it was decided, on the basis of the information available from EACEM, to select for each of the remaining four CN codes in question one model which corresponded best to the features of the imported product concerned. The information available concerning the features of Chinese imports into the Community was that submitted by EACEM and confirmed by an independent market survey.

(29) It was then assessed for each model selected whether sufficient sales had been made in the ordinary course of trade in accordance with Article 2(4) of the basic Regulation. For three models, the weighted average selling price was equal to, or higher than, the weighted average unit cost of production and normal value was established on the basis of the weighted average sales prices actually paid for all domestic sales of that model. For one model there were insufficient sales in the ordinary course of trade, and normal value was therefore constructed in accordance with Article 2(3) and (6) of the basic Regulation, i.e. on the basis of the manufacturing costs incurred by this company when producing the model in question plus a reasonable amount for SGA expenses and profit.

(30) The amount for SGA expenses and profit was based on actual data pertaining to production and sales, in the ordinary course of trade, of representative models of the like product, made by the cooperating producer in the market economy third country.

2. **Export price**

(a) *Korea*

(31) In accordance with Article 2(8) of the basic Regulation, where export sales were made directly to unrelated importers, export prices were established on the basis of the prices actually paid or payable for the product sold for export.

(32) In accordance with Article 2(9) of the basic Regulation, where exports were made to related companies which imported the product concerned into the Community, export prices were constructed on the basis of the prices at which the imported products were first resold to independent buyers. Adjustments were made for all costs incurred between importation and resale, including customs duties, anti-dumping duties, a reasonable margin for SGA expenses as well as for profit.

(33) It should be noted in this context that related importers received reimbursements from their Korean parent companies for advertising and after sales expenses incurred in relation to sales of CTVs in the Community. As these reimbursements represented expenses which were originally paid by the related importer and were normally incurred

between importation and resale, they were incorporated in the SGA expenses of the related importer. Any other approach would be in conflict with the provisions of the third subparagraph of Article 2(9) of the basic Regulation according to which costs normally borne by an importer but paid by any party, either in or outside the Community, shall be deducted from the resale price.

(34) The determination of the level of profit was based on reliable and representative information submitted by an exporter/producer concerned, showing the profit or losses achieved or incurred by unrelated importers in the British, Danish, Dutch, French and German markets. Only data concerning unrelated importers whose resales of CTVs were actually profitable have been taken into consideration for the determination of the profit margin.

(b) *PRC*

(35) Given the lack of cooperation from the Chinese producers and from importers in the Community, the export prices were determined according to facts available in conformity with Article 18 of the basic Regulation. In this respect, it was considered that the best facts available were the data concerning quantities and prices reported by Eurostat and by the customs authorities of the three new Member States with regard to imports of CTVs from the PRC falling within CN codes ex 8528 12 52, 8528 12 54, 8528 12 56 and 8528 12 58. Data for the three new Member States were only available for January, February and March 1995 because before 1995 these countries had a different customs nomenclature from that of the Community.

(36) It should be noted that the export price was also based on information from Eurostat and the customs authorities of the three new Member States with regard to CN code 8528 12 52, although this CN code also covered imports of CTVs whose screen size had a diagonal measurement of 15,5 cm and less because, according to the information available submitted by the EACEM, the import volumes of such very small CTVs were negligible.

3. **Comparison**

(37) Concerning Korea, pursuant to Article 2(11) of the basic Regulation, the constructed normal value by model was compared on an ex-factory basis and at the same level of trade to the corresponding weighted average export price.

For the purpose of a fair comparison, due allowance in the form of adjustments was made for differences which were claimed and for which it was demonstrated that they affect price comparability. These adjustments were made, in accordance with Article 2(10) of the basic Regulation, in respect of rebates, packing, transport, insurance, handling and ancillary costs, credit costs and warranty.

(38) Concerning the PRC, in accordance with Article 2(11) of the basic Regulation, the weighted average normal value as calculated above was compared with the weighted average export price. For the purpose of a fair comparison and in accordance with Article 2(10) of the basic Regulation, due allowance in the form of adjustments was made for differences affecting price comparability in respect of transport, insurance, credit costs, indirect taxes and commissions, on the basis of the facts available, as stated above.

4. **Dumping margin**

(a) *Korea*

(39) The comparison revealed the existence of dumping, the dumping margin corresponding to the amount by which the normal value for each model exported exceeded the export price.

(40) The weighted average dumping margins established for the two cooperating Korean exporters/producers, expressed as a percentage of the free-at-Community-frontier price is *de minimis* according to Article 9(3) of the basic Regulation:

— LG Electronics Inc.: 1,4 %

— Samsung Electronics Co.: 1,8 %

(41) For any Korean producer/exporter involved in the proceeding which neither replied to the Commission's questionnaire in full nor otherwise made itself known, the dumping margin was determined, on the basis of the facts available in accordance with the provisions of Article 18(1) of the basic Regulation.

A comparison of the data on the volume of exports to the Community provided by the two cooperating Korean exporters/producers with Eurostat statistics showed that there was a high level of non-cooperation. Indeed, the two companies represented around 20 % of total exports of CTVs from Korea during the investigation period.

It was decided that the most reasonable facts available were those established in the investigation. Therefore the highest weighted average dumping margin found for a single representative exported model was considered to be the most appropriate basis for applying Article 18(1) of the basic Regulation in this context.

This approach was considered necessary in order to avoid creating a bonus for non-cooperation and an opportunity for circumvention. In addition, there is no reason to believe that any non-cooperating producer/exporter in Korea would export their CTVs at prices which would be higher than the export price charged for this reference model.

Thus, the dumping margin (expressed as a percentage of the free-at-Community-frontier price), established for Korean exporters other than the two mentioned above is 21,2 %.

(b) *PRC*

(42) In accordance with Article 2(11) of the basic Regulation, the dumping margin was calculated by comparing the weighted average normal value 'FOB port Singapore' of each model selected with the weighted average export price 'FOB Chinese port', based on the information obtained from Eurostat and duly adjusted at the same level of trade.

The comparison revealed the existence of dumping, the dumping margin corresponding to the amount by which the normal value for each model selected exceeded the export price. The weighted average dumping margin of all models considered, expressed as a percentage of the actual export price free at Community frontier, amounted to 44,6 %.

E. INJURY

1. Community consumption, volume and market share of the dumped imports

(43) Community consumption in units decreased between 1991 and 1992, from around 25,9 million to around 23 million. From 1992 to the investigation period consumption has remained stable at a level of around 23 million units.

(44) Between 1991 and the investigation period imports of CTVs originating in Korea decreased from around 1 355 000 units to around 357 000 units in the investigation period. The resulting share of the Community market of imports from Korea decreased from 5,2 % in 1991 to 1,6 % in the investigation period.

Imports of CTVs originating in the PRC decreased from around 666 000 units in 1991 to around 264 000 units in the investigation period. The resulting share of the Community market of imports from the PRC decreased from 2,6 % in 1991 to 1,1 % in the investigation period.

The decrease in imports of CTVs from Korea and the PRC should be seen in the light of the existence of anti-dumping measures applicable to these imports.

2. Prices of the dumped imports

(a) *Korea*

(45) The Commission analysed whether imports of Korean CTVs had undercut the prices of the Community producers.

(46) Concerning the two cooperating Korean exporters/producers, in view of the *de minimis* dumping margin found, it has not been deemed necessary to examine price undercutting.

(47) For the other Korean exporters/producers, price undercutting has been examined on the basis of Article 18(1) of the basic Regulation. The facts available used correspond to the verified information from the two cooperating Korean exporters/producers.

In order to make a model comparison, the exported CTVs were — as in the anti-dumping proceeding leading to the adoption of Regulation (EC) No 710/95 — categorised according to those features in a CTV considered to have the highest impact on the cost of the manufacture and price of a CTV, that is, the screen size, the audio output (mono or stereo), the type of tube (conventional or flat screen) and the availability of teletext.

The weighted average undercutting margins as calculated on a model basis, expressed as a percentage of the Community producers prices ranged from 7 to 47 %, being 24 % on average, notwithstanding the existence of anti-dumping duties.

(b) *PRC*

(48) For the examination of price undercutting, in view of the lack of cooperation from Chinese producers and following Article 18 of the basic Regulation, export prices used were those provided by Eurostat. In order to allow a comparison in these circumstances, the exported CTVs were categorised

according to their screen size, which is the only feature according to which CTV imports are classified by Eurostat. The resulting average export prices per category, adjusted to duty paid, including the applicable anti-dumping duty, were compared with the corresponding average Community industry's prices on the Community market.

The weighted average undercutting margins, expressed as a percentage of the Community producers prices ranged from 7,9 to 58,6 %, being 45,7 % on average.

3. **Situation of the Community industry**

(49) It should be recalled that in Regulation (EC) No 710/95, the Council concluded that the Community industry had suffered material injury. This conclusion was reached on the basis of data pertaining largely to the same period as the one applicable for the injury analysis in the present review.

(a) *Production*

(50) The production of the Community industry decreased from 8,9 million units sold in 1991 to 7,52 million units in the investigation period, a decrease of 15 %.

(b) *Sales and market share*

(51) The sales turnover of the Community industry decreased from around ECU 2 800 million in 1991 to around ECU 2 300 million in the investigation period, i.e. a decrease of 17 %.

Concerning the sales volume, sales in the Community of CTVs manufactured by the Community industry decreased from 7,2 million units in 1991 to 6,6 million units in the investigation period, i.e. by 6 %. Although production fell, the Community industry's market share increased from around 28 % in 1991 to around 30,5 % in 1992, as a result of the contraction of the consumption, but decreased between 1992 and the investigation period from around 30,4 % to around 28,9 % in the investigation period, a period during which Community consumption remained stable.

(c) *Profitability*

(52) During the period considered, the Community industry has suffered losses, which, as a percentage of turnover, improved from a loss of 5,3 % in 1991 to a loss of 3,8 % in 1992. Profitability fell to a loss of 6,7 % in 1993 and slightly improved to a loss of 5,3 % during the investigation period.

(d) *Employment*

(53) Employment of the Community industry has suffered a decrease from 20 015 in 1991 to 11 223 in the investigation period, a decrease of 43 %.

During the same period, a Community manufacturer of CTVs closed down its manufacturing facilities. In view of the closure of these facilities, this Community manufacturer was unable to cooperate in the investigation.

4. **Conclusion**

(54) An analysis of the abovementioned injury factors shows that the situation of the Community industry has not improved between 1991 and the investigation period. On the contrary, the Community industry is still in a very weak position.

F. LIKELY EFFECT OF THE REMOVAL OF THE ANTI-DUMPING DUTIES

(55) The possible effects of the removal of the anti-dumping duties currently applicable to Korea and to the PRC were examined. Pursuant to Article 11(2) and (3) of the basic Regulation, the following factors have been given particular consideration:

— whether the circumstances with regard to dumping and injury have changed significantly since the last investigation,

— the effectiveness of the existing measures, and

— the likelihood of continuation or recurrence of dumping and injury.

(a) *Change in circumstances with regard to dumping and injury*

(56) The CTV market is characterised by the maturity of the product, its standardisation and considerable transparency. Traders, dealers and consumers are therefore highly price sensitive. Price undercutting by one market participant, even by a relatively small amount and/or with regard to a limited volume of sales can therefore have considerable impact on the price behaviour of the other economic operators with a resulting general downward trend in prices.

(57) As to a change in circumstances with regard to dumping, the dumping margins found have increased in each new investigation carried out. The first investigation concerning SCTVs originating in Korea, which was concluded in 1990, resulted in dumping margins ranging from 10,3 to 19,6 %; the first investigation concerning SCTVs originating in the PRC and concluded in 1991 resulted in dumping margins between 7,5 % to 15,3 %. The dumping margins established for CTV exporters/producers in the investigation concluded in 1995 ranged between 16,8 % and 18,8 % for Korea and amounted to 25,6 % for the PRC. The present investigation found an even higher dumping margin of 21 % for Korea (with the exception of the two Korean exporters/producers with a *de minimis* margin) and 44,6 % for the PRC.

(58) Concerning a change in circumstances with respect to injury, the investigation has shown that significant losses have been suffered by the Community industry between 1991 and the investigation period.

At the same time and notwithstanding the existence of anti-dumping duties, substantial price undercutting by Korean and Chinese exports has taken place which, due to the particular characteristics of the CTV market, contributed to the weak situation of the Community industry.

(59) It is concluded that the current investigations have shown that dumping and injury have continued to take place during the investigation period, within the meaning of Article 11(2) of the basic Regulation.

Despite the low market share of the Korean and the Chinese exports, it should be noted that even in a new investigation (as opposed to the present review investigation) they would not be considered negligible, neither pursuant to Article 5(7) of the basic Regulation, nor pursuant to Article 5(8) of the WTO Anti-dumping Agreement.

(b) *Effectiveness of the measures under review*

(60) During the investigation period, around 72 % of total exports of Korean CTVs and around 80 % of total exports of Chinese CTVs were large-screen CTVs. These were subjected to anti-dumping duties only as from October 1994, i.e. covering only the latter part of the investigation period used in this review.

(61) Therefore, any benefit to the Community industry of the anti-dumping measures imposed by Regulation (EC) No 710/95 cannot have been fully reflected in the economic situation analysed above since it relates mostly to a period when these measures were not yet in place. Only a limited proportion of total imports of CTVs from Korea and the PRC were effectively covered by the Regulations presently under review.

(62) Moreover, the following should be noted. Between 1991 and the investigation period, total imports of CTVs from all origins to the Community decreased by 52 %, i.e. from around 8,5 million units in 1991 to 4,1 million units in the investigation period. This tendency coincides with an increase in the manufacturing capacity installed in the Community by companies related to exporters/producers in third countries, notably Korea. Indeed, during the same time period, production in the Community by companies related to exporters/producers in Korea increased from around 300 000 units in 1991 to around 1 238 000 units in the investigation period, i.e. by more than 300 %. The increase in production by companies related to exporters/producers in Japan amounted to around 16 %, from around 5 190 000 units in 1991 to around 6 039 000 units in the investigation period.

(63) The decrease in imports and the corresponding increase of Community production by companies related to exporters/producers in third countries appears partly to be due to the existence of anti-dumping measures in place, especially those imposed on large-screen CTVs in September 1994 by Commission Regulation (EC) No 2376/94 [1]. Indeed, between 1993 and 1994, production of CTVs in the Community by companies related to exporters/producers in Korea increased from around 400 000 units to around 1 200 000 units. Should anti-dumping measures be repealed or allowed to lapse, there is a risk that imports at dumped prices would increase, thereby further injuring the Community industry.

(c) *Likelihood of continuation of dumping and injury*

(64) Concerning Korean exporters/producers other than the two with *de minimis* dumping margins as well as the Chinese exporters/producers, the dumping margins found in the present investigation are higher than those found in previous investigations.

[1] OJ L 255, 1. 10. 1994, p. 50.

Therefore, it is concluded that in the event of reduction or repeal of the current anti-dumping duties, Chinese and Korean exports of CTVs to the Community will continue to be made at considerably dumped prices which significantly undercut those of the Community industry.

(65) Moreover, according to information available, the production capacity for CTVs in the PRC has increased during the period under consideration, while domestic consumption has not been able to absorb production. It is therefore considered most likely that, should measures be repealed or allowed to lapse, dumped exports to the Community and to other third countries of Chinese CTVs will increase significantly.

(66) Concerning the likelihood of a continuation of injury and a recurrence of further injury caused by the dumped imports, account should be taken of the particular characteristics of the CTV market (i.e. the maturity of the product and price sensitivity of the market), the substantial undercutting margins found and the continuous price depression exerted by Chinese and Korean imports. In this context and despite the low Chinese and Korean market share, it is considered that without measures the detrimental impact of the imports in question on the situation of the Community industry will not only continue but even increase.

(67) Indeed, taking account of the further deterioration of the situation of the Community industry between 1991 and the investigation period, a period when anti-dumping measures were in place, it is considered likely that without anti-dumping measures, imports from the countries concerned will increase, negatively affecting the profitability of the Community industry and causing a further decrease in its employment, and thereby material injury.

(68) However, with respect to the two Korean exporters/producers with *de minimis* dumping margins, a comparison of the normal values established in the previous investigations with those established in the current investigation shows that normal values have decreased. There are no indications that this trend in the development of normal values will change in the foreseeable future. In this respect it should be noted that the two cooperating Korean exporters/producers have substantially invested in the CTV sector in the Community in the period under consideration and supply the Community market mainly with their Community production. These investments represent an amount of around ECU 400 million, including investments in new manufacturing plants and the manufacturing of sub-components. The total volume of imports into the Community of the product concerned from the two cooperating Korean exporters/producers was, therefore, fairly low. Due to the substantial investments made, it is unlikely that, in the absence of anti-dumping measures, this would change to any significant degree and it is therefore also unlikely that the present structure of exports, including the pricing policy, will change to any considerable extent. In these circumstances, it can be concluded that the repeal of the anti-dumping measures with respect to the two cooperating Korean exporters/producers with *de minimis* dumping margins would not be likely to result in a recurrence of dumping above a *de minimis* level.

(d) *Conclusion*

(69) In view of the above, it is concluded that should anti-dumping measures on CTVs originating in Korea and the PRC be allowed to expire or be repealed, this will lead to a recurrence or continuation of material injury.

G. **COMMUNITY INTEREST**

(70) No arguments concerning Community interest aspects were put forward by any of the interested parties (importers, traders, consumer organisations) in the present investigation.

(71) In the course of the last investigation concerning CTVs the Council concluded that no compelling reasons existed not to take anti-dumping measures, since it was concluded that unless remedial action was taken, the existence of the Community production of CTVs was at risk, with the consequent risk of negative effects on the upstream and downstream sectors. Furthermore, the impact on consumers was considered to be very limited, since anti-dumping measures would not restrict the range of products or price competition between brands, in view of the numerous competitors in the Community market. Any negative impact on importers of CTVs was considered to be limited. In this respect, the Commission has not found any

Community interest aspect which invalidates the findings with regard to Community interest reached in Regulation (EC) No 710/95. Therefore, it is considered that the facts, figures and arguments given in that Regulation are still applicable and that no compelling reasons can be seen why the existing anti-dumping measures should be repealed or allowed to lapse on grounds of Community interest.

H. LEVEL OF THE DUTY

(72) Concerning the two cooperating Korean exporters/producers, in view of the *de minimis* dumping found and the lack of likelihood of recurrence/continuation of dumping, it is proposed that measures be repealed and be allowed to expire respectively.

(73) With regard to Korean and Chinese exporters/producers which either had no exports during the investigation period or which did not cooperate in the investigation, measures in the form of an *ad valorem* anti-dumping duty should be maintained. This approach is considered necessary in view of the high level of non-cooperation found for Korea.

(74) Since the amount of the anti-dumping duty is not to exceed the margin of dumping established but should be less than the margin if such lesser duty would be adequate to remove the injury to the Community industry, the necessary duty based on an injury elimination level has also been calculated.

(75) It was considered that the injury elimination level should allow the Community industry to regain a non-injurious situation, covering its cost of production and obtaining a reasonable return on sales.

(76) For this purpose, the Commission's services took into account the Community industry's weighted average cost of production and a reasonable return on sales. As far as the latter is concerned, based on normal market conditions, the industry's ongoing long-term investment requirements and reflecting the approach taken in Regulation (EC) No 710/95, a return on sales of 10 % was considered reasonable.

(77) For such Korean exporters/producers, the price of the dumped model used for the calculation of the residual dumping margin was compared with the cost of production of comparable models of the Community producers investigated to which the abovementioned return on sales of 10 % was added.

The difference expressed on a cif community-frontier basis resulted in an injury margin of 15,1 %.

(78) Since the injury margin calculated is lower than the dumping margin, and according to Article 9(4) of the basic Regulation, the anti-dumping duty for such Korean producers/exporters calculated on the basis of the cif net, free-at-Community-frontier price, before duty should amount to 15,1 %.

(79) Regarding the PRC, a comparison was made between the Community's weighted average cost of production plus a reasonable profit margin and the average Chinese export prices at the Community-frontier level for each one of the CN codes used for the calculation of the dumping margin. The resulting difference between the injury elimination level and Chinese export prices being higher than the dumping margin, the latter, i.e. 44,6 % should apply, in accordance with Article 9(4) of the basic Regulation.

(80) Since Regulation (EC) No 710/95 confirmed that all CTVs, whether SCTVs or large-screen CTVs are one product, the anti-dumping measures imposed by Regulation (EEC) No 2900/91 and Regulation (EEC) No 2093/91 on imports of SCTVs originating in Korea and in the PRC respectively should be allowed to lapse. The anti-dumping measures imposed on large-screen CTVs originating in Korea and the PRC by Regulation (EC) No 710/95 should be amended to cover all CTVs, SCTVs and large-screen CTVs.

(81) In view of the complexity of a number of aspects of this case, such as the great diversity of models, significant delays were incurred in concluding the review investigations. The original anti-dumping duties on imports of SCTVs and large-screen CTVs from Korea and the PRC remained in force during this entire period. In the light of the delay in completing the review, and furthermore, in view of the new product definition of CTVs resulting from Regulation (EC) No 710/95, which requires the assimilation of the duties under review to the duties imposed by Regulation (EC) No 710/95, it is considered appropriate to treat imports of all CTVs from Korea and the PRC in the same way as imports of CTVs from Malaysia, Singapore and Thailand. Consequently, in these exceptional circumstances, the period of operation of the renewed measures concerning imports of CTVs from Korea and the PRC should be limited, so that their expiry coincides with that of the duties imposed on imports of CTVs from Malaysia, Singapore and Thailand, i.e. 2 April 2000, without prejudice to the applicable provisions on reviews,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 710/95 is hereby amended as follows:

1. Article 1 shall be replaced by the following:

'Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of colour television receivers with a diagonal screen size of more than 15,5 cm, whether or not combined in the same housing with a radio broadcast receiver and/or clock, falling within CN codes ex 8528 12 52 (Taric code: ex 8528 12 52*10), 8528 12 54, 8528 12 56, 8528 12 58, ex 8528 12 62 (Taric code: 8528 12 62*10 and 8528 12 62*91) and 8528 12 66, originating in Malaysia, Singapore, Thailand, the People's Republic of China and the Republic of Korea.

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

	Rate of duty	Taric additional code
Malaysia	23,4 %	8801
People's Republic of China	44,6 %	—
Republic of Korea	15,1 %	8807
Singapore	23,6 %	8812
Thailand	29,8 %	8816

with the exception of imports which are manufactured by the following companies which shall be subject to the following rate of the duty:

	Rate of duty	Taric additional code
(a) CTVs originating in Malaysia manufactured by:		
— Makonka Electronics SDN BHD, Ehsan, Malaysia	2,3 %	8796
— Orion Electric SDN BHD, Melaka, Malaysia	10,1 %	8797
— Technol Silver (M) SDN BHD, Malaysia	7,5 %	8798
— LGMitr Co. Ltd, Samutsakorn, Thailand	19,6 %	8799
— World Electric (Thailand) Ltd, Chonburi, Thailand	13,5 %	8800
(b) CTVs originating in the Republic of Korea manufactured by:		
— LG Electronics Inc., Seoul, Republic of Korea	0,0 %	8456
— Samsung Electronics Co., Seoul, Republic of Korea	0,0 %	8456
(c) CTVs originating in Singapore manufactured by:		
— Funai Electric (Singapore) Pte Ltd, Singapore	0,0 %	8808
— Hitachi Consumer Products (S.) Pte Ltd, Singapore	0,0 %	8808
— Philips Singapore Pte Ltd, Singapore	2,8 %	8809
— Sanyo Electronics (Singapore) Pte Ltd, Singapore	4,3 %	8810
— Thomson Television Singapore Pte Ltd, Singapore	2,6 %	8811
(d) CTVs originating in Thailand manufactured by:		
— Teletech (Thailand) Ltd, Chonburi, Thailand	29,8 %	8813
— Thai Samsung Electronics Co. Ltd, Chonburi, Thailand	12,1 %	8814
— Thomson Television (Thailand) Co. Ltd, Pathumthani, Thailand	3,0 %	8815

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

2. the following subparagraph shall be added to Article 3:

'It shall expire on 2 April 2000, save that should any review of the measures adopted by this Regulation be pending on that date, it shall remain in force until that review is concluded.'

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 Brussels, 27 November 1998.

For the Council

The President

C. EINEM