



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 07.04.2000
COM(2000) 195 final

Proposal for a

COUNCIL REGULATION

imposing a definitive anti-dumping duty on imports of certain parts of television camera systems originating in Japan

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. On 12 February 1999, the Commission opened an anti-dumping investigation in respect of imports of certain parts of television camera systems originating in Japan.
2. The product concerned by the investigation constitutes three essential parts of television camera systems. The product scope as defined in the Notice of initiation was reduced in view of the findings established during the investigation.
3. No provisional measures were imposed but it was decided to continue the investigation with a view to proposing definitive measures.
4. The attached proposal for a Council Regulation is based on the definitive findings on dumping, injury, causation and Community interest which showed that definitive anti-dumping measures are warranted.
5. It is therefore proposed that the Council adopt the attached proposal for a Regulation which should be published in the Official Journal no later than 12 May 2000.

Proposal for a

COUNCIL REGULATION

imposing a definitive anti-dumping duty on imports of certain parts of television camera systems originating in Japan

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community¹, and in particular Article 9 thereof,

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

Whereas:

A. GENERAL

1. Background and initiation

- (1) In April 1994, the Council, by Regulation (EC) No 1015/94² imposed a definitive anti-dumping duty on imports of television camera systems (hereinafter referred to as "TCS") originating in Japan. The rate of the definitive anti-dumping duty was 62,6% for Sony Corporation (hereinafter "Sony"), 82,9% for Ikegami Tsushinki Co Ltd (hereinafter "Ikegami") and 52,7% for Hitachi Denshi Ltd and 96,8% for all other producers.
- (2) In October 1997, further to an anti-absorption investigation pursuant to Article 12 of Council Regulation (EC) No 384/96³ (hereinafter "the Basic Regulation"), the Council amended, by Regulation (EC) No 1952/97⁴, the above Regulation and increased the definitive anti-dumping duty for Sony to 108,3% and for Ikegami to 200,3%.
- (3) In June 1998, an investigation concerning the alleged circumvention of the above definitive anti-dumping duty by imports of TCS modules, kits, sub-assemblies and parts originating in Japan, allegedly used in assembly operations of TCS in the Community, was initiated. The investigation was limited to two Japanese exporting producers, namely Sony and Ikegami, since the complainant only submitted evidence of circumvention concerning these companies.

¹ OJ L 56, 6.3.1996, p. 1, as last amended by Regulation (EC) No 905/98 of 27 April 1998, OJ L 128, 30.4.1998, p.18.

² OJ L 111, 30.4.1994, p.106. as last amended by Regulation (EC) No 1952 (OJ L 276, 9.10.1997, p.20)

³ OJ L 56, 06.03.96, p.1, as last amended by Regulation (EC) No 905/98 (OJ L 128, 30.04.1998, p.18).

⁴ OJ L 276, 9.10.1997, p.20

- (4) In January 1999, the Commission initiated an anti-dumping proceeding concerning imports into the Community of TCS originating in the USA. However, subsequent to the initiation of the proceeding, the sole exporting producer concerned, i.e. Sony, discontinued its manufacturing activities of TCS in the USA. In the absence of any other producer of TCS in the USA, the proceeding was terminated in February 2000 without the imposition of measures.
- (5) In February 1999, the anti-circumvention investigation was terminated without imposition of measures on the grounds of the withdrawal of the related complaint and simultaneously the current anti-dumping proceeding concerning imports of certain parts of TCS was initiated *ex officio* by the Commission, with the publication of a notice⁵ (hereinafter "Notice of Initiation") in accordance with Article 5(6) of the Basic Regulation. The Commission decided to initiate the current proceeding on the basis of the evidence of dumping resulting from the information obtained during the above mentioned anti-circumvention investigation combined with evidence of material injury and causality, which was provided, prior to the initiation of the proceeding, by a Community producer representing a major proportion of the total Community production of TCS and of the three parts which constitute the product concerned by the current proceeding. This evidence was considered sufficient to justify the initiation of a proceeding.

2. Arguments by interested parties on the initiation of the proceeding

2.1. Use of information obtained in another anti-dumping proceeding for the initiation of the current proceeding

- (6) A number of exporting producers raised the question of whether information obtained in the above anti-circumvention investigation could be used as evidence to justify the initiation of a new proceeding concerning imports of certain parts of TCS originating in Japan.
- (7) The Basic Regulation does not preclude that the information collected in one anti-dumping proceeding can be used for other proceedings. Article 19 (6) of the Basic Regulation only prohibits the possible use of the information for purposes other than those for which the information was requested. The Commission considers in this context that information gathered and verified in the course of one anti-dumping proceeding may be used as the basis to initiate another anti-dumping proceeding concerning substantially the same producers.

2.2 Sufficient evidence of injurious dumping for the initiation of the current proceeding

- (8) Further to the initiation of the current anti-dumping proceeding, some interested parties contested the existence of sufficient evidence of dumping, injury and causality to justify the initiation of the investigation.
- (9) In this respect, reference is made to the various investigations concerning TCS mentioned above. Several investigations with respect to Japanese exporting producers of TCS have been undertaken since 1992. These have revealed practices of substantial dumping and absorption and subsequently resulted in an investigation into alleged circumvention based on Article 13 of the Basic Regulation.

⁵ OJ C 38, 12.2.1999, p. 2.

- (10) The current proceeding was initiated on the basis of the information concerning dumping collected in the previous anti-circumvention investigation in which to a large extent the same Japanese exporting producers were involved as in the current proceeding.
- (11) Moreover, sufficient evidence of injury and causality, as referred to in the Notice of Initiation, was provided by a Community producer representing a major proportion of the total Community production of parts of TCS prior to the initiation of the proceeding. The Commission concluded therefore that there was sufficient evidence of dumping, injury and a causal link to justify the initiation of an investigation.

3. Investigation period

- (12) The investigation of dumping and injury covered the period from 1 January 1998 to 31 December 1998 (hereafter referred to as “the investigation period”). The investigation of the trends in the context of the injury analysis covered the period from 1 January 1995 to 31 December 1998.

4. Parties concerned by the proceeding

- (13) The Commission sent questionnaires to the known Community producers and to all known exporting producers. Replies to these questionnaires were received from the two Community producers and from two Japanese exporting producers.
- (14) The Commission sought and verified all the information it deemed necessary for the purpose of a determination of dumping, injury and Community interest, and carried out verification visits at the premises of the following companies:

-Community producers

- Philips BTS Broadcast Television Systems b.v., (hereinafter referred to as “Philips”)

- Thomson Broadcast Systems, (hereinafter referred to as “Thomson”)

-Exporting producers in Japan

- Matsushita Electronics Corporation, Kyoto

- Sony Corporation, Tokyo (related importer, Sony UK (Basingstoke)).

Other known Japanese exporting producers did not co-operate in the current proceeding.

- (15) All parties concerned were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive measures in respect of imports originating in Japan. They were also granted a period within which to make representations subsequent to these disclosures. The comments of the parties were considered and, where appropriate, the findings have been modified accordingly.

5. Level of co-operation

- (16) As regards dumping, the level of co-operation from the exporting producers in this proceeding was particularly low, since only one Japanese company fully co-operated throughout the investigation. A second company provided information which was taken into consideration for the dumping assessment. However, this company also provided other information which was not substantiated and could not therefore be used. A number of other known Japanese producers did not co-operate at all. In these situations the Commission based its definitive findings in whole or in part on the facts available, pursuant to Article 18 of the Basic Regulation.
- (17) With respect to injury, the level of co-operation from the Japanese exporting producers was also very low. In particular, one Japanese company provided only limited information in relation to some aspects of the injury assessment as indicated below. This co-operating exporting producer was informed of the reasons why such limited information was not accepted and was granted the opportunity to provide further explanations. Given that these explanations were also considered unsatisfactory, the Commission had to make use of the facts available, in accordance with Article 18 of the Basic Regulation. A number of other known Japanese producers did not co-operate at all and, therefore, the Commission made use of the facts available, pursuant to Article 18 of the Basic Regulation.

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Description as contained in the Notice of Initiation

- (18) The product concerned is certain essential parts used in TCS, the latter being defined in Council Regulation (EC) No 1015/94⁶ as amended by Council Regulation (EC) No 2474/95⁷ and by Council Regulation (EC) No 193/99⁸.
- (19) The product concerned in the current proceeding have been defined in the Notice of Initiation as follows:
- colour splitters with three or more charge-coupled devices attached including electronic (sub)assemblies, whether or not including a filter wheel (hereinafter referred to as "**CCD block**"), imported either together or separately,
 - Application Specific Integrated Circuits (hereinafter referred to as "**ASICs**") of a kind only used in TCS for the television camera heads, operational control panels, master control panels and television camera base stations,
 - printed circuit boards with the above ASICs (hereinafter referred to as "**PCBs**").
- (20) Although the above mentioned parts of the product concerned have individually different physical characteristics, it has been concluded that for the purposes of the current investigation, these three parts constitute one product since they are dedicated to be used in TCS and, when working in combination, they constitute the substantial

⁶ OJ L 111, 30.4.1994, p. 106.

⁷ OJ L 255, 25.10.1995, p. 11.

⁸ OJ L 22, 1999, 29.1.1999, p. 10.

technological element of a television camera head and thus, of a TCS. They also determine the essential specifications of a TCS and perform in combination the essential function of a TCS. These three parts are not always used in combination but they cannot be used outside TCS, not even outside the TCS of the particular producer for which they were manufactured. However, even if these three parts of the product concerned had been treated individually, the overall result would not have been significantly different since the collective findings for each part separately would constitute the findings for the product concerned.

- (21) These parts are currently classifiable within CN codes ex 8529 90 72, ex 8538 90 91, ex 8529 90 81, ex 8529 90 88, ex 8542 13 80.

2. Clarification of the product definition

- (22) Given the complexity of the product definition as described above, it was assessed whether the investigation should concentrate on the three essential parts of the product concerned without pursuing the investigation as regards the components.

2.1 The CCD block

- (23) As outlined above, as regards one of the three parts of the product concerned, i.e. the CCD block, the investigation was initiated covering the CCD block itself and its components when imported either together or separately.
- (24) The CCD block consists of a colour splitter (also known as beam splitter or prism), 3 or more charge-coupled devices (also known as CCDs or sensors), some intermediate parts which are required to glue CCDs on the beam splitter and some other electrical components.
- (25) The investigation has shown that none of the components of the CCD block possess separately in themselves the physical characteristics in terms of essential optical and electrical properties that identify the CCD block and, thus, also the product concerned, i.e. separately they do not retrieve the light and convert it into video signals. Furthermore, there is still a substantial value added which is required to manufacture CCD blocks by using these components and, thus, also to manufacture the product concerned.
- (26) On the other hand, the investigation showed that some of the components of the CCD block are not specific to TCS and are not manufactured by the same companies which manufacture TCS. Moreover, in view of significant number of components of the CCD block and the complexities involved in investigating them either collectively or separately, it was decided that such a course would have become unduly burdensome. It is therefore concluded that the CCD block and its components should be regarded as different products as concerns physical characteristics and properties. They cannot therefore be considered as a single product. Consequently, the components of the CCD block, when imported separately, are excluded from the product scope of the current investigation.
- (27) However, a colour splitters with three or more charge-coupled devices attached already possesses the essential characteristics of one of the three parts of the product concerned, i.e. the complete CCD block, since it can already perform both the basic optical and basic electrical functions of the CCD block. Thus, such an unfinished CCD

block is considered to be a single product together with a finished CCD block and it is therefore product concerned by the investigation.

2.2. ASICs and PCBs

- (28) As to the other two parts of the product concerned, i.e. ASICs and PCBs, the investigation has confirmed the definition as contained in the Notice of Initiation.

3. Conclusion on the product definition

- (29) On the basis of the above, it is concluded that for the purposes of the current investigation, the above three parts (i.e. CCD block, ASICs and PCBs) are considered to be one product and, consequently, the product concerned by the investigation when they are imported either together or separately.

4. Like product

- (30) The above product concerned produced and sold on the domestic market in Japan and that exported to the Community from this country as well as that produced and sold by the Community industry on the Community market were found to have the same basic physical and technical characteristics and uses. They are therefore considered to be alike within the meaning of Article 1(4) of the Basic Regulation.

C. DUMPING

1. Preliminary remarks

- (31) As concerns dumping, it was found that there were no sales of the product concerned made by the co-operating producers on the domestic market in Japan and, therefore, as a reasonable alternative, dumping was calculated for the three parts concerned when sold separately. These results were then averaged to produce a dumping margin for the product concerned.

2. Normal value

- (32) As far as the determination of normal value is concerned, the Commission first established, for exporting producers, whether their total domestic sales of the product concerned were representative in comparison with their total export sales to the Community. In accordance with Article 2(2) of the Basic Regulation, domestic sales were considered representative when the total domestic sales volume of each exporting producer was at least equal to 5% of its total export sales volume to the Community. This was the case for both exporting producers.
- (33) For each of the models of the product concerned (i.e. CCD block, ASICs and PCBs) sold by the exporting producers on their domestic markets and found to be comparable to the models sold for export to the Community, the Commission established whether domestic sales were representative, within the meaning of Article 2(2) of the Basic Regulation. Domestic sales of a particular model were considered representative when the sales volume of this type on the domestic market during the investigation period represented 5% or more of the total export sales volume of a directly comparable model sold for export to the Community.

- (34) The Commission then examined whether the domestic sales to independent customers of each model could be considered as having been made in the ordinary course of trade, by establishing the proportion of profitable domestic sales to its total domestic sales of the model in question. Where the volume of parts sold at a net sales price equal to or above the calculated cost of production (profitable sales) represented 80% or more of the total sales volume, normal value was based on the actual domestic price, calculated as a weighted average of the prices of all domestic sales made during the investigation period. Where the volume of profitable sales of each part represented less than 80%, but at least 10%, of the total sales volume, normal value was based on the actual domestic price, calculated as a weighted average of profitable sales only.
- (35) In cases where domestic prices did not provide an appropriate basis for establishing normal value, it was examined whether domestic prices of the other Japanese exporting producer could be used as a basis to establishing normal value.
- (36) However, due to differences in the technical specifications of different models it was not possible to find identical or similar models sold by the other Japanese exporting producer. Consequently, normal value was constructed in these cases.
- (37) The normal value was constructed by adding to the manufacturing costs of the exported models, a reasonable percentage for selling, general and administrative expenses (SG&A) and a reasonable margin of profit. To this end, the Commission examined whether the SG&A incurred and the profit realised by both of the exporting producers concerned on the domestic market constituted reliable data. For each exporting producer, actual domestic SG&A expenses were used given that the domestic sales were made in representative volume (see above). The domestic profit margin was established on the basis of representative sales made in the ordinary course of trade. This was the case for both exporting producers.
- (38) For one of the exporting producers it was found that the information provided regarding domestic sales of the product was substantially incomplete. Since the Commission was not in a position to establish the extent of the missing information, it was decided to use the facts available, in accordance with Article 18 of the Basic Regulation. For this purpose, and in absence of any other verifiable information, it was decided to use the domestic sales prices as reported by the company for all models sold on the domestic market, regardless of whether or not the reported sales' quantities were representative in comparison with the export transactions for the same model.

3. Export price

- (39) In all cases where export sales of the product concerned were made to independent customers in the Community, the export price was established in accordance with Article 2(8) of the Basic Regulation, i.e. on the basis of export prices actually paid or payable.
- (40) However, in the case of one exporting producer, export sales were made to a related party. In this case the export price was constructed pursuant to Article 2(9) of the Basic Regulation, i.e. on the basis of the price at which the imported products were first resold to an independent buyer. Adjustments were made for all costs incurred between importation and resale and for profits accruing, in order to establish a reliable export price, at the Community frontier level. The profit margin was estimated at 5%

on turnover, which was considered to be reasonable by the Commission in the absence of any information from independent importers in the Community.

4. Comparison

- (41) For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting price comparability in accordance with Article 2(10) of the Basic Regulation.
- (42) Allowances for differences in physical characteristics, transport, handling charges, rebates, packing and credit were made where it was demonstrated that the differences had an effect on prices and price comparability.
- (43) One exporting producer requested an adjustment for differences in level of trade on the basis that price comparability was affected by the different functions of the buyers on the domestic and export markets. However, there was no significant difference between the prices charged to customers of the allegedly different levels. Consequently, no adjustment was made in this respect.
- (44) One exporting producer claimed an adjustment for rebates. The Commission found that the claim was neither properly quantified nor directly linked to the sales under consideration. The claim was therefore rejected.
- (45) One exporting producer claimed an adjustment for differences in warranty costs. However, the on-the-spot investigation revealed that most of the reported warranty expenses were not linked to the sales of the product concerned. Consequently, the claim could only be partially accepted.

5. Dumping margin

5.1. Dumping margin for co-operating companies

- (46) In accordance with Article 2(11) of the Basic Regulation, the weighted average normal value per model was compared with the weighted average export price for the equivalent model.
- (47) The comparison, as described above, showed the existence of dumping. The dumping margins expressed as a percentage of the CIF import price at the Community border are the following:
 - Matsushita Electronics Corporation: **0.2% (de minimis)**
 - Sony Corporation: **17.6%**

5.2. Dumping margin for non-co-operating companies

- (48) For non-co-operating companies, a dumping margin was determined on the basis of the facts available.
- (49) Given the low level of co-operation from the Japanese exporting producers, it was considered appropriate to set the dumping margin for the non-co-operating companies at a higher level than the highest duty established for any of the co-operating

producers. The residual dumping margin was set at the level of the highest margin established for a representative model and representative transactions for one co-operating producer. This approach was considered necessary in order to avoid creating a bonus for exporting producers that did not co-operate.

- (50) The margin, expressed as a percentage of the CIF import price at the Community border, is **40.2%**

D. DEFINITION OF THE COMMUNITY INDUSTRY

- (51) Within the Community, the product concerned is manufactured by Philips and Thomson. The Commission assessed whether Philips and Thomson could be considered as Community producers in the sense of the Basic Regulation, since certain components of the product concerned were imported from the exporting country concerned and were thus not manufactured by Philips and/or Thomson.
- (52) The investigation has, however, shown that both companies manufacture the product concerned in the Community and have their central planning and administration departments as well as their R&D facilities for TCS in the Community. Therefore, in accordance with the established practice of the Community institutions, it was considered irrelevant that certain components of the product concerned are not produced in the Community. Philips and Thomson are thus to be considered as Community producers.
- (53) In addition, these two Community producers clearly fulfil the requirements of representativeness within the meaning of Article 5(4) of the Basic Regulation, since they account for the totality of the Community production of the product concerned and are therefore deemed to constitute the Community industry within the meaning of Article 4(1) of the same Regulation.

E. INJURY⁹

1. Preliminary remarks

- (54) The investigation has shown that the product concerned is not being sold on the open market (i.e. to independent parties) in the Community, except for marginal sales as spare parts. This finding is consistent with the nature of the product concerned, which is exclusively used by the Community industry and the exporting producers for incorporation into TCS. Consequently, it was not possible to identify separately most of the data with respect to the product concerned.
- (55) Pursuant to Article 3(8) of the Basic Regulation, the injury assessment was therefore carried out by examining the narrowest group or range of products, which includes the like product, for which all the relevant information could be provided.
- (56) The investigation has shown that the most appropriate basis for the injury analysis is data related to the television camera head (TCH)¹⁰ as a TCH is indeed the narrowest

⁹ Given the small number of market participants, no precise figures relating to them could be given and in other occasions, they had to be indexed for confidentiality reasons.

¹⁰ Television camera heads can be either docked to a recording unit but not in the same housing (i.e. camcorders) or connected to a triax adaptor.

product in which the product concerned is incorporated which is being sold on the free market. It is also important to note that a direct relationship exists between the product concerned and a TCH, since a TCH always contains one CCD block, one ASIC and at least one PCB as defined above. As there are only minimal sales of the product concerned as "spare parts" by both the Community industry and the exporting producers in the Community, one CCD block, one ASIC and one or several PCBs can be considered to equal one camera head. Moreover, as the product concerned accounts for up to 65% of the cost of production of a TCH for both the Community industry and the exporting producers, it can be considered that any injury findings established on the basis of TCHs would be representative for the product subject to the present investigation.

2. Community consumption

- (57) As mentioned above, the degree of co-operation from the Japanese exporting producers was low. Furthermore, Sony, the sole co-operating exporting producer for which a specific dumping margin was established (hereinafter referred to as "the co-operating exporting producer") provided only limited information as regards the level of import volumes of TCHs. This co-operating exporting producer was informed of the reasons why such limited information was not accepted and was granted the opportunity to provide further explanations. Given that these explanations were also considered unsatisfactory, the Commission had to make use of the facts available, in accordance with Article 18 of the Basic Regulation.
- (58) Therefore, the Community consumption of TCHs was assessed on the basis of:
- the volume of sales in the Community as provided by the Community industry and
 - information on the sales volume of Japanese exporting producers in the Community submitted by the Community industry and established on the basis of contracts and tenders lost to all Japanese exporting producers on the Community market. This information can be considered reliable given the transparent nature of the market in terms of size and number of market participants, it being largely supplied via tenders. Moreover, the information provided by users confirmed the information supplied by the Community industry on the activity of the Japanese exporting producers.
- (59) On this basis, the investigation has shown that, whereas consumption was stable in 1995 and 1996, there was an overall expansion in 1997 which continued during the investigation period. This was due, amongst other reasons, to the sales of TCHs for broadcasting the football World Cup held in France in 1998 and to the introduction of a new TCH product type, i.e. camcorders in the market which started from 1997. In overall terms, from 1995 to the investigation period, Community consumption of TCHs increased by 54%, reaching around 1 500 units during the investigation period.

3. Imports concerned

- (60) Further to the imposition of anti-dumping measures in 1994, imports of TCHs decreased significantly. These imports have been replaced by imports of parts thereof, and in particular of the product concerned by the current investigation. On this basis and in line with Article 3.8 of the Basic Regulation, the following developments have been established for TCHs incorporating the product concerned originating in Japan.

They include those incomplete TCHs imported from the USA assembled together with CCD blocks originating in Japan.

3.1. Volume of dumped imports

- (61) Imports increased considerably in terms of volume between 1995 and the investigation period, i.e. by 157%, reaching around 600 units during the investigation period.

3.2. Market shares of the dumped imports

- (62) With respect to the development of market shares, the overall trend shows a constant and significant increase between 1995 and the investigation period, i.e. by more than 16 percentage points, reaching a level of around 40% during the investigation period.

3.3. Prices of the dumped imports: price undercutting

- (63) As to the development and analysis of sales prices, sales done via tenders represented an important part of the overall sales during the period under consideration (around 40%). Both the Community industry and the Japanese exporting producers sold their products via tenders. Under these circumstances, instead of establishing an evolution of sales prices over the period, it was decided to assess the pricing behaviour of the Japanese exporting producers during the investigation period.
- (64) On this basis price undercutting has been established by analysing the information available on tenders and by comparing the Community industry's actual sales prices with the exporting producers' actual sales prices as explained below.

3.3.1 Price undercutting based on tenders

- (65) In order to carry out a complete assessment of tenders, information was requested from the Community industry, the exporting producers concerned and users. However, in spite of repeated requests, only minimal information was made available to the Commission by the co-operating exporting producer, which only provided limited evidence regarding two tenders out of more than 30 which were held during the investigation period. This co-operating exporting producer was informed of the reasons why such limited information was not accepted and was granted the opportunity to provide further explanations. Given that these explanations were also considered unsatisfactory, the Commission had to make use of the facts available, in accordance with Article 18 of the Basic Regulation.
- (66) Therefore, on the basis of the information made available by the Community industry and the users which co-operated, it was established that the prices offered by the exporting producers were, in general, lower than prices offered by the Community industry both for the total tender¹¹ and for TCHs taken in isolation. In one of the tenders analysed the global price offered by a Japanese exporting producer was 37% lower than the one offered by the Community producer participating in the tender. In this tender, the Community producer had to grant an additional discount of more than 40% in order to win the tender. Another tender in a different Member State showed that, in the second round of negotiations and despite having granted significant discounts between the first and the second round, the final offer of the Japanese

¹¹ Calls for tenders usually include complete TCS and not only TCHs.

exporting producer was still around 20% lower than the offer of the Community producer participating in the tender. The latter in these circumstances did lose the tender.

- (67) The analysis of the tenders has not only shown the extent to which the prices offered by the Community industry have been undercut by those offered by exporting producers during the tenders (up to 37%) but also the depressive effect of the dumped imports on the sales prices of the Community industry. Indeed, it has been established that the low prices offered during a tender necessarily influence all prices negotiated in follow-up transactions and in subsequent tenders held in the same Member State. In this respect, the price behaviour in tenders actually influenced a significantly higher share of the Community market than the 40% of it that were governed directly by tenders.

3.3.2 Price undercutting based on actual sales prices

Methodology

- (68) With this background, the extent to which the Community industry's actual sales prices have been undercut by the exporting producers' actual sales prices was also established. For this purpose, export prices of the co-operating exporting producer to the first unrelated customers in the Community were compared with the Community industry's sales prices at the same level of trade. This comparison was made for TCHs.
- (69) The detailed information on individual sales of TCHs provided by both the Community industry and the co-operating exporting producer enabled the Commission to compare individual sales prices of TCHs. Since, as mentioned above, both the Community industry and the co-operating exporting producers sold a number of TCHs via tenders and this in a similar proportion as compared to total sales, it was considered that the prices thus established reflected the actual circumstances and conditions of the market.
- (70) The Community industry's average sale prices of individual models of TCHs were compared to the exporting producer's average sale prices of comparable models. In this respect, TCHs have been subdivided into various groups, i.e. portable or studio TCHs further subdivided according to the imaging technology used in the CCD block. This approach ensured a representative coverage of both the Community industry's and the exporting producer's sales.
- (71) The co-operating exporting producer argued that due to the existence of tenders, the prices used to calculate the price undercutting margin based on actual sales prices were not reliable since tenders usually cover complete TCS as well as after sales services.
- (72) In this respect it was found, that the information obtained from the Community industry enabled the Commission to isolate actual sales prices of TCHs on the Community market and to compare them with similarly isolated actual sales prices of TCHs sold by the co-operating exporting producer at the same level of trade.

Quantification

- (73) The price undercutting amounts based on a comparison of actual sales prices found for the co-operating exporting producer have been expressed as a percentage of the Community industry's average sale price per model. Thus, the price undercutting based on actual prices ranged between 0% and 24%, with an average of 3.4%.
- (74) While the undercutting found may seem low, this is explained by the price-depressive effects of the tenders in a price-sensitive and transparent market with a small number of players, as mentioned above. The price depressing effect is clearly underlined by the fact that, as mentioned below, the Community industry suffered losses of around -10%, in a high-technology sector where profits of around 15% are necessary for adequate investments.

3.3.3 Price undercutting margin for non co-operating exporting producers

- (75) Given the low degree of co-operation from the exporting producers, it was considered appropriate to set the price undercutting margin for the non-co-operating companies at a higher level than the highest undercutting margin established for the co-operating producer. The price undercutting margin for non co-operating exporting producers was set at the level of the highest margin established for the co-operating exporting producer. This was found to be 37%. This approach was considered necessary in order to avoid creating a bonus for known exporting producers that deliberately did not co-operate.

3.3.4 Conclusion

- (76) The analysis of information available on tenders which took place during the investigation period has shown that prices offered by the Community industry were undercut by prices offered by the Japanese exporting producers by margins ranging between 20 and 37%.
- (77) On the other hand, when comparing actual sales prices as found in the detailed information on individual transactions provided by both the Community industry and the co-operating exporting producer, it has been found that for this exporting producer, this price undercutting margin ranged between 0 and 24%, with an average of 3.4%. It should be noted that on the basis of the tenders, this co-operating exporting producer was found to be significantly undercutting the prices of the Community industry (up to 37%). Thus, the above average price undercutting margin of 3.4% should be considered as the minimum found for this co-operating exporting producer.
- (78) As to the price undercutting margin for the non co-operating exporting producers, in view of the low degree of co-operation and in order to avoid creating a bonus for known exporting producers that deliberately did not co-operate, the price undercutting margin was established on the basis of the level of the highest margin established for the co-operating exporting producer. On the basis of the above, this was found to be 37%.

4. Situation of the Community industry

- (79) Pursuant to Article 3 (5) of the Basic Regulation, the Commission examined all relevant economic factors and indices having a bearing on the state of the Community industry.
- (80) The economic indicators relating to the situation of the Community industry have to be seen in the light of previous proceedings concerning TCS originating in Japan, i.e. the imposition of an anti-dumping duty in 1994 and the results of the anti-absorption proceeding which led to an increase of the rates of that anti-dumping duty as from 1997. The investigation has shown that the latter had a positive effect on the situation of the Community industry. In addition, two other factors linked to technological development also had an impact on some of the indicators below, i.e. the introduction of the camcorders, a new kind of TCHs, in the market as from 1997 and the development of the new generation of digital TCHs which also started in 1997.

4.1. Production

- (81) Total production of TCHs of the Community industry significantly decreased between 1995 and 1996, i.e. by 32%, and went up steadily between 1997 and the investigation period, without recovering however the levels of 1995. In this respect, production has followed the evolution of the Community market since 1997, reflecting the effects of the above mentioned situation.

4.2. Capacity utilisation

- (82) Capacity utilisation for TCHs went down between 1995 and 1996, i.e. by 32%, increasing again towards the investigation period. This development reflects the above mentioned increase in production volumes as from 1997.

4.3. Sales volume

- (83) The sales of the Community industry decreased between 1995 and 1996 by 10% and they increased between 1997 and the investigation period, i.e. in overall terms they went up by 21% between 1995 and the investigation period reaching around 850 units, without, however, matching the expansion of the Community consumption, which substantially increased, i.e. by 54%, during the same period of time

4.4. Market shares

- (84) The steady decrease of the market share of the Community industry between 1995 and the investigation period by more than 16 percentage points, reaching around 60% during the investigation period, shows that the Community industry did not benefit from the expansion of the Community consumption or from the favourable market conditions from 1997 resulting from the conclusion of the anti-absorption investigation.

4.5. Employment

- (85) Employment has remained stable as from 1996, when it increased sharply, i.e. by 20%, as a result of the introduction of the camcorders and the new generation of digital TCHs.

4.6. Investment

- (86) Investments decreased substantially between 1995 and 1996, i.e. by 21%, following the negative evolution of production and sales of the Community industry. They then increased substantially in 1997, by around 100%, due, amongst other reasons, to the R&D investments linked to the development of the new generation of digital products but sharply decreased again in the investigation period.

4.7. Profitability

- (87) In 1995 and especially in 1996, the Community industry suffered significant losses which only diminished as from 1997 due, amongst other reasons, to the above mentioned increased rates of the anti-dumping duty imposed on TCS originating in Japan in that year and to the successful introduction of camcorders on the market. Throughout this period, however, sales of the Community industry remained loss-making. These losses were still at a level of around -10% on net sales during the investigation period.

5. Conclusion on injury

- (88) Between 1995 and the investigation period, the Community industry's sales volume and market share for TCH have not followed the growing trend of the market. Indeed, the Community industry's market share decreased by 16 percentage points. Though its sales volume increased in absolute terms by 21%, this was in a context of expansion of the Community consumption, i.e. it increased by 54% during the same period of time. In addition, the Community industry has suffered losses of around -10% which compares to a profit level of 15% which is necessary to finance the investment needed to keep up to date with technological developments.
- (89) The increase in investment and production volume as from 1997 reflects the fact that the Community industry has tried to keep track with technological developments in order to maintain its position in a significantly growing market. However, between 1995 and the investigation period, the Community industry suffered continuous financial losses. While these losses diminished towards the investigation period, they are still significant, in particular in view of the high-technology nature of the industry requiring important R&D investments.
- (90) As to the dumped imports, between 1995 and the investigation period, they significantly increased in terms of volume, i.e. by 157%, and of market shares, i.e. by 16 percentage points, and it has also been found that they have significantly undercut the prices of the Community industry (up to 37%).
- (91) On the basis of the above, it is therefore concluded that the Community industry has suffered material injury

F. CAUSATION

1. Preliminary remark

- (92) According to Articles 3(6) and (7) of the Basic Regulation, it was examined whether the material injury suffered by the Community industry has been caused by the dumped imports and whether other factors might have caused or contributed to that injury, in order not to attribute possible injury caused by other factors to the dumped imports.

2. Effect of the dumped imports

- (93) In order to establish whether the dumped imports caused the material injury suffered by the Community industry, the Commission assessed whether the TCHs incorporating the product concerned originating in Japan were causing the material injury suffered by the Community industry.
- (94) The significant increase of the volume of the dumped imports, i.e. by 157%, and of their market shares between 1995 and the investigation period, i.e. by 16 percentage points, as well as the price undercutting found (up to 37%) coincided with the deterioration of the situation of the Community industry in terms of loss of market shares, price suppression as well as negative profitability.
- (95) Indeed, the sales volume of the Community industry, decreased between 1995 and 1996, and went steadily up as from 1997, i.e. they went up by 21% between 1995 and the investigation period. However, even though benefiting to a certain extent from the results of the anti-absorption proceeding and the introduction of newly developed products on the Community market, it did not gain from the significant expansion of the Community consumption which went up by 54%, but lost market share by more than 16 percentage points.
- (96) In addition, the analysis of tenders has shown that prices of the Community industry were significantly undercut by those of the Japanese exporting producers (up to 37%) and that sales prices of the Japanese exporting producers had a depressive effect on the sales prices of the Community industry.
- (97) Given that the market for TCHs is price sensitive, given the small number of operators in the market and given the relatively low sales in absolute numbers sold per year, prices of the various actors are never very far apart and they always have a bearing on the other actors' prices. Therefore, the fact that price undercutting was found in a market where the sales prices of the Community industry had already been forced down is an indicator of the aggressive pricing policy practised by the Japanese exporting producers on the Community market.

3. Other factors

- (98) In accordance with Article 3(7) of the Basic Regulation, it was further examined whether factors other than the dumped imports from the country concerned might have contributed to the injury suffered by the Community industry, in particular imports from third countries, developments in technology and the export performance as well as productivity of the Community industry.

Imports from other third countries

- (99) During the investigation period, the Community market of TCHs was shared by the Japanese exporting producers and the Community industry. All TCHs sold by the co-operating exporting producer on the Community market were found to incorporate the product concerned originating in Japan (i.e. CCD blocks). Thus, even though there were imports of incomplete TCHs from the USA by the same exporting producer, the investigation confirmed that they were incomplete and supposedly incorporated only ASICs and PCBs, whilst the CCD blocks used in these TCHs originated in Japan. ASICs and PCBs represent far less than CCD blocks in terms of value and, furthermore, their origin has never been established. Indeed, since the co-operating exporting producer in the current investigation did not co-operate in this respect during the parallel anti-dumping investigation concerning imports of TCS originating in the USA, no findings could be made in this respect.
- (100) On this basis, these imports of TCHs from the USA are not considered relevant for the current investigation and it is thus concluded that they did not contribute to the injury suffered by the Community industry to an extent which would break the causal link between these imports and the material injury suffered by the Community industry therefrom.

Competitiveness and export performance of the Community industry

- (101) In relation to the developments in technology and productivity, the Community industry, between 1995 and the investigation period, has maintained its production and sales levels and it has even increased its investments and developed a new range of digital products in order not to lose market share and competitiveness.
- (102) During the period taken into consideration, the Community industry has maintained a stable level of sales in export markets where it was also in direct competition with the exporting producers concerned. The Community industry is a major actor in the USA market and has also sold its products in other third countries.
- (103) Therefore weak export activity or lack in competitiveness cannot have contributed to the injury suffered by the Community industry.

4. Conclusion on causation

- (104) On the basis of the above, it is concluded that the dumped imports have caused material injury to the Community industry.
- (105) TCHs originating in Japan are already subject to anti-dumping measures as from 1994. However, the Community industry which manufactures both TCHs and the product concerned has been found to be suffering material injury. Given that the product concerned represents up to 65% of the cost of production of a TCH; that both TCHs and the product concerned are only being manufactured by Japanese and the Community industry and finally, given that no other factors have been identified which could have contributed to the material injury suffered by the Community industry, it is concluded that the material injury suffered by the Community industry has been caused by imports of the product concerned originating in Japan.

G. COMMUNITY INTEREST

1. Preliminary remark

- (106) The Commission examined the possible effects of the imposition and non-imposition of measures. In this context, particular consideration was given to the effect that anti-dumping measures, if any, would have on the Community industry and on users.
- (107) Given that the direct users of the product concerned is the Community industry itself, it was decided to assess the impact of an anti-dumping duty on the users of TCS (i.e. users of TCHs), i.e. one further level downstream.

2. Community industry and other Community producers

2.1. General

- (108) The Community industry accounts for 100% of the total Community production of the product concerned. The production process is automated while at the same time requiring a significant skilled workforce both for manufacturing and R&D activities.
- (109) The Community industry has proven to be a structurally viable and successful industry, able to adapt its product range to the changing competitive conditions on the market and even to gain some technological lead in the development of the digital technology.
- (110) However, it cannot be excluded that this industry would reduce its manufacturing activities for the product concerned in the Community if no measures against dumped imports were taken. This conclusion is justified in view of the duration of dumping practices in the sector concerned and the resulting negative profitability situation suffered due to dumped imports. Without measures, the price-depressive effect of the dumped imports will continue to frustrate all efforts by the Community industry to reach any satisfactory margin of profitability, which is essential to keep up with the pace of technological development towards lighter, high performance digital cameras. In addition, since certain operations of the TCS production are labour intensive, it is highly possible that they would be de-located to low labour cost countries in order to reduce such costs.

2.2. Employment

- (111) The economic situation of the Community industry has steadily deteriorated overall since 1996. Should this trend continue, the Community industry might be forced to reduce its manufacturing activities in the Community, and around 250 Community jobs directly linked to the product concerned and, therefore, to TCS, would be endangered. On the other hand, the imposition of measures would enable this industry to maintain and further develop its activities in the Community. Furthermore, the imposition of anti-dumping measures would help to maintain a certain number of jobs indirectly linked to the production of TCS, mainly in R&D. Thus, overall employment in the Community in relation to TCS would be secured and may even rise.

2.3. R&D

- (112) The production of TCS has spin-off effects which are mainly related to the development of the CCD block, since its components are also used for other applications such as medical or security systems.
- (113) In addition, the existence of a Community industry manufacturing the product concerned as well as TCS not only has an impact on the entire television industry, i.e. from the development and manufacturing of broadcast equipment to the production of television sets and recorders, but it may also have an influence on the standards set for the EU television sector in the future.

3. Related importers and economic operators in the Community

- (114) As regards the related importers and the economic operators in the Community related to exporting producers of the countries concerned, it can be expected that the decision to impose measures would have positive effects with regard to production and employment in the EU, since some of the manufacturing activities of TCS which took place in Japan during the investigation period may be transferred to the Community and those activities which already took place in the Community would become even more important, as evidenced following the initiation of the anti-dumping proceeding concerning imports of TCS originating in the USA.

4. Users

- (115) The direct user of the product concerned is the Community industry. However, in line with the nature of the market described above, the potential effect of anti-dumping measures had to be assessed on the users of TCS (i.e. simultaneously users of TCHs). Users of TCS are mainly licensed broadcasting companies that broadcast their own programmes by using their own equipment, which they usually purchase directly from the TCS producers. But there are also licensed broadcasters which do not broadcast their own programmes; there are facility companies which supply equipment including camera systems as well as crews to their customers and, finally, rental companies which provide camera and other equipment to various customers.
- (116) Thus, the Community interest questionnaire was sent to more than 60 users. Fifteen of them replied and partially co-operated. The level of co-operation was limited since most of the responding companies did not provide the original information requested or did not reply to the request for additional information. Some of the replies received were verified by the Commission, whilst others could not be verified as some users did not agree to the verification visits.
- (117) This lack of co-operation as well as the fact that no user made itself known to the Commission further to the publication of the Notice of Initiation justifies the conclusion that any anti-dumping measures will most likely not have a decisive impact on the users of TCS. This conclusion is in line with findings in earlier proceedings covering TCS where it was found that they are not a significant cost factor for the users, since in relation to their production of broadcast programmes, they only account for a small proportion of their total costs. Indeed, when looking only at equipment costs of the users, the cost of TCS represents around 10% in a studio and can reach up to 20% in a small outside broadcasting vehicle. Furthermore, the product concerned represents only around 15% of the total cost of a TCS. However, when looking at the

total costs of a broadcasting company, and not only at equipment costs, the percentage would decrease since there are important costs such as programme production, personnel, overheads, etc. which are well above the mere cost of a TCS.

- (118) Likewise, in general terms, the effects on either category are fairly limited when compared to the size of the activity of broadcasting companies and companies dealing with TCS, i.e. around 0.1% for broadcasting companies and around 1% for production and rental companies.
- (119) The investigation has also shown that prices of TCS in the Community did not significantly increase following the above mentioned imposition of an anti-dumping measures concerning imports of TCS originating in Japan.
- (120) Moreover, given the level of anti-dumping measures proposed for the exporting producers concerned and the fact that there are a certain number of TCS producers located in the Community, the measures are not likely to lead to an overall major price increase for TCS in the Community. The impact of any anti-dumping duty on the product concerned would be thus negligible for the users. Some of them have continued to be supplied by the exporting producers concerned even though an anti-dumping duty has been in place on TCS originating in Japan since 1994 (its rates being even raised in 1997) and some will probably continue to do so.

5. Competition and trade distorting effects

- (121) Although TCS are being exported by the Community industry to other third countries, the Community industry does not make any such exports to Japan.
- (122) With respect to the effects of possible measures on competition in the Community, some interested parties have argued that duties would lead to the disappearance of the exporting producers concerned from the Community market, thus considerably weakening competition, and to an increase of the prices for TCS.
- (123) However, it appears more likely that the Japanese exporting producers will continue to sell TCH albeit at non-injurious prices, as they have a solid technological basis, a strong market position and manufacturing facilities in the Community. This conclusion is confirmed by the developments further to the imposition of an anti-dumping duty in 1994 and to the increase of the rate in 1997 which did not lead to a harmful effects for the Community market.
- (124) Given the rapid technological development in this sector, competition will, without any doubt, remain strong after the imposition of any anti-dumping-measures. Given the fact that a number of actors in the market for TCS have nowadays established their manufacturing facilities for these products in the Community, they will be able to satisfy the users' demand and to offer a wide range of models. Thus, the imposition of any anti-dumping-duties will not limit the users' choice or weaken competition.

6. Conclusion on Community interest

- (125) It is considered, therefore, that there are no compelling reasons against the imposition of anti-dumping duties.

H. PROPOSED MEASURES

1. Injury elimination level

- (126) Based on the above conclusions as to dumping, injury, causation and Community interest which call for definitive measures, consideration has been given to the form and level of definitive anti-dumping measures which could best remove the trade-distorting effects of injurious dumping and help to restore effective competition on the Community market.
- (127) For establishing the level of duty, account has been taken of the dumping margins found and of the amount of the duty necessary to eliminate the injury sustained by the Community industry. Given the insufficient co-operation for the injury assessment, the price increase was established by adding to the actual price undercutting found, the profit shortfall of the Community industry and a profit margin of 15% on turnover. This profit margin is in line with what has been found as the minimum necessary in earlier cases for those types of industry requiring intensive R&D developments in particular when developing a new range of products and what can reasonably be expected in the absence of injurious dumping. Any difference resulting from this comparison was then expressed as a percentage of the total CIF import value.
- (128) For the non co-operating companies, the following methodology was applied. The injury margin was calculated by adding to the highest undercutting found, the profit shortfall and a reasonable profit as explained above. This approach was considered necessary in order to avoid creating a bonus for known exporting producers that deliberately did not co-operate. The residual duty was then set in accordance with the lesser duty rule principle as explained in the following paragraph.
- (129) Since the margins of dumping found were in all cases below the above-mentioned injury elimination level, the definitive duties imposed should be based on the dumping margin established.

2. Proposed anti-dumping duty

- (130) In the light of the foregoing, it is considered that the definitive anti-dumping duties should be imposed at the level of the dumping margins found which were lower than the injury margins, in accordance with Article 9(2) of the Basic Regulation.
- (131) On the basis of the above, the proposed definitive duty rates, expressed as a percentage of the CIF Community border price, customs duty unpaid, are as follows:

Company	AD duty %
Matsushita	0%
Sony Corporation	17.6%
All other Japanese companies	40,2%

- (132) The residual duty for the non-co-operating companies, in accordance with the methodology set out above, was established at 40,2%.
- (133) 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 Japanese companies".

- (134) 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 Commission¹² 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.

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of certain parts of television camera systems (TCS) falling within CN codes ex 8529 90 72, ex 8538 90 91, ex 8529 90 81, ex 8529 90 88, ex 8542 13 80 (TARIC Codes) and originating in Japan. These parts are defined as follows:
 - colour splitters with three or more charge-coupled devices attached, whether or not including electronic (sub)assemblies, whether or not including a filter wheel,
 - Application Specific Integrated Circuits (ASICs) of a kind only used in TCS for the television camera heads, operational control panels, master control panels and television camera base stations,
 - printed circuit boards with the above ASICs.

¹² European Commission
Directorate-General Trade
Directorate C
DM 24 - 8/38
Rue de la Loi/Wetstraat 200
B-1049 Brussels / Belgium

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

Producer	Rate of duty (%)	Additional TARIC Code
Matsushita	0%	
Sony Corporation	17.6%	
All other Japanese companies	40,2%	

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

Article 2

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

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

Done at Brussels,

For the Council
The President