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COUNCIL REGULATION (EC) No 1531/2002

of 14 August 2002

imposing a definitive anti-dumping duty on imports of colour television receivers originating in the People's Republic of China, the Republic of Korea, Malaysia and Thailand and terminating the proceeding regarding imports of colour television receivers originating in Singapore

(OJ L 231, 29.8.2002, p. 1)

Corrected by:

►**C1** Corrigendum, OJ L 351, 28.12.2002, p. 116 (1531/2002)

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imposing a definitive anti-dumping duty on imports of colour television receivers originating in the People's Republic of China, the Republic of Korea, Malaysia and Thailand and terminating the proceeding regarding imports of colour television receivers originating in Singapore

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1], and in particular Articles 9, 11(2) and 11(3) thereof,

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

Whereas:

A. **PROCEDURE**

1. **Previous investigations and existing measures**

(1) In April 1990 the Council, by Regulation (EEC) No 1048/90 [2], imposed definitive anti-dumping duties on imports of small-screen colour television receivers, i.e. those with a diagonal screen size of more than 15,5 cm but not exceeding 42 cm ('SCTVs'), originating in the Republic of Korea (Korea).

(2) Subsequently, in July 1991, the Council, by Regulation (EEC) No 2093/91 [3], imposed definitive anti-dumping duties on imports of SCTVs originating, *inter alia*, in the People's Republic of China (China).

(3) In April 1995, the Commission by Decision 95/92/EC [4] terminated the anti-dumping proceeding in respect of imports of (CTVs) originating in Turkey, which had been initiated in November 1992. At the same time, the Council, by Regulation (EC) No 710/95 [5], imposed definitive anti-dumping duties on imports of CTVs with a diagonal screen size exceeding 15,5 cm, originating in Malaysia, China, 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, since anti-dumping measures were already in force in respect of SCTVs originating in China and Korea, the scope of the investigation and the definitive anti-dumping duties imposed by Regulation (EC) No 710/95 as regards China and Korea were limited to colour televisions with a diagonal screen measurement exceeding 42 cm, i.e. large-screen CTVs.

(4) In November 1998, the Council by Regulation (EC) No 2584/98 [6] amended Regulation (EC) No 710/95 as far as the duties applicable to CTVs originating in China and Korea were concerned in order to take account of the findings in Regulation (EC) No 710/95 that there were no grounds for differentiating between televisions according to their screen size.

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[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2238/2000 (OJ L 257, 11.10.2000, p. 2).
[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. 84.
[5] OJ L 73, 1.4.1995, p. 3.
[6] OJ L 324, 2.12.1998, p. 1.

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2. **Expiry and interim review investigations**

(5) Following the publication of a notice of impending expiry ([1]) of the anti-dumping measures in force on imports of CTVs originating in China, Korea, Malaysia, Singapore and Thailand, the Producers of European Televisions in Cooperation (Poetic), requested an expiry review of the measures in force pursuant to Article 11(2) of Regulation (EC) No 384/96 (the basic Regulation).

(6) The request was based on the grounds that the expiry of the measures would be likely to result in the continuation or recurrence of dumping and injury to the Community industry. The request also contained information which showed that the various markets involved and the product, itself, had undergone significant changes over the last few years. This information, together with the allegations on dumping and injury, led the Commission to conclude that an interim review of both dumping and injury should also be carried out pursuant to Article 11(3) of the basic Regulation.

(7) Having determined, after consultation of the Advisory Committee, that sufficient evidence existed for the initiation of an expiry and an interim review pursuant to Articles 11(2) and 11(3) of the basic Regulation, the Commission published a notice of initiation in the *Official Journal of the European Communities* ([2]) and commenced the investigation.

3. **Initiation of an anti-dumping proceeding concerning Turkey**

(8) On 15 July 2000, the Commission announced by a notice (Notice of Initiation) published in the *Official Journal of the European Communities* ([3]), the initiation of an anti-dumping proceeding concerning imports of CTVs originating in or exported from Turkey.

(9) The proceeding was initiated as a result of a complaint lodged in June 2000 by Poetic, acting on behalf of Community producers representing a major proportion, in this case more than 30 %, of the total Community production of CTVs. The complaint contained sufficient evidence of dumping and of material injury resulting therefrom to justify the initiation of an anti-dumping proceeding.

4. **Termination of the anti-dumping proceeding concerning CTVs originating in Turkey**

(10) Given the complexity of the specific rules of origin applicable to imports of CTVs, the examination of the origin of the CTVs exported from Turkey could not be completed within the deadline stipulated in Article 7 of the basic Regulation. Therefore, the dumping, injury and Community interest aspects of the case could not be adequately examined and consequently no provisional anti-dumping measures could be considered.

(11) The investigation was therefore continued to reach definitive findings. Given the intention to obtain a global view of the impact of the imports from all the countries concerned on the Community industry, the data gathered in the investigation concerning Turkey was examined in conjunction with that gathered in the framework of the expiry and the interim reviews of measures against China, Korea, Malaysia, Singapore and Thailand. However, given the findings on origin which are recalled in recitals 40 to 44, the Commission terminated the proceeding

([1]) OJ C 278, 1.10.1999, p. 2.
([2]) OJ C 94, 1.4.2000, p. 2.
([3]) OJ C 202, 15.7.2000, p. 4.

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as far as it concerned CTVs originating in Turkey by Decision 2001/725/EC [1].

5. **Parties concerned by the investigations**

(12) The Commission officially informed the complainant Community producers, other known Community producers, exporting producers, importers and their associations, the European Office of Consumers (BEUC) and the representatives of the exporting countries about the initiation of the investigations. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notices of initiation.

(13) A number of exporting producers in the countries concerned, as well as Community producers made their view known in writing. All parties who so requested within the above time limits and who demonstrated that there were particular reasons why they should be heard were granted the opportunity to be heard orally.

(14) In view of the apparently large number of exporting producers of the product concerned in the countries subject to the review investigations, known from the request and from previous investigations, the application of sampling techniques for the investigation of dumping was envisaged in indents 5(a) and (b) of the Notice of Initiation.

(15) However, only a limited number of exporting producers from Korea, Singapore, China and Thailand made themselves known and provided the information requested in the Notice of Initiation. Therefore, the use of sampling techniques was not considered necessary for any of the countries concerned.

(16) The Commission sent questionnaires to all parties known to be concerned and to all other companies who made themselves known within the deadlines set in the Notices of Initiation. Replies were received from five Community producers, from three unrelated importers, from five Turkish companies and their related importers in the Community, from one Thai exporting producer and its related importers in the Community and from eight Chinese companies. However, no Korean, Malaysian and Singaporean exporting producer provided a meaningful reply to the questionnaire and, therefore, all companies known from the sampling exercise in these countries were considered as non-cooperators. The Commission informed them about the consequences of this non-cooperation.

(17) The Commission sought and verified all information it deemed necessary for the purpose of a determination of dumping, injury and Community interest as well as to determine whether there is a likelihood of a continuation or recurrence of dumping and injury and whether maintaining the measures would not be against the Community interest. Verification visits were carried out at the premises of the following companies:

(a) Community producers

Tecnimagen SA — Barcelona, Spain

Grundig AG — Nuremberg, Germany

Philips Consumer Electronics — Eindhoven, The Netherlands

Industrie Formenti Italia Spa — Lissone, Italy

Seleco Formenti Spa — Pordenone, Italy.

(b) Exporters/producers and related sales companies

[1] OJ L 272, 13.10.2001, p. 37.

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Turkey

Profilo Telra Elektronik Sanayi ve Ticaret AS, Istanbul (including the related sales companies (i) PRO-EKS Dis Ticaret AS, Istanbul, (ii) Savunma Gerecleri AS, Istanbul, (iii) Elektrotem Elektronik Aletler Limited, Istanbul)

Beko Elektronik AS, Istanbul (including the related sales company Ram Dis Ticaret, Istanbul)

Vestel Elektronik Sanayi ve Ticaret AS, Istanbul (including the related sales companies: (i) Vestel Dis Ticaret AS, Istanbul, (ii) Vestel Dis Ticaret AS Ege Serbest Bolge SB, Izmir, (iii) Vestel Bilisim Teknolojileri Sanayi ve Ticaret AS, Istanbul, iv) Vestel Komunikasyon Sanayi ve Ticaret AS, Izmir)

Izmir Elektronik Sanayi ve Ticaret AS, Izmir

Thailand

Thomson Television Thailand, Pathumthani, Thailand (including the related sales company European Audio Products (HK) Ltd, Shatin, New Territory, Hong Kong)

(c) Related importers in the Community

— Importers related to the Turkish exporters

Beko (UK) Ltd, Watford, United Kingdom

Beko Electronics Espana SL, Barcelona, Spain

Vestel Holland BV, Rotterdam, Netherlands

Vestel Iberia, Madrid, Spain

— Importers related to Thomson Television Thailand

Thomson Multimedia Marketing France SA, Boulogne, France

Thomson Multimedia Sales Spain, SA, Madrid, Spain

Thomson Multimedia Sales UK Ltd, West Malling, Kent, United Kingdom

(d) Unrelated importers in the Community

Alba plc — Barking, United Kingdom.

(18) The investigation of dumping in the review investigations covered the period from 1 January 1999 to 31 December 1999 (review IP). The investigation of dumping covered the period from 1 July 1999 to 30 June 2000 (IP) as far as the anti-dumping proceeding against Turkey is concerned. The examination of trends in the context of the injury analysis for both investigations covered the period from 1995 up to 30 June 2000 (period considered), to take account of the existence of two differing investigation periods for dumping.

6. **Market economy treatment ('MET') and individual treatment**

(19) Pursuant to Article 2(7)(b) of the basic Regulation, one Chinese company, Xiamen Overseas Chinese Electronic Co., Ltd (the applicant company), requested MET and individual treatment and was required to complete a claim form detailing all the relevant information required. After consulting the Advisory Committee, it was decided not to grant MET to the applicant company on the basis that the applicant company did not meet all of the criteria set in Article 2(7)(c) of the basic Regulation.

(20) After this decision was taken, it was found that the applicant company had not actually exported any CTVs to the Community during the review IP. Initially, it reported in its claim form and in its questionnaire response certain CTVs exports to the Community. However, at a subsequent stage of the investigation it was found that these CTVs were never released into free circu-

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lation in the Community and that their final destination was a third country. Thus, in the absence of any CTVs exports to the Community during the review IP, the individual treatment request of the applicant company became irrelevant.

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(a) *Product description*

(21) The product concerned is CTVs 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. This product is currently classifiable within CN codes ex 8528 12 52, 8528 12 54, 8528 12 56, 8528 12 58, ex 8528 12 62 and 8528 12 66.

(22) Regulation (EC) No 710/95 excluded from the definition of the product concerned D2MAC sets and high definition televisions (HDTVs) since these products, which introduced qualitative technical changes, were at that time still in the development stage and were not available to the public except in very limited circumstances. Regulation (EC) No 2584/98 confirmed that these products should not be included in the scope of the product definition, since the investigation had not brought to light any new factual evidence, which would justify their inclusion. The same was the case in the present investigation, in which no new evidence justifying their inclusion was submitted. It is therefore concluded that D2MAC sets and high definition televisions are not covered by the present investigations.

(b) *Arguments of the parties*

(23) One importer requested the exclusion from the scope of the investigation of the so-called internet-CTVs which integrate an internet modem and computer operating system allowing access to the internet via the TV screen and controlled by a remote control unit which comprises a full keyboard. In the internet-CTV all the necessary modem circuitry is integrated into the body of the television set, instead of having a separate set top box.

(24) The importer argued that the exclusion was warranted in view of the differences in basic physical and technical characteristics between CTVs and internet-CTVs and in view of the different consumer perceptions of both products.

(25) The differences in the basic physical characteristics of internet-CTVs consisted in the additional internet components in the CTV which represent around 60 % of the total costs of the internet-CTV and a keyboard integrated in the remote control.

(26) Regarding the basic technical characteristics it was argued that the internet CTV sends and receives data not via broadcasting technology but via the telephone system using the modem. Furthermore, it employs technology which is different from the basic technology in CTVs; it incorporates a system for secure access to the internet, secure socket layer (SSL), a browser technology for the display of internet graphics on standard resolution CTVs and a modem that translates digital signals into analogue ones that can travel over a standard phone line.

(27) It was alleged that the different consumer perception of the product compared to standard CTVs was proven by the fact that internet-CTV is sold at retail level at more than twice the price of a CTV. Furthermore, it was argued that the integrated internet circuit elements imparts an element to a standard CTV which is a distinct additional quality. In support of this it quotes the case on video cassette recorders from Japan and Korea (VCRs) where it was concluded that in cases where a VCR is

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combined in one housing with a CTV, this combination has to be regarded as a different product.

(28) The applicant claimed that such exclusion was not warranted. It disputed the allegation that internet-CTVs had different basic physical and technical characteristics and argued that the internet part was comparable to the teletext in a CTV. Internet should be considered as a more modern form of teletext and therefore an additional feature of CTVs rather than a new product without the basic characteristics of CTVs. Since CTVs with teletext were covered by the investigation, CTVs with an internet connection should also be covered by the investigation.

(29) The applicant also questioned the conclusions reached by the importer regarding the different consumer perception arguing that the internet-CTVs had only been recently launched. It furthermore argued that the high percentage of costs represented by the Internet was due to the recent introduction of internet-CTV. It provided evidence showing that at the time of the introduction of the teletext facility in CTVs, the costs of teletext was substantially higher than at present.

(30) It contested the example of the VCRs arguing that in a VCR/CTV combination the VCR has an independent function, whereas the internet function does not work without the CTV, but is rather an addition to the CTV.

(c) *Findings of the investigation*

(31) The investigation showed that an internet-CTV is a product which combines in the same housing two technologies producing two sufficiently distinct end uses: on the one hand it allows the sending and receiving of electronic mail and accessing the world wide web while on the other it allows viewing TV programmes. Given this additional function, the CTV does not necessarily determine the character of the entire product but it is rather the internet function which takes predominance over the CTV. Indeed, such a combination contains a specific element which imparts an additional function to the internet CTV and allows it to be considered as different for the purpose of the present anti-dumping investigation.

(32) The above conclusions have been reached on the basis of the information gathered in the course of the investigation and relating to the IP. Given the early stage of development of this product and the fact that they were only available to the public in small quantities, it cannot be excluded that the conclusions reached in the present investigations would need to be revised in light of further developments on this product in the future. Thus, should a review of the measures in place be carried out in the future, the situation of these products would have to be re-examined, on the basis of the information gathered in that investigation, in order to determine whether such exclusion would still be justified.

(33) Furthermore, it was found that despite differences in screen sizes, in sound system, in broadcast system, in screen type and format and in picture frequence, all CTVs shared the same basic physical and technical characteristics and the same use and form therefore one product.

2. **Like product**

(34) In the course of the investigations, it was established that CTVs originating in or exported from the countries concerned and destined for the Community, share the same basic physical and technical characteristics and end-uses as CTVs manufactured and sold by the Community industry on the Community market. It was also found that there were no differences between the CTVs produced and sold in the countries concerned, including Turkey which was used as an analogue country, and those exported to the Community, which were both identical to the

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CTVs manufactured and sold by the Community industry on the Community market. These products are therefore alike within the meaning of Article 1(4) of the basic Regulation.

C. ORIGIN

1. General

(35) CTVs frequently incorporate components and parts originating in countries other than the country of manufacture or assembly of the finished product, with the result that CTVs may be considered as originating in a country other than the country of manufacture or assembly. Thus, in accordance with the Community's consistent practice and pursuant to Article 1(3) of the basic Regulation, the examination of the origin of the CTVs exported from the countries concerned was part of the anti-dumping investigations.

(36) The issue of origin had already been examined in detail in Council Regulation (EC) No 710/95, where the application of the rules of origin led to a redistribution of the import volumes of CTVs between the different countries to reflect the origin established during the investigation.

(37) For the purposes of the anti-dumping legislation, the origin of the products concerned is determined in accordance with the non-preferential rules of origin, as provided by Article 22 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ([1]). This is also the case regarding Turkey, where Decision No 1/95 of the EC-Turkey Association Council of 22 December 1995 on implementing the final phase of the Customs Union ([2]) has not established any derogation in this respect.

(38) In accordance with Article 39 and Annex 11 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ([3]), specific non-preferential rules of origin apply for CTVs. According to these rules, a CTV originates in the country where the added value of the assembly operations, and, if applicable, the incorporation of parts originating in the country of assembly represents at least 45 % of the ex-works price of the CTV. When the 45 % rule is not met, the CTV originates in the country of origin of parts whose ex-works price represents more than 35 % of the ex-works price of the CTV.

(39) It should be stressed that the findings set out below were established only for the purposes of the present anti-dumping investigation and more particularly for the purposes of determining the likelihood of continuation or recurrence of injurious dumping.

2. Exports from Turkey

(40) It is recalled that the Commission terminated the proceeding concerning CTVs originating in Turkey by Decision 2001/725/EC ([4]). The findings in the framework of the latter proceeding have shown that all CTVs exported from Turkey to the Community during the IP were declared as being of Turkish origin. (They were accompanied by a Single Administrative Document indicating that the CTVs originated in Turkey). They were also accompanied by an ATR certificate indicating that they were in

([1]) OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 2700/2000 of the European Parliament and of the Council (OJ L 311, 12.12.2000, p. 17).
([2]) OJ L 35, 13.2.1996, p. 1.
([3]) OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 444/2002 (OJ L 68, 12.3.2002, p. 11).
([4]) OJ L 272, 13.10.2001, p. 37.

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free circulation in Turkey. However, in the course of that investigation all Turkish companies stated that their CTVs were not of Turkish origin.

(41) When applying the specific non-preferential origin rules, it was established that the origin of all CTVs exported from Turkey to the Community during the IP was other than Turkish. In particular, it was found that for the exports of the investigated companies which correspond to all exports of CTVs from Turkey to the Community during the IP, the 45 % added value rule was not met.

(42) Since the 45 % added value rule was not met, the origin had to be determined on the basis of the 35 % value rule of the non-originating parts/materials. In these circumstances, the origin of the cathode-ray colour television picture tube (CPT) virtually determined the origin of the CTVs, since the ex-works price of the CPT represented, in almost all cases, at least 35 % of the ex-works price of the CTV. It should be noted that there is no production of CPTs in Turkey and, therefore, all CPTs were imported.

(43) On the basis of the 35 % value rule of the non-originating parts/materials, exports to the Community were found to have their origin in certain exporting countries subjected to the review investigations, the Community or other third countries not subject to any investigation.

(44) As for the CTVs exported from Turkey and originating in countries for which the anti-dumping measures in force are the subject of the present review (i.e. China, Korea and Malaysia), the quantities exported to the Community from Turkey have been considered as originating in those countries.

3. **Exports from Thailand**

(45) The investigation showed that for all exports by the cooperating exporting producer in Thailand to the Community during the review IP, the 45 % added value rule was not met. Therefore, the origin had to be determined on the basis of the 35 % value rule of the non-originating parts/materials. In this respect, it was also found that the origin of the CTVs would virtually be determined by the origin of the CPTs, which represented, in all but one case, at least 35 % of the ex-works price of the CTVs. The cooperating exporting producer did not use CPTs of Thai origin but of Korean and Malaysian origin. Furthermore, the company imported a significant quantity of the other materials input to the CTVs production. Accordingly, it was concluded that the CTVs exported from Thailand to the Community during the review IP by the cooperating exporting producer were not of Thai origin but they were found to originate in either Korea or Malaysia.

(46) On the basis of information available from Eurostat, it was established that all exports of CTVs from Thailand to the Community were made by the sole cooperating exporting producer in this country. In view of the above findings regarding the origin, all CTVs exported from Thailand to the Community were treated as originating in Korea and Malaysia for the purpose of the review investigations.

4. **Exports from China, Korea, Malaysia and Singapore**

(47) It should be noted that no cooperation was obtained from any exporting producers in Korea, Malaysia or Singapore. Furthermore, none of the Chinese companies reported any exports of CTVs to the Community during the review IP. Thus, it was considered that CTVs originating in these four countries were those reported in the Eurostat imports statistics as well as those exported from Turkey and Thailand which were found to be of Korean, Malaysian or Chinese origin.

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D. **DUMPING**

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

(48) No Chinese producer with exports of CTVs to the Community during the review IP cooperated in the investigation. However, one cooperating Turkish company, Vestel Elektronik Sanayi ve Ticaret AS, was found to be exporting significant quantities of CTVs of Chinese origin. It was, therefore, considered appropriate to calculate an individual dumping margin for this company.

(a) *Analogue country*

(49) Since the China is a non market economy country, an analogue market economy third country had to be selected for the establishment of normal value in accordance with Article 2(7) of the basic Regulation. For this purpose, the Notice of Initiation suggested Singapore, which was also the proposal made in the review request. Within the time limit specified in the relevant notice of initiation, certain Chinese companies objected to this approach and requested that the lowest normal value found in the other countries subject to the investigation be used. One Chinese company suggested the use of Malaysia, Thailand or Korea.

(50) However, producers in Korea, Singapore and Malaysia did not cooperate with the investigation. Regarding Thailand, the only company who cooperated with the investigation had no domestic sales of CTVs and, therefore, normal value could not be established for this country. Consequently, it was examined whether Turkey could be used as an analogue country for establishing normal value. Turkey was also proposed as an alternative option to Singapore in the review request.

(51) Turkey was considered as a reasonable choice of analogue country as it is a competitive market and it has significant production and domestic consumption. There are several domestic producers leading to strong internal competition and Turkish sales of the product concerned are significant. Three Turkish producers which cooperated in the framework of the investigation against Turkey, provided details concerning their domestic sales and cost of production.

(52) In these circumstances, the Commission decided to use Turkey as an analogue country. Since the IP of the investigation against imports of the product concerned originating in Turkey overlapped with the review IP for six months, normal value was established only for the common period of the two investigations, i.e. 1 July 1999 to 31 December 1999 (second half of the review IP), and dumping calculations were made for this period.

(b) *Normal value*

(53) Due to the high inflation rate in Turkey during the second half of the review IP, normal value was established for the shortest possible meaningful period, i.e. on a monthly basis, in order to eliminate the effects of inflation.

(54) Domestic sales were considered to be sufficiently representative in comparison with the export sales. In addition, the Commission services examined whether the domestic sales of each company could be considered as being made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation.

(55) This was done by establishing the proportion of domestic sales to independent customers, of each exported product model, sold in the ordinary course of trade on the domestic market during the second half of the review IP. For those product models where more than 80 % by volume was sold at a profit on the domestic market, and where the weighted average sales price was equal to or higher than the weighted average production cost, normal

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value, by product model, was calculated as the weighted average of all domestic sales prices of the type in question. For those product models where at least 10 %, but no more than 80 %, by volume, was sold at a profit on the domestic market, normal value, by product model, was calculated as the weighted average of the profitable domestic sales prices only, of the model in question.

(56) Given that domestic sales of the like product by the Turkish producers during the first half of the IP were found to be made in sufficient quantities and in the ordinary course of trade, normal value was based on the actual prices paid or payable for the corresponding product model, by independent customers in Turkey during the second half of the review IP.

(c) *Export price*

(57) The investigation showed that the exports of Chinese origin CTVs by the Turkish company concerned, via its related exporters in Turkey, were made both to unrelated and to related customers in the Community.

(58) Therefore, for those sales made to unrelated customers in the Community, the export price was established in accordance with Article 2(8) of the basic Regulation, on the basis of export prices actually paid or payable.

(59) For sales made via related importers, the export price was constructed on the basis of resale prices to independent customers. Adjustments were made for all costs incurred between importation and resale by that importer, including selling, general and administrative expenses (SG&A), and for the profit margin found in the investigation to have been attained by unrelated importers of the product concerned, in accordance with Article 2(9) of the basic Regulation.

(d) *Comparison*

(60) For the purposes of a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences which were claimed and demonstrated to affect price comparability in accordance with Article 2(10) of the basic Regulation. On this basis, adjustments were made where appropriate with regard to import taxes and indirect taxes, rebates, transport, insurance, handling, loading and ancillary costs, after sales costs, commissions and credit.

(61) A number of adjustments for differences in other factors, such as bad debt costs, finance costs due to differences in inventory levels, finance costs of import taxes and of indirect taxes, brand value allowance, advertising costs and SG&A of related domestic distributors were claimed. However, these claims were not accepted since it was not demonstrated that they affected price comparability.

(62) VAT related adjustments such as VAT interest on imports destined for domestic production and VAT financing of domestic sales, were claimed. In this respect, companies have the obligation to collect the tax on behalf of the State and to reimburse to it the amount due. VAT transactions do not affect the financial results (profits or losses) of companies. Instead, the VAT transactions affect either the current assets or the current liabilities as set out in their accounts. Moreover, and in relation to any financial costs associated to VAT transactions, due to their rolling nature, there is a constant flow of VAT transactions going both ways (payable and receivable) that in any given period offset each other. Thus, any substantial financial cost related to VAT transactions would under normal circumstances occur only at the early stages of an enterprise's life where its procurement needs are much higher than its sales activity. Claims related to finance costs for VAT, if any, should be considered as normal operational overheads and no adjustments should be made

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concerning such costs since they do not affect price comparability.

(63) Notional quantity discounts with the argument that, had domestic customers purchased the same quantities as the customers in the export market, then all the domestic customers would qualify for the maximum rebate given in the domestic market, were claimed. This claim could not be accepted since in accordance with Article 2(10)(c) of the basic Regulation quantity discounts can be considered for an adjustment only if they are actually given for differences in quantities and not on the basis of notional assumptions.

(64) A level of trade adjustment for original equipment manufacturer (OEM) sales was also claimed. However, it was found that prices on the domestic market for the same models of branded and OEM CTVs did not show a different pattern. Therefore, this claim could not be accepted since any such difference did not affect price comparability.

(65) The comparison between normal value and export price was made on an ex-works basis.

(e) *Dumping margin for the Turkish company exporting CTVs of Chinese origin*

(66) According to Article 2(11) of the basic Regulation, the monthly weighted average normal value by product model was compared with the monthly weighted average export price by product model. The dumping margin, expressed as a percentage of the cif price at Community frontier level duty unpaid for Vestel Elektronik Sanayi ve Ticaret AS, Turkey is 69,2 %.

(f) *Dumping margin for Chinese producers*

(67) For the non-cooperating Chinese exporting producers and for Chinese producers without exports during the review IP the level of dumping was determined on the basis of the facts available.

(68) In this respect, the normal value was established on the basis of the overall average domestic sales prices for all models of CTVs of the three cooperating Turkish producers during the first half of the IP. With regard to the export price, it was determined on the basis of facts available by reference to Eurostat, i.e. the weighted average cif value, adjusted for ocean freight and insurance, of imports from China for all models of CTVs during the second half of the review IP. The comparison of this normal value and export price showed that exports from China to the Community were dumped to a significant extent during that period. In fact, the dumping margin established was in excess of the residual dumping margin which was established during the previous investigation, i.e. 44,6 %.

(69) Moreover, Poetic gave, in its request for review, *prima facie* evidence that significant dumping takes place in respect of imports originating in China. In fact, the dumping margins alleged in the review request were also in excess of the residual dumping margin established in the previous investigation.

(70) In these circumstances, there was no reason to believe that the dumping margin for China would be less than the residual dumping margin established during the previous investigation. Pursuant to Article 18 of the basic Regulation, therefore, a dumping margin of 44,6 % has been attributed to all producers in China.

2. **Korea**

(71) Given that no exporting producer cooperated in the investigation, the Commission examined the facts available to it for determining the level of dumping for Korea.

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(72) In this respect, the normal value was established on the basis of the information provided by the Korean producers for the sampling exercise, i.e. the weighted average value of the product concerned sold in the domestic market during the review IP. With regard to the export price, it was determined on the basis of facts available by reference to Eurostat, i.e. the weighted average cif value, adjusted for ocean freight and insurance, of imports from Korea for all models of CTVs during the review IP. The comparison of this normal value and export price showed that exports from Korea to the Community were dumped to a significant level during the review IP. In particular, the dumping margin established was in excess of the residual dumping margin which was established during the previous investigation, i.e. 21,2 %.

(73) Moreover, Poetic gave, in its request for review, *prima facie* evidence that significant dumping takes place in respect of imports originating in Korea. In fact, the dumping margins alleged in the review request were also in excess of the residual dumping margin established in the previous investigation.

(74) In these circumstances, there is no reason to believe that the dumping margin for all the non-cooperating companies would be less than the residual dumping margin established during the previous investigation. Pursuant to Article 18 of the basic Regulation, a dumping margin of 21,2 % was attributed to all non-cooperating producers in Korea.

(75) For the same reasons, the same dumping margin of 21,2 % was attributed to Thomson Television Thailand, Thailand and Beko Elektronik AS, Turkey, which were found to export CTVs of Korean origin during the IP. A comparison of the overall average export price of these CTVs with an overall normal value established on the basis of information concerning domestic prices of similar CTVs types sold in Korea, as derived from the review request, confirmed that significant dumping, in line with the abovementioned margins, was taking place.

3. **Malaysia**

(76) Given that no exporting producer cooperated in the investigation, the Commission examined the facts available to it for determining the level of dumping for Malaysia.

(77) In this respect, and given that no Malaysian exporting producer provided information for the sampling exercise, it was considered appropriate to use information regarding Korea to establish normal value for Malaysia. In this respect, the normal value was established on the basis of the information provided by the Korean producers for the sampling exercise, i.e. the weighted average value of the product concerned sold in the Korean market during the review IP. Regarding the export price, it was determined on the basis of facts available by reference to Eurostat, i.e. the weighted average cif value, adjusted for ocean freight and insurance, of imports from Malaysia for all models of CTVs during the review IP. The comparison of this normal value and export price showed that exports from Malaysia to the Community were dumped to a significant level during the review IP. In fact, the dumping margin established was in excess of the residual dumping margin which was established during the previous investigation, i.e. 25,1 %.

(78) In these circumstances, there is no reason to believe that the dumping margin for all the non-cooperating companies would be less than the residual dumping margin established during the previous investigation. Pursuant to Article 18 of the basic Regulation, a dumping margin of 25,1 % was therefore attributed to all non-cooperating producers in Malaysia.

(79) For the same reasons, the same dumping margin of 25,1 % was attributed to Thomson Television Thailand, Thailand and Beko Elektronik AS, Turkey, which were found to export CTVs of

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Malaysian origin during the IP. A comparison of the overall average export price of these CTVs with an overall normal value established on the basis of information concerning domestic prices of similar CTVs types sold in Malaysia, as derived from the review request, confirmed that significant dumping, in line with the abovementioned margins, was taking place.

4. **Singapore**

(80) Given that no exporting producer cooperated in the investigation, the Commission examined the facts available for determining the level of dumping for Singapore. It is noted that the volume of exports to the Community as derived from Eurostat statistics was very low.

(81) The normal value and the export price was established on the basis of the information concerning domestic sales and export sales to the Community provided by one Singaporean producer for the sampling exercise. The comparison of an overall average normal value with an overall average export price thus established showed significant dumping.

(82) In these circumstances, there is no reason to believe that the dumping margin for all the non-cooperating companies would be less than the residual dumping margin established during the previous investigation. Pursuant to Article 18 of the basic Regulation, therefore, a dumping margin of 24,6 % was attributed to all non-cooperating producers in Singapore.

5. **Thailand**

(83) Only one company in Thailand cooperated in the proceeding, i.e. Thomson Television Thailand. However, the exports of this company were found not to be of Thai origin and are dealt with as far as the level of dumping is concerned in recitals 71 to 75 and 76 to 79. According to the information available, i.e. Eurostat, the non-cooperating producers did not export CTVs of Thai origin to the Community during the review IP. Therefore, there was no data available in order to determine a new level of dumping for Thailand.

E. **CONTINUATION OR RECURRENCE OF DUMPING**

(84) In accordance with Article 11(2) of the basic Regulation, it was examined whether the expiry of the measures in force would be likely to lead to a continuation or recurrence of dumping.

(85) In order to determine whether there was a likelihood of continuation of dumping, the Commission investigated the existence of current dumping on exports from the countries concerned to the Community on the grounds that if dumping was taking place, then it was reasonable, in the absence of any information to the contrary, to consider that it would be likely to continue in the future.

(86) As to the examination of the likely recurrence of dumping, i.e. the likelihood of increased exports at dumped prices should the current measures be repealed, which is necessary when the volumes from the countries concerned are relatively small, the Commission investigated whether future dumping was likely and whether any such dumping would take place in significant quantities.

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

(87) As previously mentioned, no Chinese cooperating company has exported CTVs to the Community during the review IP. However, according to the information available from Eurostat, CTVs were exported from this country during the review IP. In accordance with the information available, as set out in recital 70, it was confirmed that the level of dumping for the CTVs

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originating in and exported from this country continued to be significant.

(88) In addition, the investigation showed that a significant volume of CTVs exported to the Community from Turkey originated in the China. It was found that these CTVs were exported from Turkey at significantly dumped prices.

(89) Moreover, the comparison of normal value established in the analogue country, Turkey, with the prices of Chinese exports to third countries showed that these exports were made at considerably dumped prices.

(90) According to information submitted by the cooperating Chinese companies, the production capacity for CTVs in the China has increased since 1998, whilst domestic consumption was not able to absorb production. According to this information, there are significant spare production capacities of CTVs for export in the China as almost half of the existing capacity, representing around 50 % of the Community market, is unused. It is therefore considered most likely that, should measures be repealed, the dumped exports of Chinese CTVs to the Community will increase significantly.

(91) Therefore, there is no reason to believe that dumping will not continue if the measures in force were repealed.

2. **Korea**

(92) As previously mentioned, no producers in Korea cooperated in the investigation. Moreover, according to data derived from Eurostat, CTVs were exported from that country in relatively large quantities during the review IP. In accordance with the information available as set out in recitals 74 and 75, the Commission confirmed that the level of dumping for the CTVs exported from that country continued to be significant.

(93) Furthermore, in accordance with the information obtained by the cooperating producers in Turkey (Beko Elektronik AS) and Thailand (Thomson Television Thailand), the investigation showed that CTVs sales originating in Korea and exported from these countries were made at dumped prices.

(94) According to the information available, i.e. the review request, large capacities for CTVs production exist in Korea and the domestic consumption absorbs less than 15 % of the production which leaves significant scope for increased exports. Moreover, while this capacity remained stable between 1996 and 1999, the domestic consumption in the same period decreased by 23 %. Although there are expectations that the market demand in Korea will grow moderately, there remain significant free production capacities of CTVs in Korea. As the origin of the CPTs is often decisive in determining the origin of the CTVs, the production capacities of CPTs in Korea were examined and were also found to be significant.

(95) In conclusion, the facts available indicate the existence of significant capacities which could be directed to the Community should the current measures be repealed. In these circumstances, there is no reason to believe that the repeal of measures would not lead to continuation of dumping in significant quantities from Korea.

3. **Malaysia**

(96) As previously mentioned, no producer in Malaysia cooperated in the investigation. Moreover, Eurostat shows that certain quantities of CTVs were exported from that country during the review IP. In accordance with the information available, as set out in recitals 76 to 79, the Commission confirmed that the level of dumping for the CTVs exported from this country continued to be significant.

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(97) Furthermore, in accordance with the information obtained by the cooperating producers in Turkey (Beko Elektronik AS) and Thailand (Thomson Television Thailand), the investigation showed that significant CTVs sales originating in Malaysia and exported from these countries were made at dumped prices.

(98) According to the information available, in particular the review request, large capacities for CTVs production exist in Malaysia. As the origin of the CPTs is often decisive in determining the origin of the CTVs, the production capacities of CPTs in Malaysia were examined and were also found to be significant.

(99) In conclusion, there is no reason to believe that the repeal of measures would not lead to continuation of dumping in significant quantities from Malaysia.

4. **Singapore**

(100) Given the very low volume of dumped exports during the review IP, it was considered appropriate to examine the likelihood of recurrence of dumping.

(101) Since the imposition of anti-dumping measures in 1995, imports of CTVs originating in Singapore decreased from around 36 000 sets to around 2 000 sets, holding a share of the Community market which decreased from 0,1 % to close to 0 %. This decrease in the volume of imports should be seen in the light of the fact that two exporting producers had an anti-dumping duty of 0 %. Furthermore, exports of Singaporean CTVs to other main CTV markets, such as the United States of America were also at very low levels (35 000 sets in 1999). It is therefore reasonable to conclude that the decrease in the volume of exports from Singapore is not due to the imposition of anti-dumping measures on this country, but rather to the focus of domestic production on local markets.

(102) Information provided by the applicant in the request for review shows that production in Singapore substantially decreased from an estimated 4,5 million sets in 1995 to an estimated 1,3 million sets in 1999. Capacity was also reduced due to the discontinuation of production by several Singaporean producers.

(103) In view of the above, it is not expected that the repeal of the anti-dumping measures in force would lead to a recurrence of dumping in significant quantities from Singapore.

5. **Thailand**

(104) Although several CTVs producers exist in Thailand, only one which had exported CTVs to the Community during the review IP cooperated in the investigation. However, as mentioned above, the CTVs exported to the Community by this producer were found to be dumped but being of Korean and Malaysian origin. According to the information available, i.e. the review request, large capacities for CTVs production exist in Thailand and the domestic consumption absorbs less than 16 % of the production which leaves significant scope for increased exports. Moreover, while this capacity increased by 17 % between 1996 and 2000, domestic consumption in the same period decreased by 30 % leaving, thus, significant free production capacities of CTVs in Thailand.

(105) As the origin of the CPTs is often decisive in determining the origin of the CTVs, the production capacities of CPTs in Thailand were examined and were also found to be significant.

(106) There are, therefore, sound reasons to believe that the repeal of measures would lead to a recurrence of dumping in significant quantities from Thailand. Regarding the level of dumping, there are no reasons to believe that it would be less than the residual margin established for the non-cooperating exporting producers (i.e. 33,6 %) and 14,7 % for Thomson Television Thailand as found in the context of the previous anti-dumping investigation.

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F. COMMUNITY INDUSTRY

1. Community production

(107) In the Community CTVs are manufactured by the following operators:

— five producers who lodged and/or supported the complaint and cooperated during the investigation: Industrie Formenti (IT), Grundig (D), Philips Electronic Consumers (NL), Seleco Formenti (IT) and Tecnimagen (E),

— one producer who lodged the complaint but finally did not cooperate: AR Systems (E). The company was informed of its exclusion from the Community industry and raised no objections,

— six producers, which were not complainants, submitted some basic information, while not fully replying to the questionnaire, did not oppose the proceeding: Great Wall (F), Matsushita Panasonic (UK) Mivar (I), Sanyo (E), Semitech Turku (FI), and Thomson Multi Media (F). The latter opposed the continuation of the anti-dumping measures,

— other producers which did not cooperate but did not oppose to the procedure.

(108) It was assessed whether the abovementioned companies could be considered as constituting the Community production, within the meaning of Article 4(1) of the basic Regulation.

(109) One non complainant Community producer was found to be related to one exporter concerned and to be importing itself CTVs originating in two of the countries concerned. In accordance with Article 4 of the basic Regulation it was examined whether this producer was were merely supplementing their Community production with an additional activity based on imports or it was rather an importer with relatively limited additional production in the Community.

(110) It was found that the core of the activities of this company (i.e. production sites, headquarters and R&D) lies within the Community and therefore this company should not be excluded from the definition of the Community production. As to other Community producers which neither participated in the investigation nor provided any information, there were no indications to conclude that any of these producers should not belong to the Community production.

(111) One Turkish exporter claimed that one complainant Community producer should be excluded from the Community production, considering that it had moved the bulk of its CTV production outside the Community, i.e. to its factories in Poland and Hungary. It should firstly be noted that the basic Regulation merely allows for the exclusion of Community producers which are related to the exporters concerned or are themselves importers of the allegedly dumped product. Nonetheless, this is not the case here, since the complainant Community producer in question produces the product concerned in the Community and still has the core of its activities in the Community (i.e. consumer electronics, production sites, headquarters and R&D) and should therefore not be excluded from the definition of the Community production.

(112) It is therefore considered that all the abovementioned operators are Community producers and thus constitute the Community production within the meaning of Article 4(1) of the basic Regulation.

2. Definition of the Community industry

(113) The five cooperating Community producers, i.e. Industrie Formenti, Grundig, Philips Consumer Electronics, Seleco Formenti and Technimagen, fulfil the requirements of Article 5(4) of the basic Regulation, since they account for 30 % of the

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total Community production of CTVs. They are therefore deemed to constitute the Community industry within the meaning of Article 4(1) of the basic Regulation and will be referred to as the 'Community industry'.

G. ANALYSIS OF THE SITUATION OF THE COMMUNITY CTV MARKET

1. Preliminary remark

(114) It should be noted that Seleco Formenti was declared bankrupt in April 1997 and was purchased by Industrie Formenti in March 1998. The new entity re-started CTV production in October 1998. Thus, for reason of comparability of the trends pertaining to the situation of the Community industry, the data provided by Seleco Formenti has been excluded from the total of the Community industry.

(115) As already mentioned in recital 18 the analysis of trends relevant for the assessment of injury covered the period 1995 to 30 June 2000 (period considered). In this respect it is worth noting that the review IP corresponds to the year 1999.

2. Apparent Community consumption

(116) Apparent consumption was based on the combined volume of sales in the Community market by the Community industry and by other cooperating Community producers as reported in their questionnaires replies, the volume of sales provided by certain other Community producers, the estimated volume of sales by other non-cooperating Community producers as reported in the request for a review and the information on the volume of total imports as reported by Eurostat, cross-checked where possible by reference to the information provided by cooperating exporters.

(117) Consumption of CTVs is influenced by major sporting event such as world and European football championships and Olympic games, when sales of CTVs generally increase.

(118) Over the period considered consumption of CTVs in the Community increased by 31 % from 24,7 million in 1995 to 24,5 million in 1996, to 27,7 million in 1997, to 31 million in 1998, to 30,7 million in 1999 and to 32,4 million during the IP.

3. Imports from the countries concerned

(119) In view of the above findings concerning origin, in particular the lack of imports of CTVs originating in Thailand, the assessment of imports from the countries concerned will be limited to imports originating in China, Korea, Malaysia and Singapore.

(a) *Volume of the imports concerned and market share*

(120) The volume of imports originating in the countries concerned during the IP also includes those CTVs which were found to originate in a country concerned different from that of exportation as explained above. In order to have comparable trends, in the case of imports of CTVs originating in the countries concerned but exported from other countries, the ratio of CTVs originating in the countries concerned found for the IPs was applied for the previous years.

(121) Total imports concerned increased by 73 %, going from 1,4 million in 1995, to 1,2 million in 1996, to 1,3 million in 1997, to 1,8 million in 1998, to 2 million in 1999 and to 2,5 million in the IP.

(122) The share of the Community market of the imports concerned evolved from 5,6 % in 1995 to 4,8 % in 1996, 4,6 % in 1997, 5,7 % in 1998, 6,6 % in 1999 and 7,5 % during the IP.

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(b) *Prices of the dumped imports*

(i) Evolution of prices

(123) According to data supplied by Eurostat and cooperating exporters, the weighted average unit import prices (duties unpaid) in the IP amounted to EUR 101 in the case of imports originating in the China, EUR 123 in the case of imports originating in the China but exported from Turkey, EUR 180 in the case of imports originating in Korea, EUR 115 for imports originating in Malaysia, EUR 82 for imports originating in Malaysia and exported from Thailand and EUR 170 for imports originating in Singapore.

(124) These prices are the result of the mix of all models and screen sizes. If only the small screen size segment is considered (14 inches), which represents around 50 % of all imports into the Community; the weighted average unit import prices in the IP amounted to EUR 90 for China, EUR 86 for imports originating in China and exported from Turkey, EUR 151 for Korea, EUR 93 for Malaysia, EUR 82 for imports originating in Malaysia and exported from Thailand and EUR 147 for Singapore.

(ii) Price undercutting

(125) In order to examine the price behaviour of Chinese imports in the Community market, the prices of the imports concerned were compared to those of the sales made by the Community industry in the Community market, net of all rebates and discounts, at the same level of trade. In the case of CTVs exported from Turkey and originating in the China, Korea and Malaysia, this examination was done on the basis of data pertaining to a period of six months, since as mentioned above the investigation periods of both proceedings only overlapped from 1 July 1999 to 31 December 1999. The import prices were at the cif Community frontier level and were duly adjusted for customs and anti-dumping duties paid and post-importation costs. The prices of the Community industry were those to the first unrelated customer at an ex-works level.

(126) In view of the large number of models, the CTVs sold in the Community market were categorised according to those features considered to have the greatest impact on the cost of CTVs, namely screen size, screen format, screen type, picture frequency, sound, teletext and TV system. For those countries where no cooperation was obtained from the exporting producers, price comparisons were carried out on the basis of the information available, i.e. data obtained from Eurostat, taking into account screen sizes.

(127) The differences in prices, when expressed as a percentage of the Community industry's prices showed margins of price undercutting ranging between 1,9 % and 34,3 % for all countries concerned with the exception of Singapore, for which no price undercutting was found.

4. **Economic situation of the Community industry**

(a) *Preliminary remark*

(128) The situation of the Community industry should be seen in the light of the fact that in 1997 the largest Community producer closed some production facilities of CTVs and relocated them to Poland, which is in itself a consequence of a critical situation of the Community industry on the Community market.

(b) *Production, capacity and utilisation*

(129) The production of the Community industry evolved from 6,5 million in 1995, to 6,6 million in 1996, 6 million in 1997, 6,1

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million in 1998, 5,9 million in 1999 and 6 million during the IP i.e. an overall decrease of seven percentage points.

(130) The Community industry production capacity evolved from 7,5 million in 1995 to 7,7 million in 1996, to 7,3 million in 1997, to 7 million in 1998, to 7,1 million in 1999 and during the IP, with an overall decrease of four percentage points during the whole period.

(131) The Community industry's capacity utilisation remained stable, evolving from 87 % in 1995 to 85 % in 1996, 82 % in 1997, 86 % in 1998, 83 % in 1999 and to 85 % in the IP.

(c) *Stocks*

(132) The level of stocks by the Community industry went from around 500 000 in 1995, to around 400 000 in 1996 and 1997, to around 500 000 in 1998 and to around 400 000 in 1999. With the exception of 1998, the volume of stocks remained relatively stable over the period considered, both as a percentage of production volume (7 %) as well as a percentage of sales volume (8 %).

(d) *Sales volume and market share*

(133) The sales volume of the Community industry to unrelated customers in the Community evolved from 5,9 million in 1995 and 1996, to 5,4 million in 1997 and 1998, to 5,3 million in 1999 and 5,5 million during the IP.

(134) Sales decreased by 7 % between 1995 and the IP. They remained stable between 1995 and 1996 and decreased by 8 % between 1996 and 1997. Between 1997 and the IP, sales increased by 3 %.

(135) The Community industry's share of the Community market went from 24 % in 1995 to 17 % during the IP, which corresponds to a decrease of seven percentage points.

(e) *Growth*

(136) While Community consumption increased by around 30 % over the period considered, the sales volume of the Community industry decreased by around 7 % and the volume of imports concerned increased by 73 %. Despite the growth in consumption, the Community industry did not increase its share of the Community market, which went from 24 % in 1995 to 17 % in the IP. Thus, the Community industry could not fully benefit from the growth of the market.

(f) *Sales prices and factors affecting Community prices*

(137) CTVs are progressively becoming a mature product, where prices are eroded regularly. The erosion in prices is more evident in the small screen sizes, with a limited number of features and generally used as second or third set in households.

(138) The main cost element for CTVs is the price of the CPT, often representing between 40 % and 60 % of the price of CTVs. In this respect, certain Community producers indicated the existence of a shortage of CPTs in the Community market during the period considered, especially in 1999 and the IP. Moreover, several Community producers also indicated that given the fact that a part of CPTs incorporated in CTVs manufactured in the Community is purchased in US dollars, the average cost of CPTs increased in 1999 and during the IP for Community producers due to the development of exchange rates.

(139) Weighted average unit prices of the Community industry to unrelated customers went from EUR 300 in 1995 to EUR 302 in 1996, EUR 306 in 1997, EUR 320 in 1998, EUR 309 in 1999 and EUR 319 during the IP. The average sales prices do

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not reveal a price erosion, because it is the result of the product mix of types sold.

(140) However, the price erosion is evident if the average sales prices per screen sizes are examined. For instance the weighted average sales price of 14-inch CTVs by the Community industry decreased from EUR 105 in 1999 to EUR 102 during the IP. Those of 21-inch CTVs decreased from EUR 172 to EUR 168 whereas those of 28-inch CTVs decreased from EUR 380 to EUR 350.

(141) In conclusion, the increase in the weighted average sales prices by the Community industry is the result of a change in the product mix, towards those models with a higher value added.

(g) *Employment*

(142) Employment of the Community decreased by 20 % during the period examined, evolving from 6 500 employees in 1995, to 6 000 employees in 1996, to 5 600 employees in 1997, to 5 000 employees in 1998, to 5 100 in 1999 and to 5 200 employees during the IP.

(h) *Productivity*

(143) Productivity of the Community industry increased from 1 000 units per employee in 1995 to 1 100 in 1996 and 1997, 1 200 in 1998 and 1 150 in 1999 and in the IP, with an overall growth of 16 %.

(i) *Wages*

(144) Wages of the Community industry per employee remained stable in 1995 and 1996, increased by 2 % in 1997, by 1 % in 1998 and by a further 7 % in 1999.

(j) *Investments*

(145) Investments by the Community industry related to CTVs increased from EUR 48 million in 1995, to EUR 52 million during the IP, i.e. an increase of 10 %. Investments represented around 2 % of the turnover. With the exception of 1996 and 1997, the level of investments by the Community industry remained relatively stable during the period considered. Investments made by the Community industry in the IP consisted mostly in the setting up of automatic storage facilities.

(k) *Profitability*

(146) The return on net sales made by the Community industry in the Community market, before taxes, evolved from –2,7 % in 1995 to +1,3 % during the IP. Following restructuring efforts, the break-even was reached in 1996. The profitability of the Community industry improved in 1997, coinciding with further restructuring through the relocation of part of the production of the main Community producer to Poland. In 1998 the profitability remained at the same level, due to an increase in the sales prices, coinciding with important sporting events such as the world football championship. Between 1998 and 1999 profitability deteriorated, due to a decrease in sales prices. Between 1999 and the IP profitability improved, due to an increase in sales prices resulting from a change in the product mix, although it remained at a low level.

(l) *Cash flow, return on investments and ability to raise capital*

(147) Cash flow of the Community industry calculated as the profit before taxes including non-cash items, after a recovery in 1997, decreased progressively until the IP.

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(148) Concerning the return on investments, it was around 15 % in 1995, negative in 1996, clearly positive in 1997 and 1998, slightly positive in 1999 and during the IP.

(149) None of the companies constituting the Community industry indicated any particular difficulties to raise capital.

(m) *Magnitude of the dumping margin and recovery from past dumping*

(150) As concerns the impact on the Community industry of the magnitude of the actual dumping margin, given the volume and the prices of the imports from the countries concerned, this impact cannot be considered to be negligible. The situation of the Community industry improved in the period considered. However, it did not fully recover from past dumping and continues to be weak.

5. **Conclusion**

(151) After the imposition of measures in 1995, the situation of the Community industry improved, and by 1997, the year in which significant restructuring took place, its profitability reached a satisfactory level.

(152) However, after 1998, the situation of the Community industry deteriorated, in particular in terms of profitability which decreased to 1,3 % in the IP. The poor profitability in 1999 was due to a decrease in the sales prices, which were insufficient to cover the increasing costs of the Community industry. In the IP, despite an increase in the prices, costs increased above prices, mostly due to an increase in the prices of CPT, the main input in the production of CTVs, and to the pressure exerted on prices by imports, thus preventing the profitability of the Community industry from improving to the levels in 1997 and 1998.

(153) Furthermore, despite an increase in Community consumption (31 % over the period considered), the Community industry did not benefit from this growth of the market and lost market share, which dropped from 24 % in 1995 to 17 % in the IP.

(154) In view of the above it is concluded that the situation of the Community industry improved as from 1995 but continues to be weak.

6. **Impact of the imports concerned**

(155) The investigation has shown that, despite the existence of anti-dumping measures; imports from the countries concerned have increased by 73 % over the period considered, whereas consumption only increased by 31 %. The biggest increase took place between 1997 and 1998, when imports rose by 42 %, coinciding with the sharpest increase in consumption (+12 %). The share of the Community market held by the imports concerned increased from 5,7 % in 1995 to 7,5 % in the IP.

(156) Export performance has varied between the countries concerned. Imports originating in Singapore have decreased over the period considered, holding a share of the Community market close to 0 % in the IP. Imports originating in China increased substantially, the increase being attributable to the imports of CTVs originating in China exported from Turkey. The Chinese market share rose from 1,2 % in 1995 to 3,9 % during the IP. Imports originating in Korea increased substantially between 1998 and 1999 and their market share rose from 0,4 % in 1995 to 2 % during the IP. Imports originating in Malaysia decreased. Their market share decreased from 3,9 % to 1,6 %.

(157) Regarding the prices of the imports concerned, with the exception of those originating in Singapore, they undercut those of the Community industry during the IP. Furthermore, the imports concerned exerted a pressure on the prices of the Community

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industry which prevented them from reflecting the increased costs of the Community industry especially in 1999 and in the IP. Thus, the price pressure exerted by the countries concerned contributed to the deterioration of the profitability of the Community industry.

7. **Import volumes and prices from other third countries**

(158) Imports from other third countries have been established on the basis of Eurostat data and also include CTVs exported from Turkey but originating in any of these third countries, according to the findings on origin for the IP. It should be noted that Eurostat figures, which were the only information available, may not reflect the actual origin of CTVs imported into the Community from other third countries.

(159) The volume of CTV imports from other third countries increased by more than 800 % over the period considered, from 1 million units in 1995 to 8,9 million in the IP. The main exports originated in Poland (from 401 000 in 1995 to 5,3 million during the IP), Hungary (from 115 000 to 1,6 million), Lithuania (from 114 000 to 920 000) and the Czech Republic (from 2 000 to 660 000).

(160) With regard to their share of the Community market, it rose from 4,2 % in 1995 to 27,3 % in the IP, of which Poland hold 16,4 %, Hungary 4,8 %, Lithuania 2,8 %, Czech Republic 2 % and other exporters 1,3 %.

(161) With regard to the prices of these imports, those originating in Poland and Lithuania are below those of the Community industry and along the lines of those of some of the countries concerned. It cannot therefore be excluded that these imports have also contributed to the stagnation of the sales and market share by the Community industry and to the price depression and decreasing profitability in the IP.

(162) In conclusion, imports from other third countries increased significantly during the period considered, well above the increase in apparent consumption and above the increase in the volume of imports from the countries concerned.

H. **LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY**

1. **Analysis of the situation of the exporting producers from the countries concerned**

(a) ***China***

(163) In the examination of the likelihood of continuation or recurrence of injury account was taken of CTVs originating in China whether exported from China or from other countries, such as Turkey.

(i) Likely export volume

(164) Imports into the Community of Chinese originating CTVs increased by 413 % over the period considered. Exports from China decreased between 1995 and 1996 and remained at around the same level between 1996 and the IP. Exports from Turkey increased continuously from around 190 000 sets in 1995 to around 1,2 million sets in the IP. Over 95 % of the imports originating in China in the IP corresponded to small screen CTVs (14 inches).

(165) Information provided by the applicant in the request for review shows that substantial production capacity exists in China, for around 40 million sets. Furthermore, information was provided showing that production was around 31 million sets and domestic consumption around 23 million sets, leaving substantial amounts of CTVs available for export.

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(166) The Chinese exporting producers have in turn argued that while production and capacity currently exceed demand, the Chinese domestic demand for CTVs is likely to increase in the near future, leaving no available production capacity for export. However, no evidence was provided in support of this claim.

(167) The investigation showed that Chinese domestic consumption has continuously increased, rising from an estimated 17 million sets in 1996 to an estimated 23 million sets in 2000. However, production also increased during the same period, at a level exceeding domestic consumption by between 7 and 10 million sets.

(168) It was also found that exports of Chinese CTVS to the USA as reported in the Eurostat statistics increased substantially from around 220 000 sets in 1996 to around 900 000 sets in 2000, at prices which were substantially below those of the Chinese exports to the Community. Exports of Chinese CTVs to Japan increased from around 1,3 million sets in 1996 to around 2,3 million sets in 2000. Information provided by the applicant in the request for review indicated that these were exports of CTVs produced by subsidiaries of Japanese producers in China and sold in Japan through their own distribution network.

(169) In view of the above it is concluded that despite an increase in domestic consumption in China, substantial excess production and capacity exist in China for export. Based on the above, it is likely that the volume of exports of Chinese CTVs to the Community would increase should anti-dumping measures be repealed.

(ii) Likely export prices

(170) A comparison of the prices of Chinese CTVs as reported by Eurostat and by the cooperating Turkish exporting producer with those of the Community industry in the IP shows that the prices of the CTVs originating in China substantially undercut those of the Community industry, between 18,9 % and 34,3 %. Information provided by interested parties shows that the bulk of Chinese exports to the Community is in small screen sizes (14 inches) with generally less features and where the scope for price differentials between models is more reduced. Thus, it is considered that the calculation of price undercutting on this basis adequately reflects the price differential between Chinese and Community CTVs.

(171) The weighted average Chinese exports prices to the United States of America, without distinction of screen sizes, converted to a constructed cif Community border price were also significantly lower than the Community industry's prices.

(172) From the above it can be concluded that prices of exports from China to the Community market are likely to undercut the prices of the Community industry should measures be allowed to lapse. Thus, it can be concluded that there is a likelihood of recurrence of injury.

(b) ***Korea***

(173) In 1998, the CTV Regulation was amended as regards imports originating *inter alia* in Korea. The dumping margin found for two Korean exporting producers, LG Electronics and Samsung Electronics, was *de minimus* and thus no anti-dumping duties were imposed on these two exporting producers.

(174) In the examination of the likelihood of continuation or recurrence of injury account was taken of Korean originating CTVs exported from Korea and also from other countries concerned, such as Thailand and Turkey.

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(i) Likely export volume

(175) Exports of CTVs originating in Korea decreased from around 98 000 sets in 1995 to around 80 000 in 1997. In 1998 the volume of imports increased to around 200 000 sets. Imports continued to increase to around 500 000 sets in 1999 and to around 650 000 sets in the IP. The biggest increase in the volume of imports took place in medium/large screen sizes. The share of the Community market held by Korean imports in the IP amounted to 2 %.

(176) Imports of Korean CTVs into the United States of America were subject to anti-dumping measures since 1984. However, in November 1998 the United States of America allowed the anti-dumping measures to expire given the failure of the USA domestic industry to reply to the notice of initiation of the expiry review. The volume of imports of Korean CTVs into the United States of America, on the basis of the Eurostat statistics, increased continuously from around 150 000 sets in 1996 to around 600 000 sets in 1999 and 2000. The significant increase in the volume of exports to the United States of America in 1999 coincided with the revocation of the anti-dumping duties in force in the United States of America on imports originating in Korea.

(177) Exports of Korean CTVs to Japan, decreased from around 1 million sets in 1996 to around 700 000 in 1999 and further decreased significantly to around 380 000 in 2000.

(178) Information available to the Commission shows that significant production capacity exists in Korea and that domestic consumption absorbs less than 15 % of domestic production, leaving substantial scope for increased exports. There are also significant production capacities for CPTs in Korea.

(179) From the above it can be concluded that the likelihood exists that the volume of imports will continue to increase should anti-dumping measures be allowed to lapse.

(ii) Likely export prices

(180) A comparison of the prices of Korean CTVs as reported by Eurostat and by the cooperating Turkish and Thai exporting producers with those of the Community industry in the review IP per screen sizes shows that the prices of the CTVs originating in Korea undercut those of the Community industry between 11 % and 36 %.

(181) The weighted average Korean exports prices to the United States in America in the IP, without distinction of screen sizes, converted to a constructed cif Community border price were also below those of the Community industry.

(182) From the above it can be concluded that prices of Korean exports to the Community are likely to undercut the prices of the Community industry should measures be allowed to lapse. Thus, it can be concluded that there is a likelihood of recurrence of injury.

(c) ***Malaysia***

(183) In the examination of the likelihood of continuation or recurrence of injury account was taken of CTVs originating in Malaysia, whether exported from Malaysia or from other countries, such as Thailand and Turkey.

(i) Likely export volume

(184) Exports of CTVs originating in Malaysia decreased from around 970 000 sets in 1995 to around 530 000 in the IP and their share of the Community market decreased from 3,9 % in 1995 to 1,6 % in the IP. Around 90 % of these exports were made from Thailand.

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(185) The volume of imports of Malaysian CTVs into the United States of America, on the basis of the Eurostat statistics, increased from around 3 million sets in 1996 and 1997 to 3,6 million in 1998, to 5,4 million in 1999 and to 7 million sets in 2000.

(186) The volume of imports of Malaysian CTVs into Japan, increased from 2,5 million sets between 1996 and 1998 to 3 million sets in 1999 and then to 4 million sets in 2000.

(187) Information provided by the applicant in the request for review shows that the Malaysian producers are fully utilising their capacity and that only around 5 % of domestic production is destined for the domestic market, the rest being destined basically for Japan, the United States of America and the Community market.

(188) It is therefore concluded that a certain increase in the volume of Malaysian imports of CTVs could take place if the anti-dumping measures were repealed.

(ii) Likely export prices

(189) A comparison of the prices of Malaysian CTVs as reported by Eurostat and by the cooperating Turkish and Thai exporting producers with those of the Community industry in the IP per screen sizes shows that the prices of the CTVs originating in Malaysia undercut those of the Community industry between 17 % and 21 %.

(190) The weighted average Malaysian export prices to the United States of America in the IP, without distinction of screen sizes, converted to a constructed cif Community border price, were below those of the Community industry. Given the level of pricing practised by Malaysian exporters in the United States of America, a major third country market, it cannot be excluded that, should anti-dumping measures be repealed, significant quantities of CTVs of Malaysian origin could be exported to the Community at dumped prices, causing injury to the Community industry.

(191) From the above it can be concluded that prices of Malaysian exports to the Community are likely to undercut the prices of the Community industry should measures be allowed to lapse. Therefore, there is a likelihood of recurrence of injury.

(d) ***Singapore***

(192) Since no cooperation was obtained from any exporting producers in this country, the analysis of the likelihood of continuation or recurrence of injury was based on the information available, in accordance with Article 18 of the basic Regulation.

(i) Likely export volume

(193) As already mentioned in recital 103, it is unlikely that a repeal of the anti-dumping measures will result in an increase in the volume of Singaporean exports to the Community. This conclusion was reached in view of the fact that production capacities in Singapore have decreased due to the discontinuation of production by several local producers, the fact that the volume of imports did not increase during the period considered despite the 0 % anti-dumping duty applicable to two exporting producers and the low volume of exports of Singaporean CTVs to other third markets.

(ii) Likely export prices

(194) A comparison of the prices of the CTVs exported from Singapore with those of the Community industry in the IP shows that the prices of the CTVs originating in Singapore were not undercutting those of the Community industry.

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(195) The average prices of the exports from Singapore to the USA, without distinction of screen sizes were higher then those of exports to the Community in 1997, 1998 and 2000, with the exception of 1999.

(196) From the above, it is unlikely that in the absence of anti-dumping measures such imports would be at prices which could contribute to the deterioration of the situation of the Community industry. It is therefore concluded that a recurrence of injury caused by imports originating in Singapore is unlikely.

(e) ***Thailand***

(197) According to the information presented in the request for a review a number of CTV producers exists in Thailand, although only one of them cooperated during the investigations. However, this exporting producer was found to have exported to the Community CTVs originating in countries concerned other than Thailand. In view of the above, the examination of the likelihood of continuation or recurrence of injurious dumping was done on the basis of the information available.

(i) Likely export volume

(198) According to the information submitted by the applicant in the request for a review, substantial production capacity for CTVs exists in Thailand, which increased from around 4,5 million units in 1996 to around 5,3 million in 2000.

(199) During the same period domestic consumption in Thailand was found to have decreased from around 1,2 million units in 1996 to around 840 000 in 2000, leaving, thus, substantial quantities available for export.

(200) On the basis of the information provided by Eurostat, the volume of imports of Thai CTVs into Japan decreased from 1,5 million units in 1996 to 1,3 million in 2000. By contrast, the volume of imports of Thai CTVs into the USA increased from 1,2 million units in 1996 to 4,7 million in 2000. It is therefore concluded that domestic consumption, which contracted over the period examined, is able to absorb only a marginal part of the total Thai production of CTVs.

(201) Furthermore, according to information available to the Commission services, substantial production capacity for CPT exists in Thailand, which has increased from around 6,6 million in 1997 to around 7,7 million in 2000.

(202) From the above it can be concluded that an increase in the volume of imports of CTVs originating in Thailand could take place if the anti-dumping measures were repealed.

(ii) Likely export prices

(203) The weighted average Thai export prices to the United States of America and to Japan in the IP, without distinction of screen sizes, converted to a constructed cif Community border price, were below those of the Community industry and along the lines of those originating in Malaysia, for which it has been concluded that a likelihood of recurrence of injurious dumping exists.

(204) Given the level of pricing practised by Thai exporters in other major third country markets, mainly United States of America (4,7 million sets) and Japan (1,4 million sets) in 2000, it cannot be excluded that, should anti-dumping measures be allowed to lapse, significant quantities of Thai CTVs could be exported to the Community at dumped prices, causing injury to the Community industry.

(205) It is therefore concluded that there is a likelihood of recurrence of injurious dumping resulting from imports of CTVs originating in Thailand should the current anti-dumping measures be repealed.

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2. **Conclusion on the likelihood of recurrence of injury for the Community industry**

(206) On the basis of the above it is likely that the repeal of the anti-dumping measures on imports of CTVs originating in China, Korea, Malaysia and Thailand would result in an increase in the volume of imports originating in these countries into the Community, thus eroding the share of the Community market held by the Community industry.

(207) Given the findings regarding the price behaviour of these imports into the Community and, where available, into other third countries, it is likely that an increase in volume of imports at low prices will depress the prices of the Community industry. This would in turn lead to a deterioration of the financial situation of the Community industry. Therefore, it is concluded that there is a likelihood of recurrence of injury caused by dumped imports originating in the countries concerned.

(208) On the other hand, given the findings regarding imports of CTVs originating in Singapore, it is unlikely that these imports will contribute to the deterioration of the situation of the Community industry. Consequently, it is not considered that there is a likelihood of recurrence of injury should the measures against imports from Singapore be repealed.

I. **COMMUNITY INTEREST**

(209) According to Article 21 of the basic Regulation, the Commission examined whether the maintenance of the anti-dumping measures would be in the overall interest of the Community.

(210) It is recalled that the anti-dumping measures have been in force on imports of CTVs originating in Korea since 1990, China since 1991 and Malaysia, Singapore and Thailand since 1995.

1. **Interest of the Community Industry**

(a) *Change in the situation of the Community industry*

(211) In the present investigation the Community industry is composed of five producers out of which one is a large multinational company operating *inter alia* in the market of CTVs worldwide, one is a medium company with two production sites in the Community and the remaining three are small companies with production sites in Italy and Spain.

(212) The investigation has shown that the Community industry has benefited from the anti-dumping measures in place. In recent years, it has made considerable efforts to restructure and to improve its productivity through rationalisation. Since the imposition of the initial anti-dumping measures in 1990 certain Community producers have closed down their facilities; others have considerably restructured by concentrating in core production sites and others have relocated part of their production facilities to other third countries. In particular, since the imposition of anti-dumping measures in 1995, the largest Community producer has relocated part of its production facilities to Poland.

(b) *Impact of the continuation of the measures*

(213) Although over the period considered the situation of the Community industry improved, certain economic indicators show a declining trend. The Community industry's decrease in production, sales and market share between 1995 and 1997 is mainly explained by the closure of some production facilities in the European Union by the largest Community producer of CTVs. Between 1997 and the IP the Community industry regained production and sales but its share of the Community market decreased, since the increase in consumption during that period was only to the benefit of imported CTVs.

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(214) Regarding profitability, the return on sales achieved by the Community industry improved significantly from -2,7 % in 1995 to 5,3 % in 1998, but it deteriorated to 0,8 % in 1999 and then reached 1,3 % in the IP. The sharp deterioration in the profitability in 1999 can be attributed to a decrease in the sales prices of the Community industry under the pressure of low import prices, combined with an increase in its costs. The slight improvement of the profitability of the Community industry in the IP was due to a moderate increase in its sales prices.

(215) Thus, despite an overall improvement of the situation of the Community industry over the period considered, its situation still seems difficult, notably in terms of profitability. In this context, any change in the commercial environment of the product concerned may have a significant adverse effect on the situation of the CTV industry.

(216) In view of the above, it is considered that the continuation of the measures would allow the Community industry both to maintain its share of the Community market and to restore its profitability. The continuation of the measures would therefore be in the interest of the Community industry.

(c) *Impact of the expiry of the measures*

(217) Should the anti-dumping measures be allowed to expire, it is expected that the volume of imports from the countries concerned will increase, thus eroding the market share of the Community industry. Furthermore, the prices of these imports are likely to exert a downward pressure on the Community industry's prices which will result in a deterioration of its profitability.

2. **Interest of the importers/traders**

(218) At the outset of the investigation questionnaires were sent to 33 importers/traders. No response was received regarding the review investigations on the measures in place on imports originating in China, Korea, Malaysia, Singapore, and Thailand. However, responses were received from three importers/traders in the investigation regarding imports from Turkey, representing around 9 % of the imports originating in the countries concerned and in other third countries into the Community in the IP.

(219) The arguments raised by these importers related mostly to the limited availability of small screen CTVs with a limited number of features in the Community. It was argued that the majority of Community production is in branded CTVs with a high number of features thus commanding higher prices, whereas no-brand CTVs with limited features are mostly imported from third countries. Thus, it was argued that the continuation of measures would limit the access of importers and also of consumers to these CTVs.

(220) The investigation revealed that although a large part of Community production is in branded CTVs with a large number of features, a certain production of non-branded CTVs by both the Community industry and other Community producers was found. Furthermore, a substantial part of imports of CTVs, including non-branded CTVs, into the Community are not covered by anti-dumping measures and thus the continuation of measures on imports of CTVs originating in the countries concerned would not significantly limit the availability of non-branded CTVs with a limited number of features. Finally, substantial price competition exists among Community producers themselves.

(221) In view of the above, it cannot be argued that the continuation of the anti-dumping measures in place would significantly limit the access of Community importers/traders to certain types of CTVs.

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3. **Interest of the consumer**

(222) At the outset of the investigation the Commission services informed the European Consumers Organisation (BEUC) of the initiation of the investigation and invited it to provide comments on the likely effects of the continuation or repeal of the anti-dumping measures in place. No response was received from BEUC or from any other consumer organisation. Thus, the examination of the interest of consumers in the present investigation was carried out on the basis of the facts available.

(223) In the course of the previous investigations on CTVs it was found that the impact on consumers of the existence of anti-dumping measures was limited given that the anti-dumping measures in place did not restrict the range of products available to consumers, the large number of players present in the Community market and the large range of products which they offer. Furthermore, its was also found that the large number of players ensured a high level of price competition between brands.

(224) The present investigation has not brought to light any new facts or arguments that would invalidate the above mentioned findings. Indeed, a large number of players continue to be active in the CTV market and thus the range of products available to the consumer is very large. Furthermore, substantial price competition takes place between brands. This price competition is evident in the price erosion suffered by the simplest CTV models (14-inch CTVs) where the competition is more acute.

(225) It is therefore concluded that the continuation of the anti-dumping measures in place is not against the interests of consumers.

4. **Conclusions on the Community interest**

(226) On the basis of the above it is concluded that there are no compelling reasons on the grounds of Community interest against the continuation of the anti-dumping measures.

J. **DETERMINATION IN RESPECT OF SINGAPORE**

(227) In view of the findings in recitals 192 to 196, the anti-dumping measures in place regarding imports originating in Singapore should be allowed to lapse.

K. **ANTI-DUMPING MEASURES**

(228) In view of the findings as described above and in order to adequately reflect in particular changes in the pricing behaviour of exporters it is considered appropriate to maintain the same level of anti-dumping duties for China and Thailand, and to modify the level of the applicable anti-dumping duties for Korea and Malaysia.

(229) For the purpose of establishing the injury elimination level it is considered appropriate to base it on an amount sufficient to eliminate the injury found. In Regulation (EC) No 710/95 the duty was based on the price undercutting taking account of the fact that factors other than the dumped imports appear to have contributed to the injury to the Community industry and secondly that on a world-wide basis this industry had for a number of years realised no or extremely low profits.

(230) The Community industry argued that eliminating the price undercutting found was insufficient to fully restore the situation of the Community industry and allow it to introduce new products. It requested that a minimum profit rate of 10 % be used to calculate the injury elimination level, in line with that used in Regulation (EC) No 2584/98.

(231) It should be noted that the profit margin to be used when calculating the injury elimination level should be the one that the

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Community industry could reasonably reach in the absence of dumping. It is therefore not consistent with the Community institutions' practice to use a profit margin which the Community industry could not have achieved if there was no dumping. This examination should be based on the information relating to the relevant investigation period and may thus be different from that used in a previous proceeding covering the same product but relating to a different investigation period, such as is the case with Regulation (EC) No 2584/98.

(232) Information available to the Commission and relating to the IP showed a number of factors which lead to the conclusion that it was appropriate in the context of the current investigations to base injury elimination on the level of price undercutting. Firstly, as stated in recital 137, CTVs are a mature product whose prices are regularly eroded, thus leading to relatively low levels of profitability. Secondly, as stated in recital 161, during the IP imports from other third countries, to which no dumping was attributable, increased substantially, at prices which could have also contributed to the low level of profitability of the Community industry. Finally, profitability levels of other CTV producers world-wide are in line with those of the Community industry.

(233) In view of the above, it is considered appropriate to continue to base the injury elimination level on the amount sufficient to eliminate price undercutting. In the case of Thomson Television Thailand, given its lack of exports to the Community of CTVs originating in Thailand during the IP, it is considered appropriate to maintain the rate of the anti-dumping duty imposed by Regulation (EC) No 710/95. The rate of the duties, based on the dumping margin or on the undercutting margin where the latter was found lower than the dumping margin, would be as follows:

China

Vestel Elektronik Sanayi ve Ticaret AS	24,5 % (CTVs assembled in Turkey)
All other exporters	44,6 %

Korea

Beko Elektronik AS	12,3 % (CTVs assembled in Turkey)
Thomson Television (Thailand) Co. Ltd	0 % (CTVs assembled in Thailand)
All other exporters	15,0 %

Malaysia

Beko Elektronik AS	18,2 % (CTVs assembled in Turkey)
Thomson Television (Thailand) Co. Ltd	0 % (CTVs assembled in Thailand)
All other exporters	25,1 %

Thailand

Thomson Television (Thailand) Co. Ltd	3 %
All other exporters	29,8 %.

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(234) The individual company 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 country-wide 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'.

(235) Any claim requesting the application of these individual company 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 e.g. 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.

L. **UNDERTAKINGS**

(236) Seven Chinese companies offered a joint undertaking in conjunction with the China Chamber of Commerce for Import and Export of Machinery and Electronic Products (CCCME) within the meaning of Article 8(1) of the basic Regulation. The undertaking offer was supported by the Chinese authorities. The elimination of the injurious effect of dumping is achieved by two means: first, a price undertaking covering imports up to an agreed volume threshold, and second an *ad valorem* duty levied on imports over and above that threshold. The CCCME will also provide the Commission with regular and detailed information concerning the exports to the Community of the companies presenting the joint undertaking, meaning that the undertaking can be monitored effectively by the Commission. In addition, the support given by the Chinese authorities is such that the risk of circumvention of the undertaking is minimised.

(237) In view of this, the joint undertaking offered is therefore considered acceptable and the companies concerned and the CCCME have been informed of the essential facts, considerations and obligations upon which acceptance is based.

(238) To further enable the Commission to monitor effectively the compliance of the companies with their joint undertaking, when the request for release for free circulation is presented to the relevant customs authority, exemption from the anti-dumping duty shall be conditional on the presentation of a commercial invoice containing at least the elements listed in the Annex I, and a certificate issued by the China Chamber of Commerce for Import and Export of Machinery and Electronic Products (CCCME) containing the elements of Annex II. This level of information is also necessary to enable customs authorities to ascertain with sufficient precision that shipments correspond to the commercial documents. Where no such invoice is presented, or when it does not correspond to the product presented to customs, the appropriate rate of anti-dumping duty will instead be payable.

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[1] European Commission
Directorate-General Trade
Directorate B
B-1049 Brussels.

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(239) It should be noted that a breach or withdrawal of the undertaking or a suspected breach by any of the companies concerned or the CCCME shall be considered as a breach of the undertaking by all signatories, and an anti-dumping duty may be imposed, pursuant to Article 8(9) and (10) of the basic Regulation.

M. **OTHER PROVISIONS**

(240) In order to ensure an effective collection of the duty and taking account of the findings of the investigation that in most cases the origin of the CTV is the same as the origin of the cathode ray tube, importers should be asked to declare the origin of the cathode ray tube. If the latter originates in Malaysia, Thailand, the People's Republic of China or the Republic of Korea and the CTV originates in a country other than the country of origin of the cathode ray tube, the importer shall be asked to submit a separate declaration of origin issued by the final producer.

(241) Importers shall be informed about the consequences of non-cooperation or failure to submit correct information when the customs authorities determine the origin of the CTVs, i.e. the use of best facts available with the consequence that the result may be less favourable than if they had cooperated. Importers shall be informed in case information submitted is not accepted and they shall be given an opportunity to provide further explanations,

HAS ADOPTED THIS REGULATION:

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, other than those incorporating a modem and a computer operating system (CTVs) and falling within CN codes ex 8528 12 52 (TARIC code: 8528 12 52*11), ex 8528 12 54, ex 8528 12 56, ex 8528 12 58, ex 8528 12 62 (TARIC code: 8528 12 54*10, 8528 12 56*10, 8528 12 58*10, 8528 12 62*11 and 8528 12 62*92) and ex 8528 12 66 (TARIC code: 8528 12 66*10), and originating in Malaysia, 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:

Country	Duty (%)	TARIC additional code
Malaysia	25,1	8900
Thailand	29,8	8900
People's Republic of China	44,6	8900
Republic of Korea	15,0	8900

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

	Duty (%)	TARIC additional code
a) CTVs originating in Malaysia manufactured by:		
Thomson Television (Thailand) Co. Ltd Pathumthani, Thailand	0	8815

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	Duty (%)	TARIC additional code
Beko Elektronik AS, Beylikduzu Mevkii, 34901 B. Cekmece Istanbul, Turkey and its related export sales company Ram Dis Ticaret, Buyukdere Caddesi 101, Mecidiyekoy, Istanbul, Turkey	18,2	A281
b) CTVs originating in the Republic of Korea manufactured by:		
Thomson Television (Thailand) Co. Ltd Pathumthani, Thailand	0	8815
Beko Elektronik AS, Beylikduzu Mevkii, 34901 B. Cekmece Istanbul, Turkey and its related export sales company Ram Dis Ticaret, Buyukdere Caddesi 101, Mecidiyekoy, Istanbul, Turkey	12,3	A281
c) CTVs originating in the People's Republic of China manufactured by:		
Vestel Elektronik Sanayi ve Ticaret AS, Ambarli Petrol Ofisi Dolum Tesisleri Yolu Avcilar, Istanbul, Turkey and its related export sales companis: i) Vestel Dis Ticaret AS, Ambarli Petrol Ofisi Dolum Tesisleri Yolu Avcilar, Istanbul, Turkey ii) Vestel Dis Ticaret AS Ege Serbest Bolge SB, Akcay Cad Gunduz Sokak 144/1, Gaziemir, Izmir, Turkey iii) Vestel Bilisim Teknolojileri Sanayi ve Ticaret AS, Ambarli Petrol Ofisi Dolum Tesisleri Yolu Avcilar, Istanbul, Turkey iv) Vestel Komunikasyon Sanayi ve Ticaret AS, Sehit Fethibey Cad. 116/301 Kat: 3 20157 Pasaport, Izmir, Turkey.	24,5	A282
d) CTVs originating in Thailand manufactured by:		
Thomson Television (Thailand) Co. Ltd Pathumthani, Thailand	3,0	8815

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

Article 2

1. Upon presentation of the customs declaration for release into free circulation to the Member State's customs authority, the importer shall declare the origin of the cathode ray tube incorporated in the CTV. In cases where the cathode ray tube originates in Malaysia, Thailand, the People's Republic of China or the Republic of Korea and the CTV originates in a country other than the country of origin of the cathode ray tube, the importer shall also submit a declaration of origin issued by the final producer of the CTV in conformity with the requirements in Annex III.

2. Should a subsequent investigation by the customs authority of a Member State or the Commission of the European Communities reveal that any declaration of origin in the customs declaration for release into free circulation in the Community was incorrect or if a party involved in the determination of origin refuses access to or otherwise does not provide the information or documentation necessary for the determination of the non-preferential origin of the CTV, its origin may be determined by the competent authorities on the basis of the best facts

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available. Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of facts available. Interested parties should be made aware of the consequences of non-cooperation.

3. Where the information submitted by an interested party in the context of this Article is not ideal in all respects it should nevertheless not be disregarded, provided that any deficiencies are not such as to cause undue difficulty in arriving at a reasonably accurate finding and that the information is appropriately submitted in good time and is verifiable, and that the party has acted to the best of its ability.

4. If evidence or information is not accepted, the supplying party shall be informed forthwith of the reasons therefor and shall be granted an opportunity to provide further explanations within the time limit specified. If the explanations are considered unsatisfactory, the reasons for rejection of such evidence or information shall be disclosed to the parties concerned prior to any final decision being taken. The final decision shall also contain a statement of reasons.

5. If a determination of origin is based on the facts available, it shall, where practicable and with due regard to the time limits of the investigation, be checked by reference to information from other independent sources which may be available or information obtained from other interested parties during the investigation.

6. If an interested party does not cooperate, or cooperates only partially, so that relevant information is thereby withheld, the result may be less favourable to the party than if it had cooperated.

Article 3

1. Imports under one of the following TARIC additional codes which are produced and directly exported (i.e. shipped and invoiced) by a company named below to a company in the Community acting as an importer shall be exempted from the anti-dumping duty imposed by Article 1 provided that they are imported in conformity with paragraph 2.

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Country of origin	Company	TARIC additional code
People's Republic of China	Haier Electrical Appliances Corp., Ltd, Haier Road 1, Haier Industrial Park, Qingdao, China	A291
People's Republic of China	Hisense Import & Export Co., Ltd, 11 Jiangxi Road, Qingdao 266071, China	A292
People's Republic of China	Konka Group Co., Ltd, — Overseas Chinese Town, Shenzhen, Guangdong Province, China	A293
People's Republic of China	Sichuan Changhong Electric Co., Ltd, 35 East Mianxing Road, High Tech Park, Mianyang, Sichuan, China	A294
People's Republic of China	Skyworth Multimedia International (Shenzhen) Co., Ltd, — 4F, 425 Ba Gua Ling Ind. District, Shenzhen, China	A295
People's Republic of China	TCL King Electrical Appliances (HuiZhou) Co., Ltd, — 19#, ZhongKai Development Zone Huizhou, Guangdong, China	A296
People's Republic of China	Xiamen Overseas Chinese Electronic Co., Ltd, 22 Huli Dadao, Xiamen, 361006, China	A297

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2. Imports mentioned in paragraph 1 shall be exempted from the duty on condition that:

(a) a commercial invoice containing at least the elements listed in the Annex I, as well as a certificate issued by the China Chamber of Commerce for Import and Export of Machinery and Electronic Products (CCCME) containing at least the elements listed in the Annex II are presented to Member States customs authorities upon presentation of the declaration for release into free circulation; and

(b) the goods declared and presented to customs correspond precisely to the description on the commercial invoice and the certificate.

Article 4

The proceeding regarding imports of the product described in Article 1(1) and originating in Singapore is hereby terminated.

Article 5

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

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

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ANNEX I

Necessary information for commercial invoices accompanying sales made subject to the undertaking

1. The heading ‘COMMERCIAL INVOICE ACCOMPANYING GOODS SUBJECT TO AN UNDERTAKING’.
2. The name of the company mentioned in Article 2.1 issuing the commercial invoice.
3. The commercial invoice number.
4. The number of the relevant Undertaking Certificate.
5. The date of issue of the commercial invoice.
6. The TARIC additional code under which the goods on the invoice are to be customs cleared at the Community frontier.
7. The exact description of the goods, including:
   - — the product code number (PCN),
   - — the technical specification of the goods (including size in cm, format of the screen, existence of the options teletext and/or stereo),
   - — the company product code number (CPC) (if applicable),
   - — CN code,
   - — quantity (to be given in units).
8. The description of the terms of the sale, including:
   - — price per unit,
   - — the applicable payment terms,
   - — the applicable delivery terms,
   - — country of destination and port of entrance into the EU,
   - — total discounts and rebates,
   - — country of origin.
9. Name of the company acting as an importer to which the invoice is issued directly by the company.
10. The name of the official of the company that has issued the invoice and the following signed declaration:

    ‘I, the undersigned, certify that the sale for direct export to the European Community of the goods covered by this invoice is being made within the scope and under the terms of the undertaking offered by [company], and accepted by the European Commission through Decision 2002/683/EC ([1]). I declare that the information provided in this invoice is complete and correct.’

([1]) See page 42 of this Official Journal.

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ANNEX II

Necessary information for the certificate of CCCME accompanying sales made subject to the undertaking

1. The name, address, fax and telephone number of the China Chamber of Commerce for Import and Export of Machinery and Electronic Products (CCCME).
2. The name of the company mentioned in Article 3.1 issuing the commercial invoice.
3. The commercial invoice number.
4. The date of issue of the commercial invoice.
5. The TARIC additional code under which the goods on the invoice are to be customs cleared at the Community frontier.
6. The exact description of the goods, including:
   - — the product reporting code (PRC),
   - — the technical specification of the goods (including size in cm, format of the screen, existence of the options teletext and/or stereo),
   - — the company product code number (CPC) (if applicable),
   - — CN code.
7. The precise quantity in units exported.
8. The number of the certificate.
9. The name of the official of CCCME that has issued the certificate and the following signed declaration:

   'I, the undersigned, certify that this license is given for direct export to the European Community of the goods covered by the commercial invoice accompanying sales made subject to the undertaking and that the license is issued within the scope and under the terms of the undertaking offered by [company] and accepted by the European Commission through Decision 2002/683/EC. I declare that the information provided in this certificate is correct and that the quantity covered by this certificate is not exceeding the threshold of the undertaking.'

10. Date.
11. The seal of CCCME.

▼B

ANNEX III

Declaration of Origin

Seller: [insert full name and address of the seller of the CTVs]

Number and date of commercial invoice:

Packing No	Product description	Quantity (No of items)	Country of origin
(1)	(2)	(3)	(4)

Producent: [insert full name and address of the final producer of the CTVs if the producer is not identical to the seller]

The producer of these goods hereby declares:

— that the origin declared in column 4 for the goods described in column 2 of this declaration has been determined by it in accordance with the provisions of Annex 11 of Commission Regulation (EEC) No 2454/93,

— its willingness to cooperate fully with the Commission of the European Communities, or the customs authorities of the importing Member State when verifying the accuracy of this declaration.

Date		(Signature)
	(Stamp of the signing producer company)	(Name and function of the authorised signatory)