COMMISSION REGULATION (EC) No 837/2000

of 19 April 2000

imposing a provisional anti-dumping duty on imports of certain cathode-ray colour-television picture tubes originating in India, Malaysia, the People's Republic of China and the Republic of Korea

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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], as last amended by Council Regulation (EC) No 905/98 [2], and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

(1) On 29 July 1999 the Commission announced by a notice (hereinafter referred to as 'Notice of Initiation') published in the *Official Journal of the European Communities* [3] the initiation of an anti-dumping proceeding with regard to imports of certain cathode-ray colour-television picture tubes originating in India, Lithuania, Malaysia, the People's Republic of China and the Republic of Korea. Another notice, clarifying the product description, was published on 20 October 1999 [4] (see recital 7).

(2) The proceeding was initiated following a complaint lodged in June 1999 by the Task force against unfair business in Europe (TUBE) on behalf of the sole producer in the Community not related to exporting producers in the abovementioned countries, and contained sufficient prima facie evidence of dumping and of material injury caused thereby to justify the initiation of an anti-dumping proceeding.

(3) The Commission officially advised the complainant Community producer, exporting producers and importers known to be concerned as well as the authorities of the exporting countries and the EC-Lithuania Association Council, of the opening of the proceeding. Interested parties were given an opportunity to make their views known in writing and to request a hearing within the time limit set in the Notice of initiation. The Lithuanian authorities and a number of exporting producers made their views known in writing. All parties which so requested within the specified time limits were granted a hearing.

(4) In order to allow exporting producers in the People's Republic of China to submit a claim for market economy status or individual treatment, if they so wished, the Commission sent market economy status/individual treatment claim forms to the Chinese exporting producer known to be concerned and to the representatives of that country.

(5) The Commission sent questionnaires to all parties known to be concerned. Replies were received from the sole complainant Community producer, one Community producer related to an exporting producer, four exporters/producers in the countries concerned, two related exporters/distributors and two importers in the Community which were also users of the product concerned. The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, injury and Community interest and carried out verification visits at the premises of the following companies:

A. Community producer and related companies:

— Philips Components BV, Eindhoven, The Netherlands,

— Philips Components GmbH, Hamburg, Germany,

— Philips Components Miniwatt SA, Barcelona, Spain,

— Philips Iberica SA, Barcelona, Spain,

— Philips SpA, Monza, Italy.

B. Exporting producers in the countries concerned:

(a) Lithuania

— AB Ekranas, Panevezys.

Distributor related to the exporting producer

— Farimex AS, Geneva, Switzerland.

(b) Malaysia

— Chunghwa Picture Tubes (M) SDN.BHD, Shah Alam, Selangor Darul Ehsan,

— Samsung Electron Devices (M) SDN.BHD, Negeri Sembilan Darul Khusus.

(6) The investigation of dumping and injury covered the period from 1 July 1998 to 30 June 1999 (hereinafter referred to as the 'IP'). The examination of trends in the context of the injury analysis covered the period from 1 January 1995 to 30 June 1999 (hereinafter referred to as 'the period considered').

[1] OJ L 56, 6.3.1996, p. 1.
[2] OJ L 128, 30.4.1998, p. 18.
[3] OJ C 216, 29.7.1999, p. 3.
[4] OJ C 303, 20.10.1999, p. 5.

B. PRODUCT

1. Product under consideration

(7) The product under consideration is cathode-ray colour-television picture tubes with a diagonal measurement of the screen (i.e. the active part of the picture tube measured in a straight line) exceeding 33 cm but not exceeding 38 cm with a screen width/height ratio less than 1,5 and with a pitch (i.e. the gap between two lines of the same colour at the centre of the screen) of not less than 0,4 mm, currently classifiable within CN code ex 8540 11 11. After initiation of the investigation, the definition of the product under consideration originally stated in the Notice of initiation was clarified by the complainant and the revised description given above was published in the *Official Journal of the European Communities* on 20 October 1999 (see footnote 4).

(8) The product under consideration is commonly designated as 14 inch (35,6 cm) colour picture tubes ('14 inch CPTs') and is marketed as such. It is usually sold on the market as a complete tube, which is the case for the complainant Community producer. However, some exporting producers sold 14 inch CPTs before they were completed, i.e. without one or more of the components or requiring a further adjustment. In these cases, 14 inch CPTs are described as 'bare' tubes (when certain components are not included) or as tubes with 'incomplete adjustment' (when an adjustment has not been made). The investigation has shown that these tubes already have all the essential characteristics of a complete 14 inch CPT in respect of their basic physical and technical characteristics. Therefore, they form a single product with complete 14 inch CPTs.

(9) In addition, 14 inch CPTs as defined above were sold on the market by some exporting producers despite certain quality defects they had. These lower quality 14 inch CPTs (usually referred to as 'B grade' or 'second grade' or 'third grade') are usually used in game machines rather than televisions. Though their quality may be lower than that of a complete 14 inch CPT of standard quality, they have the same basic physical and technical characteristics. Accordingly, these lower quality 14 inch CPTs are also considered as being a single product together with the complete 14 inch CPTs of standard quality as defined above.

2. Like product

(10) The Commission found that there was no difference between the basic physical and technical characteristics and uses of 14 inch CPTs exported to the Community from the countries concerned and those manufactured and sold in the Community by the Community industry (as defined at recital 40). It was also found that there was no difference between the 14 inch CPTs sold on the Lithuanian and Malaysian markets [1] and those exported from the countries concerned to the Community. It was therefore concluded that both these 14 inch CPTs produced and sold by the Community industry on the Community market and those sold on the domestic markets of Lithuania and Malaysia were, within the meaning of Article 1(4) of Regulation (EC) No 384/96 (hereinafter referred to as 'the Basic Regulation'), alike to 14 inch CPTs exported to the Community from the countries under investigation.

C. DUMPING

1. Malaysia

1.1. *Normal value*

(11) In accordance with Article 2(2) of the Basic Regulation, the Commission first examined whether the domestic sales of the product concerned to independent customers had been made in sufficient quantities and in the ordinary course of trade.

In the case of one company, sales of 14 inch CPTs on the domestic market comprised complete tubes, tubes with an incomplete adjustment and 'bare' tubes, which all belong to the same single category of product concerned (see recital 8). However, since this company's exports to the Community were limited to complete tubes, only these tubes were considered in the calculation of the normal value.

In the case of the other company, sales of the product concerned on the domestic market comprised 'bare' tubes and complete tubes, while sales on the export market were entirely composed of complete tubes. As far as 'bare' tubes are concerned, they were excluded from the calculation of normal value because they had not been exported to the Community. As regards complete tubes, some of these tubes were of a lower quality and sold for export for use in game machines rather than televisions (see recital 9). Since the export volume of these tubes of lower-quality was not significant and since these products were sold on the domestic market in limited quantities and not in the ordinary course of trade, the Commission also excluded these tubes from the calculation of normal value.

[1] Sales on the Malaysian market were used to determine the normal value for India, the Republic of Korea and the People's Republic of China (see recitals 17, 22 and 31 respectively).

(12) On the basis of this approach, it was found that for both exporting producers the domestic sales of complete tubes represented more than 5 % of the export sales of the like product to the Community and that all these domestic sales were profitable. It was therefore established that domestic sales of complete tubes were representative and in the ordinary course of trade, and they were therefore used for the determination of normal value, in accordance with Article 2(1) of the Basic Regulation.

1.2. *Export price*

(13) As explained above, only sales of complete tubes of a standard quality (i.e. excluding those of a lower quality) were considered for the determination of the export price. Since both exporting producers had only exported complete tubes to independent customers in the Community, the export price was established on the basis of the prices actually paid or payable for the product concerned when sold for export to the Community, in accordance with Article 2(8) of the Basic Regulation.

1.3. *Comparison*

(14) The normal value and export prices were compared on an ex-works basis. For the purpose of ensuring a fair comparison, due allowance in the form of adjustments was made for differences affecting price comparability, in accordance with Article 2(10) of the Basic Regulation. Accordingly, allowances for differences in discounts and rebates, transport, insurance, handling, loading and ancillary costs, packing, credit, after-sales costs and commissions were granted where applicable and justified.

1.4. *Dumping margin*

(15) The dumping margin was established on the basis of a comparison of the weighted average normal value with the weighted average of export prices, in accordance with Article 2(11) and (12) of the Basic Regulation. This comparison showed the existence of dumping, the dumping margin being equal to the amount by which the normal value exceeded the export price. Expressed as a percentage of the cif import price at the Community border, duty unpaid, the provisional dumping margins are as follows:

— Samsung Electron Devices (M) SDN.BHD: 1,9 %,

— Chunghwa Picture Tubes (M) SDN.BHD: 5,2 %.

Since these two Malaysian producers accounted for almost all the Malaysian exports of the product concerned to the Community, the provisional residual dumping margin has been set at the level of the higher of the two dumping margins established, i.e. 5,2 %.

2. **India**

2.1. *Cooperation*

(16) Two companies were mentioned in the complaint as producers of the product concerned, though for one company no exports to the Community were known. This company came forward and confirmed that it had not exported the product concerned to the Community during the IP. The other company, after having requested an extension for the compilation of the questionnaire reply (which was granted), did not make any submission. As a consequence this company was informed that it would be regarded as a non-cooperating party.

Exports of CPTs falling within CN code 8540 11 11 from India during the IP were substantial, and evidence (i.e. questionnaire replies by importers) confirmed that 14 inch CPTs had actually been imported from that country into the Community. As clear evidence of non-cooperation existed, findings in respect of India were established on the basis of the facts available, in accordance with Article 18 of the Basic Regulation.

2.2. *Normal value*

(17) In order not to reward non-cooperation, and in the absence of a more appropriate basis, normal value was established as the weighted average of the highest normal values determined for representative transactions on the Malaysian domestic market for complete tubes.

2.3. *Export price*

(18) The export price was established on the basis of evidence of actual prices provided in the replies to the questionnaire submitted by importers in the Community which declared they had imported the product concerned from India during the IP.

2.4. *Comparison*

(19) The comparison of normal value and export price was made on an ex-works basis, and at the same level of trade, on the basis of the facts available. For the purpose of ensuring a fair comparison between the normal value and the export price, account was taken of differences in discounts and rebates, transport, insurance, handling, loading and ancillary costs, packing, credit, after-sales costs and commissions.

2.5. *Dumping margin*

(20) The comparison of normal value and export price showed the existence of dumping. Expressed as a percentage of the cif import price at the Community border, duty unpaid, the provisional dumping margin is:

— all companies: 21,2 %.

3. **Republic of Korea**

3.1. *Cooperation*

(21) All three companies mentioned in the complaint came forward after the initiation of the proceeding. Two companies declared that they had either not produced or not exported the product concerned to the Community during the IP, nor had they any plans to do so in the future. The third company said that they had exported limited quantities of the product concerned to the Community during the IP but they had no intention of doing so in the future, since they would shortly stop manufacturing the product under consideration. For these reasons, none of the abovementioned companies was willing to reply to the questionnaire.

Exports of CPTs falling within CN code 8540 11 11 from the Republic of Korea during the IP were substantial, and evidence (i.e. questionnaire replies by importers) confirmed that 14 inch CPTs had actually been imported from that country into the Community. As clear evidence of non-cooperation existed, findings in respect of the Republic of Korea were established on the basis of the facts available, in accordance with Article 18 of the Basic Regulation.

3.2. *Normal value*

(22) In order not to reward non-cooperation, and in the absence of a more appropriate basis, normal value was established as the weighted average of the highest normal values determined for representative transactions on the Malaysian domestic market for complete tubes.

3.3. *Export price*

(23) The export price was established on the basis of evidence of actual prices provided in the replies to the questionnaire submitted by importers in the Community which declared they had imported the product concerned from the Republic of Korea during the IP.

3.4. *Comparison*

(24) The comparison of normal value and export price was made on an ex-works basis, and at the same level of trade, on the basis of the facts available. For the purpose of ensuring a fair comparison between the normal value and the export price, account was taken of differences in discounts and rebates, transport, insurance, handling, loading and ancillary costs, packing, credit, after-sales costs and commissions.

3.5. *Dumping margin*

(25) The comparison of normal value and export price showed the existence of dumping. Expressed as a percentage of the cif import price at the Community border, duty unpaid, the provisional dumping margin is:

— all companies: 20,4 %.

4. **People's Republic of China**

4.1. *Cooperation*

(26) The only producer from the People's Republic of China known to the Commission cooperated in the proceeding. The Commission estimated, on the basis of its reply to the questionnaire and Europstat data, that the exports of this producer represented about 70 % of the total exports of CPTs falling within CN code 8540 11 11. The cooperating producer has contested the accuracy of Eurostat figures, as this CN code also covers tubes other than I4 inch CPTs. This issue will be addressed in the definitive findings. Provisionally, the determination of dumping for the People's Republic of China was based on the reply of the cooperating producer.

4.2. *Market economy status and individual treatment*

(27) Article 2(7)(b) of the Basic Regulation states that, in anti-dumping investigations concerning imports from the People's Republic of China, normal value shall be determined in accordance with Article 2(1) to (6) for those producers which can show they meet the criteria laid down in Article 2(7)(c), i.e. that market economy conditions prevail in respect of the manufacture and sale of the product concerned.

(28) The only Chinese producer cooperating in the investigation submitted a claim for market economy status and individual treatment, which was examined by the Commission. It was found that:

— although the producer was a legal entity, it was a manufacturing plant without company status, and therefore no Board of Directors or Articles of Association. Moreover, it could only sell on the domestic market and did not have an export licence. It was therefore obliged to channel its exports through a related entity which had company status and was licensed to export,

— the plant's accounts and audit reports were not made public. Since the audit reports were submitted to the State Council but not available to management for consideration, they could not be examined by the Commission.

(29) In view of the above, the Commission determined that the producer did not fulfil the criteria for being granted either market economy status under Article 2(7)(c) of the Basic Regulation or individual treatment. The above determination was disclosed to the producer concerned and the Community industry, which were given an opportunity to comment. No comments were received.

4.3. *Normal value*

4.3.1. Analogue country

(30) In view of the fact that normal value for the People's Republic of China had to be established pursuant to Article 2(7)(a) of the Basic Regulation, India had been envisaged in the Notice of initiation as an appropriate market economy third country (or 'analogue country') for the purpose of establishing normal value in respect of the People's Republic of China. Parties were invited to comment. The sole cooperating Chinese producer suggested that the Republic of Korea or, alternatively, Malaysia would be a better choice. In view of the fact that during the investigation no company from either India or the Republic of Korea came forward to cooperate in the proceeding, the Commission subsequently proposed that Malaysia be selected. Since no alternative country was suggested in the comments received, the Commission finally decided that Malaysia should be retained as analogue country.

4.3.2. Determination of normal value

(31) The sole cooperating Chinese producer only exported complete tubes to the Community. It was found that the sales of complete tubes made by the two Malaysian producers on their domestic market during the IP were representative and in the ordinary course of trade (see recital 12). Normal value for the People's Republic of China was therefore established by calculating the weighted average selling price of complete tubes sold by the two Malaysian exporting producers on their domestic market during the IP.

4.4. *Export price*

(32) All export sales of the Chinese cooperating producer to the Community were made to independent customers through a Chinese-based related entity of the producer in question. The export price was established on the basis of the prices actually paid or payable for the product concerned when sold for export to the Community, in accordance with Article 2(8) of the Basic Regulation.

4.5. *Comparison*

(33) The normal value and export prices were compared on a fob basis. For the purpose of ensuring a fair comparison, due allowance in the form of adjustments was made for differences affecting price comparability, in accordance with Article 2(10) of the Basic Regulation. Accordingly, allowances for differences in discounts and rebates, transport, insurance, packing, credit, after-sales costs and commissions were granted where applicable and justified.

4.6. *Dumping margin*

(34) In accordance with Article 2(11) and (12) of the Basic Regulation, the dumping margin was established on the basis of a comparison of the weighted average normal value with the weighted average export price of the sole cooperating producer. This comparison showed the existence of dumping, the margin of dumping being equal to the amount by which the normal value exceeded the export price, expressed as a percentage of the cif import price at the Community border, duty unpaid. The dumping margin established as described above was retained as the provisional countrywide dumping margin:

— Country-wide dumping margin: 11,0 %.

5. **Lithuania**

5.1. *Normal value*

(35) In accordance with Article 2(2) of the Basic Regulation, the Commission examined whether domestic sales of the product concerned to independent customers had been made in sufficient quantities and in the ordinary course of trade. Sales of the product concerned on the domestic market consisted of complete tubes, including tubes of lesser quality (see recital 9), referred to as 'second grade' and 'third grade' tubes. Sales to the Community consisted of complete tubes, including 'second grade' tubes. Since there were no domestic sales of second and third grade tubes in the ordinary course of trade and since exports of second grade tubes to the Community during the IP were insignificant (and there were no exports of third grade tubes), the Commission excluded both second and third grade tubes from the calculation of normal value. It was found that domestic sales of complete tubes represented more than 5 % of the export sales of the like product to the Community and that more than 80 % of these domestic sales had been made in the ordinary course of trade. Accordingly, all domestic sales of standard quality complete tubes were used for the determination of normal value, in accordance with Article 2(1) of the Basic Regulation.

5.2. *Export price*

(36) As explained above, only sales of complete tubes of a standard quality (i.e. excluding those of a lower quality) were considered for the determination of the export price.

The export price was established on the basis of the prices actually paid or payable for the product concerned when sold for export to the Community, in accordance with Article 2(8) of the Basic Regulation.

5.3. *Comparison*

(37) The normal value and export prices were compared on an ex-works basis. For the purpose of ensuring a fair comparison, due allowance in the form of adjustments was made for differences affecting price comparability, in accordance with Article 2(10) of the Basic Regulation. Accordingly, allowances for differences in transport, insurance, handling, loading and ancillary costs, credit, after-sales costs and commissions were granted where applicable and justified.

Most sales of complete tubes were made to the Community through a related company located in Switzerland. Since this company's function can be considered similar to that of a trader acting on a commission basis, an adjustment based on the company's own selling, general and administrative expense rate and a reasonable margin for profit was deducted from the export prices charged to independent customers in the Community.

5.4. *Dumping margin*

(38) The dumping margin was established on the basis of a comparison of the weighted average normal value with the weighted average export price in accordance with Article 2(11) and (12) of the Basic Regulation. This comparison showed the existence of dumping, the dumping being equal to the amount by which the normal value exceeded the export price. Expressed as a percentage of the cif import price at the Community border, duty unpaid, the provisional dumping margin is: 1,3 %.

Since the sole cooperating Lithuanian producer accounted for all the Lithuanian exports of the product concerned to the Community, the dumping margin provisionally established is valid for the whole country.

D. **INJURY**

1. **Definition of the Community industry**

(39) There are three operators producing 14 inch CPTs in the Community:

— one operator who lodged the complaint and cooperated in the investigation,

— one operator who replied to the questionnaire but was related to an exporting producer under investigation,

— one operator who did not reply to the questionnaire and who, according to the complaint, was related to an exporting producer under investigation.

(40) The latter two companies were excluded from the definition of the Community industry as it could not be shown that their situation was not affected by their relationship with exporting producers. Accordingly it was considered that only the complainant company constitutes the Community industry within the meaning of Article 4(1) of the Basic Regulation, hereinafter referred to as 'the Community industry'. The other two operators are hereinafter referred to as 'other operators in the Community'.

2. **Analysis of the situation in the Community 14 inch CPTs market**

2.1. *Consumption in the Community*

(41) Community consumption was based on the combined volume of sales made by the Community industry in the Community and Eurostat information on imports from the countries concerned and from other third countries.

2.1.1. Sales made by other operators in the Community

(42) The sales data relating to two other operators in the Community market could not be included in the assessment of consumption. Firstly, because one of them did not cooperate in the investigation and no other reliable estimate was available and secondly because the other did not provide consistent information on its sales on the Community market for the period considered.

2.1.2. Imports

(43) During the investigation, large discrepancies were found to exist between the export data available or verified by the Commission and Eurostat import statistics. These discrepancies were particularly marked for the years 1995 and 1996. Therefore, for the assessment of consumption the question arose whether the export data verified by the Commission rather than Eurostat import statistics should be used.

(44) On the one hand, Eurostat import statistics include CPTs with a diagonal measurement of the screen not exceeding 42 cm. It therefore goes slightly beyond the definition of the product under consideration and also includes other tubes, e.g. 15 inch (38,1 cm) and 16 inch (40,6 cm) CPTs. However, from the information available for some countries concerned, it was found that the import figures for CPTs other than those under investigation only represent about 5 % of the imports reported by Eurostat. The investigation has not brought to light any information which would suggest that the situation is any different for imports from other third countries. On the other hand, the data verified by the Commission is not complete for the period considered given that a number of exporting producers did not cooperate in the investigation. Because of these uncertainties, it is considered that Eurostat statistics are the sole reliable, complete and consistent source of information for the assessment of all imports of the product concerned into the Community.

2.1.3. Total consumption

(45) On this basis, between 1995 and the IP, consumption in the Community significantly decreased over the period considered, namely by 48 %:

Table 1

Consumption	1995	1996	1997	1998	IP
Units	6 717 805	5 757 320	4 553 044	3 941 424	3 481 020
Index	*100*	*86*	*68*	*59*	*52*

Source: Questionnaire replies of the Community industry and Eurostat.

(46) This decrease in Community consumption is attributable to the fact that, from 1995 onwards, part of the production of 14 inch colour televisions (hereinafter referred to as CTVs) in the Community has been partly or totally transferred to central and eastern Europe, in particular to Poland, Hungary and the Czech Republic.

2.2. *Imports from the countries concerned*

2.2.1. *De minimis* dumping margin

(47) The margin of dumping relating to Lithuania was provisionally established below the *de minimis* threshold, whereas those for India, Malaysia, the People's Republic of China and the Republic of Korea were above this threshold. Although the Commission continues the investigation in respect of imports from Lithuania, these imports were provisionally not considered in the investigation of injury to the Community industry.

2.2.2. Negligible imports

(48) One Chinese exporting producer who cooperated in the investigation claimed to be the only one to export the product concerned to the Community market and contested the figure for imports in the Eurostat statistics. According to this producer, less than the 75 626 units reported by Eurostat were actually imported during the IP and such lesser imports ought to be considered as negligible.

(49) Given that, based on Eurostat, the Commission could not exclude that other producers might exist in the People's Republic of China, it was considered that the imports were above the *de minimis* threshold. Therefore the claim that imports originating in China were negligible had to be rejected.

2.2.3. Cumulative assessment of imports

(50) The Commission considered whether imports of 14 inch CPTs originating in India, Malaysia, the People's Republic of China and the Republic of Korea (hereinafter referred to as 'the countries concerned') should be assessed cumulatively in accordance with Article 3(4) of the Basic Regulation.

(51) The Commission therefore examined whether all the criteria for cumulating imports from the four remaining countries concerned were met. It was found that:

— the margin of dumping for the countries concerned as shown above, were more than *de minimis*,

— the volume of imports from each of the countries concerned was not negligible,

— the analysis of the conditions of competition between imported 14 inch CPTs and the like Community product also showed that: (i) 14 inch CPTs from all exporting countries concerned and Community-produced 14 inch CPTs are like products; (ii) the Community industry and the exporting producers were selling the like product through the same sales channels and to the same categories of customers; (iii) a similar pricing policy was followed by all exporting producers concerned; (iv) the same applies for the imports of the countries concerned among each other.

Accordingly, the Commission concluded that all conditions justifying the cumulation of the imports from the countries concerned were met.

2.2.4. Volume of imports

(52) Between 1995 and the IP the volume of imports originating from the countries concerned into the Community decreased by 44 %:

Table 2

Imports from countries concerned (excluding Lithuania)	1995	1996	1997	1998	IP
Total units	1 985 201	1 060 242	564 527	1 168 367	1 104 197
Index	*100*	*53*	*28*	*59*	*56*

Source: Eurostat.

(53) The trend in imports has to be seen in the light of the overall evolution of consumption, the decrease of which was more pronounced. Furthermore, the above table shows that the imports concerned significantly decreased from 1995 to 1997 (– 72 %) but recovered in the period 1997 to the IP (+ 96 %) although consumption decreased by 24 %.

2.2.5. Market share of imports

(54) The market share held by imports from the countries concerned developed as shown below:

Table 3

Market share of the countries concerned (excluding Lithuania)	1995	1996	1997	1998	IP
Total	29,3 %	18,4 %	12,4 %	29,6 %	31,7 %
Index	*100*	*62*	*42*	*101*	*108*

Source: Questionnaire replies of Community industry, and Eurostat.

The above table shows that the market share held by the exporting producers concerned sharply decreased in 1996 and 1997, but recovered during 1998 and the IP. Indeed, in the period 1995 to 1997, market share decreased by 58 % but in the period 1997 to the IP, it increased by 156 %. Overall, the market share of imports in this declining market increased by 8 %.

2.2.6. Average price of imports

(55) As shown in the table below, from 1995 up to the IP, 14 inch CPT sales prices charged by the exporting producers concerned on the Community market decreased by 11 %. The decreasing trend is even more severe when one looks at the period between 1997 and the IP when the average import price fell by 19 %:

Table 4

Average import price	1995	1996	1997	1998	IP
ECU/unit	39,6	41,9	43,7	38,3	35,3
Index	*100*	*106*	*110*	*97*	*89*

Source: Eurostat.

(56) Within the period considered, it was found that average import prices were increasing until 1997. This coincided with a sharp decrease in the market share of the exporting producers from the countries concerned, namely from 29.3 % to 12.4 %. Between 1997 and the IP, it was found that import prices in turn decreased by 19 %. This happened at a time when the exporting producers concerned regained a considerable market share (19,3 percentage points).

2.2.7. Price undercutting

(57) For the determination of price undercutting, the Commission analysed data referring to the IP. It is recalled that the investigation has shown that there is only one type of 14 inch CPT which is produced and sold by the Community industry on the Community market. Price undercutting was established on the basis of a comparison of the sales prices of that type of 14 inch CPT charged by the Community industry and the sales prices charged by the exporting producers concerned. For the same type all prices were compared after deducting discounts and rebates.

(58) The sales prices taken for the exporting producers concerned were those at cif Community border level, including customs duties. The sales prices of the Community industry were adjusted where necessary to an ex-works level, i.e. excluding transport costs.

(59) The results of the comparison (on a weighted-average to weighted-average basis) showed that the average price undercutting margins, expressed as a percentage of the Community industry's average selling prices, were 14,7 % for India, 4,6 % for Malaysia, 16,7 % for the People's Republic of China, and 10,8 % for the Republic of Korea.

2.3. *Economic situation of the Community industry*

2.3.1. Preliminary remark

(60) Given that only one Community producer constitutes the Community industry, data relating to the Community industry has been indexed in order to preserve the confidentiality of the data submitted in accordance with Article 19 of the Basic Regulation. In accordance with Article 3(4) of the Basic Regulation the Commission examined all relevant economic factors and indices having a bearing on the state of the industry.

2.3.2. Production capacity and production

(61) As regards production capacity, the investigation showed that the Community industry had two sites of production during the period considered. Production definitively stopped in one site in June 1999 and was taken over by the other site.

(62) However, it should be noted that production did not shift at once but was moved gradually from one site of production to the other, in particular from 1997 up to the end of the IP. Accordingly, the increase in capacity which occurred during the period that production activity was being restructured was merely theoretical. In fact, real capacity was maintained in the process of closing one production site while it was simultaneously increased in the other production site. It is considered that overall, the original level of production capacity was maintained throughout the period considered.

(63) According to the Community industry, this restructuring was necessary to improve the production process and the quality of 14 inch CPTs with a view to achieving economies of scale. Indeed, as shown in the profitability section below, the restructuring of production activity allowed the Community industry to make substantial cost of production savings during 1998 and the IP.

Table 5

Production (units)	1995	1996	1997	1998	IP
Index	*100*	*113*	*128*	*116*	*109*

Source: Questionnaire replies of the Community industry.

(64) Production of the Community industry increased overall by about 9 %. For the reasons explained above, there was a 28 % increase in production which occurred in the period 1995 up to 1997, but this was followed by a decline of 15 % until the IP.

2.3.3. Sales volume and average sales price

(a) Preliminary remark

(65) The investigation showed that the Community industry sold 14 inch CPTs to both related and unrelated customers on the Community market. These sales were all included in the assessment of consumption and in the evolution of sales volume below. However, although sales prices and price evolution for both categories of customer were very similar during the period considered, they are shown separately below.

(b) Sales volume

(66) The total volume of 14 inch CPTs sold by the Community industry on the Community market to both related and unrelated customers decreased by 55 % during the period considered:

Table 6

Sales	1995	1996	1997	1998	IP
Index	*100*	*93*	*61*	*46*	*45*

Source: Questionnaire replies of the Community industry.

(67) In line with the significant decrease in consumption, sales in volume fell continuously during the period considered. This fall was less pronounced than the decrease in consumption until 1997, when imports from the countries concerned were losing market share. Subsequently, when imports from the countries concerned massively returned on the Community market, the Community industry's sales volume declined more than consumption: sales dropped by 55 % whereas consumption decreased by 48 %.

(c) Average sales price and price evolution

(68) The investigation showed that prices charged by the Community industry to related customers were at arms' length. Prices charged to both related and unrelated customers on the Community market were more or less the same and followed a similar decreasing trend during the period considered. As shown below, the weighted average unit prices of the product concerned sold by the Community industry to unrelated customers decreased by 21 % over the period considered:

Table 7

Average Community industry price — Evolution	1995	1996	1997	1998	IP
— *Index unreated*	*100*	*101*	*98*	*90*	*79*
— *Index related*	*100*	*97*	*96*	*88*	*75*

Source: Questionnaire replies of the Community industry.

(69) Prices charged to related customers decreased by 25 % over the same period. The above table shows that prices were stable in the period 1995 to 1997 and started to decrease significantly after 1997 when dumped imports returned on the market.

2.3.4. Market share

(70) The development of the Community industry's total sales volume compared to that of Community consumption shows that the market share held by the Community industry decreased significantly during the period considered:

Table 8

Market share	1995	1996	1997	1998	IP
Index	*100*	*109*	*88*	*79*	*86*

Source: Questionnaire replies of the Community industry, and Eurostat.

(71) Overall, the Community industry lost 6 percentage points of market share in absolute terms during the IP. The main decrease (loss of 9 percentage points) occurred between 1996 and 1997. Subsequently, in 1998, when the countries concerned gained considerable market share (over 19 percentage points), the Community industry lost 4 additional percentage points.

2.3.5. Stocks

(72)

Table 9

Stocks	1995	1996	1997	1998	IP 30 June 1999
Index	*100*	*171*	*251*	*225*	*na*

Source: Questionnaire replies of the Community industry.

The investigation showed that between 1995 and 1998 stocks increased by 125 %. The level of stocks was significantly higher at the end of the IP than in 1998. However, the available information for the full years 1995 up to 1998 suggests that at the end of December stocks were at their minimum level as compared to levels within a given year. Consequently, the level of stocks at the end of the IP was not considered to be meaningful in the present case.

(73) Nevertheless, a trend toward increased stocks could be observed during the period considered. This development suggests that although production increased by 9 % over that period, the part which was not sold to third countries went into stocks. This observation is in line with the 55 % decreased sales reported previously and strengthens the point made above concerning the loss of market share by the Community producers.

2.3.6. Profitability

(74) During the period considered, profitability expressed as percentage of net sales value developed as follows:

Table 10

Profitability	1995	1996	1997	1998	IP
Index	*100*	*373*	*144*	*75*	*– 632*

Source: Questionnaire replies of the Community industry.

(75) As mentioned in recital 63, the Community industry managed to reduce its costs of production between 1998 and the IP. Although the reduction was as high as 16 %, it incurred losses during the IP, whereas in previous years it had marginal profits. In absolute terms, around 4 percentage points of profit were lost during the period considered. This suggests that without the restructuring of its activities the losses of the Community industry would have been much higher.

(76) Again the above table shows that profitability improved from 1995 to 1996 but continuously deteriorated from 1997 up to the IP.

2.3.7. Investments

(77)

Table 11

Investments	1995	1996	1997	1998	IP
Index	*100*	*874*	*72*	*36*	*126*

Source: Questionnaire replies of the Community industry.

The investigation showed that in 1996 large investments were made in restructuring production of 14 inch CPTs in the Community. At that time the Community industry implemented its decision to close one of its two production sites of 14 inch CPTs in the Community and to increase the capacity of its other production plant. As already mentioned above, the idea was to gradually increase capacity at one production site while decreasing it at the other until it actually ceased production of 14 inch CPTs in June 1999.

(78) During the IP, investments were mainly made on buildings while expenditure with respect to machinery and equipment returned to average levels for the period considered (excluding 1996).

2.3.8. Employment

(79)

Table 12

Employment	1995	1996	1997	1998	IP
Index	*100*	*116*	*119*	*97*	*103*

Source: Questionnaire replies of the Community industry.

The above table shows that employment increased by 19 % from 1995 up to 1997. However, employment levels decreased by 13 % between 1997 and the IP, once restructuring was under way.

2.3.9. Conclusion on the situation of the Community industry

(80) The above analysis showed that, after decreasing (– 72 %) in the period 1995 to 1997, the volume of dumped imports increased in the period 1997 to the IP (+ 96 %) when consumption decreased by 24 %.

(81) The investigation also revealed that during the period considered production of 14 inch CPTs increased by 9 %, but most of the economic indicators pertaining to the Community industry followed a significant decreasing trend: sales prices (– 21 %), profitability (loss of around 4 percentage points), sales volume (– 55 %) and market share (– 6 percentage points). The development of the economic situation of the Community industry was particularly negative in the period between 1997 and the IP: production decreased by 15 %, sales prices by 19 %, the loss in profitability was around 4,1 percentage points and employment decreased by 13 %.

(82) In addition, it should be noted that despite a significant reduction of costs of production (– 16 %) profitability, which was positive in the previous years, became negative during the IP. In addition, price undercutting margins ranging between 4,6 % to 16,7 % have been established for low-priced dumped imports from the countries concerned. Consequently, the Community industry suffered significant price pressure on the Community market, as the price decrease of 21 % indicates.

(83) In the light of the foregoing, in particular the decrease in sales price and profitability, the Commission has concluded that the Community industry has suffered injury which can be classified as material within the meaning of Article 3 of the Basic Regulation.

E. **CAUSATION**

1. **Introduction**

(84) In order to reach its conclusions on the cause of the injury suffered by the Community industry, the Commission examined the impact of all known factors and their consequences on the situation in that industry. Such analysis ensures that any injury caused by factors other than dumped imports is not attributed to the dumped imports.

2. **Effect of the dumped imports**

(85) The present investigation has shown that because of the significant fall in consumption, all the operators on the Community market lost sales volume. Nevertheless, it was found that the losses of the exporting producers concerned were lower than the decrease in consumption whereas the losses in sales volume by the Community industry were relatively higher (44 % loss of the exporting producers compared with 55 % loss of the Community industry, in relation to a 48 % decrease in consumption between 1995 and the IP).

(86) It was also found that, as a consequence, the Community industry lost 6 percentage points of market share during the period considered. The negative situation was more pronounced in the period 1996 up to the IP (– 21 %) when the Community industry lost 10 percentage points.

(87) During the period considered, despite the considerable reduction of the Community market for 14 inch CPTs, the exporting producers concerned managed to increase their share of the Community market (+ 2,4 percentage points). In the period 1996 to the IP, low-priced dumped imported 14 inch CPTs from the countries concerned gained over 13 percentage points of the market share. In the period 1997 to the IP, the gain in market share was over 19 percentage points.

(88) Consequently the volume of dumped imports increased considerably in relative terms, in particular in the period 1997 to the IP. This coincided with losses made by the Community industry in terms of market share and losses in sales volume which exceeded the fall in consumption.

(89) The investigation showed that the prices charged by the countries concerned in the Community market decreased by 11 % during the period considered. It also showed that the decrease in sales prices was even higher between 1997 and the IP (– 19 %), as the decrease in the period 1997 to 1998 of 12 % was followed by a further decrease of 8 %.

(90) During the period considered the Community industry had to decrease its sales prices by 21 %. Prices decreased significantly in the period 1997 to 1998 (– 8 %) and continued to decrease in the period 1998 to IP (– 12 %). The surge (+ 96 %) of low-priced dumped imports from the countries concerned in the period 1997 to the IP therefore coincided with the significant decrease in the Community industry's sales prices.

(91) The investigation showed that Community industry prices were higher than the prices of dumped imports during the period considered. During the IP, the exporting producers concerned were significantly undercutting the Community industry's prices. Price undercutting margins ranging from 4,6 % to 16,7 % were found to exist.

(92) As it was established that imported and Community produced 14 inch CPTs are like products, offered through similar sales channels in the Community market, the presence of the high volume of dumped 14 inch CPTs imported from the countries concerned has had a significant impact on that market. Furthermore, the market being price transparent, the low prices offered by the exporting producers in question, well known to potential users on the Community market, had a significant impact on the level of prices in the market overall.

(93) As a consequence, when faced with low priced imports originating in the countries concerned, the Community industry' had no choice than to follow the trend of low prices of the dumped imports, with serious negative consequences on profitability.

(94) Based on the above, the low-priced dumped imports can be said to have had a significant negative impact on the situation of the Community industry.

3. **Impact of other factors**

3.1. *Development of consumption*

(95) The investigation showed that consumption continuously decreased during the period considered. Overall, consumption in the Community market decreased by 48 % in volume terms and by 57 % in value terms indicating a large decline of the 14 inch CPT market.

(96) It has been argued that injury to the Community industry is the result of the fact that consumption in the Community market during the investigation period plummeted dramatically due to a wave of relocation of the production of 14 inch CTVs to central and East European countries. It is indisputable that the decrease in the Community 14 inch CPT market is partly the result of this relocation. However, this relocation can not explain the loss in market share of the Community industry nor can it explain the price undercutting found.

3.2. *Imports of 14 inch CPTs from other third countries*

(97) Total imports of 14 inch CPTs into the Community and average import prices from countries other than India, Malaysia, the People's Republic of China and the Republic of Korea developed as follows:

Table 13

Imports	1995	1996	1997	1998	IP
Units	1 776 720	1 924 514	2 172 571	1 387 015	1 036 171
Index	*100*	*108*	*122*	*78*	*58*
ECU/unit	42,6	42,5	42,9	39,7	38,3
Index	*100*	*100*	*101*	*93*	*90*

Source: Eurostat.

(98) It has been argued that injury to the Community industry has been caused by imports from Poland, in particular given the increased import volumes between 1995 and 1997.

(99) The Commission considers that such an increase in the volume of imports is not relevant for the investigation of the cause of injury given that injury to the Community industry has to be established for the IP. In this context, it was found that imports from Poland decreased by 90 % over the period considered and that import prices from that country were at the level of those of the Community industry. These findings therefore suggest that the contribution of such imports to the price deterioration noticed in the market, if any, was limited.

(100) It has further been argued that since the Community industry imported low-priced 14 inch CPTs from Brazil, it thereby inflicted injury on itself. The investigation has shown, that the Community industry's imports from Brazil were from a related company in order to compensate for a slowdown of production caused by the restructuring of a production line and a social action in 1998 and in the IP. In addition, the subsequent resale price that the Community industry charged to its customers on the Community market for these CPTs was the same as that for its own produced 14 inch CPTs. Consequently, it is considered that these imports could not have negatively affected the market, and in particular the sales prices of the product under consideration.

(101) Finally, the development in the indicative unit import price of other third countries during the period considered reveals that their prices were higher than those of the countries concerned, in particular during 1998 and the IP. On this basis, it cannot entirely be excluded that imports into the Community market from other third countries of 14 inch CPTs have had an impact on the economic situation of the Community industry.

4. **Conclusion on causation**

(102) It cannot be excluded that factors other than dumped imports from the countries concerned, in particular the imports from other third countries and the significant reduction in Community consumption, contributed to the difficult state of the Community industry. However, these factors cannot break the causal link between the injury established and the imports concerned as shown by the substantial price decreases and price undercutting attributable to the countries concerned. Indeed, the behaviour of the exporting producers from the countries concerned had negative consequences on the situation of the Community industry, notably on its profitability. It was therefore concluded that these imports, taken in isolation, have caused material injury to the Community industry.

F. **COMMUNITY INTEREST**

1. **Introduction**

(103) The Commission examined, on the basis of all the evidence submitted, whether, despite the injurious effects of the dumped imports, compelling reasons existed which could provisionally lead to the conclusion that it would not be in the Community interest to impose measures in this particular case. For this purpose, and pursuant to Article 21(1) of the Basic Regulation, the Commission considered, on the basis of the information available, the impact of measures on all parties involved in the proceeding, and also the consequences of not taking measures.

2. **Interest of the Community industry**

(104) The Community industry has been suffering from low priced imports of 14 inch CPTs. The objective of the eventual adoption of anti-dumping measures is to reestablish fair competition on the Community market between the Community industry and their exporting counterparts in countries concerned.

(105) The Community industry has been making considerable efforts to improve its productivity in recent years, in an attempt to lower its cost of production and to enhance its competitiveness on this market. The Community industry rationalised considerably during the period considered. By way of example, the Community producer shut down one of its production facilities in an effort to reduce costs and to improve productivity.

(106) In view of the nature of the injury suffered by the Community industry the Commission considers that, in the absence of the imposition of anti-dumping measures, a further deterioration of the situation of the Community industry is quite probable. This could entail a further reduction in numbers employed.

(107) The adoption of anti-dumping measures would therefore be in the interest of the Community industry.

3. **Impact on importers and users**

(108) The Commission sent questionnaires to 19 known importers unrelated to the exporting producers in the countries concerned, as well as to four users of 14 inch CPTs in the Community. None of the users answered the questionnaire sent by the Commission, whereas two importers which were also users submitted replies. However, the replies of the two importers were not sufficiently complete to be used in the framework of the present investigation. Therefore it was decided that these importers could not be considered as cooperating in the investigation.

(109) Since no evidence was provided by the users concerning any potential disadvantage that the anti-dumping measures could bring to their business, no subsequent analysis was performed.

(110) On the basis of the above, and in particular the lack of interest in participating in the proceeding, it can be concluded that the imposition of anti-dumping measures against imports of 14 inch CPTs from the countries concerned would not lead to any significant deterioration in the situation of users.

4. **Impact on the competitive environment in the Community market**

(111) It has been argued that the imposition of anti-dumping measures would strengthen the position of the complainant Community industry which already represents 100 % of Community production and holds 38 % of the Community market. It has been claimed that following the imposition of measures, the Community industry would gain a quasi-monopolistic position in the 14 inch CPT market.

(112) However, it can be concluded, on the facts available, that from an economic point of view the imposition of anti-dumping measures at the level proposed would not close the Community' to imports from the exporting producers, and they would continue to be present on the market.

(113) Measures, therefore, are expected to ensure fair competition conditions for the Community industry and will merely reestablish fair trading conditions. Not imposing measures in the present case would maintain and certainly amplify the distortion of competition, resulting in further deterioration in the situation of the Community industry.

5. **Conclusion**

(114) On the basis of the above facts and considerations in particular, and having examined the arguments submitted by the Community industry and Community importers of the product concerned, it has been concluded that there are no compelling reasons not to impose measures concerning imports from the People's Republic of China, India, the Republic of Korea and Malaysia.

(115) On the contrary, the imposition of anti-dumping measures is necessary to prevent further aggravation of the injury already suffered by the Community industry and to preserve employment. Furthermore, anti-dumping measures will ensure competitive conditions of fair pricing and prevent the continuation of injury to the Community industry.

G. **PROVISIONAL MEASURES**

1. **Provisional injury elimination level**

(116) It was considered which amount of duty was necessary to increase import prices to a non-injurious level which would allow the Community industry to cover its costs of production and obtain a reasonable profit. In this respect, a profit margin of 8 % on turnover before tax was considered appropriate in order to allow the Community industry to reach the level of profit it could reasonably expect to obtain in the absence of injurious dumping.

(117) Accordingly, injury elimination levels were determined as the difference between the above non-injurious level on the one hand, and the actual net sales price of the imported 14 inch CPTs used for the undercutting calculation on the other hand. This difference was then expressed as a percentage of the cif import price at the Community frontier customs duty unpaid.

2. **Provisional measures**

(118) In accordance with Article 7(2) of the Basic Regulation, as the injury margins for India, Malaysia, the People's Republic of China and the Republic of Korea were higher than the dumping margins, the provisional anti-dumping duty should be set at the level of the latter. As regards one Malaysian company for which the dumping margin found is below the 2 % threshold set in Article 9(3) of the Basic Regulation, a provisional anti-dumping duty of 0 % should be imposed. In view of the results of the investigation concerning Lithuania, and considering that the dumping margin found in this case is also below the 2 % threshold set in Article 9(3) of the Basic Regulation, no provisional measures should be imposed in respect of this country. The Commission will continue to investigate and consider any further evidence submitted.

(119) The individual company provisional anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the countrywide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the country concerned and produced by the companies and thus by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.

(120) Any claim requesting the application of these individual company provisional anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission [1] forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example that name change or that change in the production and sales entities. The Commission, if appropriate, will, after consultation of the Advisory Committee, amend the Regulation accordingly by updating the list of companies benefiting from individual duty rates.

H. **FINAL PROVISION**

(121) In the interest of sound administration, a period should be fixed within which the interested parties may make their views known in writing and request a hearing. Furthermore it should be stated that the findings made for the purpose of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive measures,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of cathode-ray colour-television picture tubes with a diagonal measurement of the screen (i.e. the active part of the picture tube measured in a straight line) exceeding 33 cm but not exceeding 38 cm, with a screen width/height ratio less than 1,5 and with a pitch (i.e. the gap between two lines of the same colour at the centre of the screen) of not less than 0,4 mm, originating in India, Malaysia, the People's Republic of China and the Republic of Korea, falling within CN code ex 8540 11 11 (TARIC code 8540 11 11 94).

[1] European Commission,
Directorate-General for Trade,
Directorate C, DM24-8/38,
Rue de la Loi/Wetstraat 200,
B-1049 Brussels.

2. The rate of the provisional anti-dumping duty applicable to the net free-at-Community-frontier price, before duty, for the products produced by the following companies, shall be as follows:

Country	Company	Provisional rate of duty (%)	Taric additional code
Malaysia	Samsung Electron Devices (M) SDN.BHD, Negeri Sembilan, Darul Khusus	0,0	A117
	All other companies	5,2	A999
India	All companies	21,2	—
Republic of Korea	All companies	20,4	—
People's Republic of China	All companies	11,0	—

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

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

Article 2

1. Without prejudice to Article 20 of Regulation (EC) No 384/96, the interested parties which made themselves known within the time limit specified in the notice of initiation may make known their views in writing and apply to be heard by the Commission within one month of the date of entry into force of this Regulation.

2. Pursuant to Article 21(4) of Regulation (EC) No 384/96, the parties concerned may comment on the application of this Regulation within one month of the date of its entry into force.

Article 3

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

Article 1 of this Regulation shall apply for a period of six months.

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

Done at Brussels, 19 April 2000.

For the Commission

Pascal LAMY

Member of the Commission