



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 10.10.2000  
COM(2000) 635 final

Proposal for a

**COUNCIL REGULATION**

**imposing a definitive anti-dumping duty and collecting definitively the provisional duties imposed on imports of hairbrushes originating in the People's Republic of China, the Republic of Korea, Taiwan and Thailand**

(presented by the Commission)

## **EXPLANATORY MEMORANDUM**

- (1) On 13 August 1999, the Commission opened an anti-dumping investigation with regard to imports of hairbrushes originating in the People's Republic of China, Hong Kong, the Republic of Korea, Taiwan and Thailand.
- (2) The Commission, by Regulation (EC) No 967/2000<sup>1</sup> imposed a provisional anti-dumping duty on imports of hairbrushes originating in the People's Republic of China, the Republic of Korea, Taiwan and Thailand.
- (3) In the same Regulation, it was concluded that the proceeding concerning imports of hairbrushes originating in Hong Kong should be terminated since the volume of these imports was found to be negligible during the investigation period.
- (4) The attached proposal for a Council Regulation is based on the definitive findings on dumping, injury, causation and Community interest which broadly confirmed the provisional findings
- (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 7 November 2000.

---

<sup>1</sup> OJ L 111, 9.5.2000, page 4

Proposal for a

## **COUNCIL REGULATION**

**imposing a definitive anti-dumping duty and collecting definitively the provisional duties imposed on imports of hairbrushes originating in the People's Republic of China, the Republic of Korea, Taiwan and Thailand**

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<sup>2</sup>, and in particular Article 9 thereof,

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

Whereas:

### **A. PROVISIONAL MEASURES**

- (1) The Commission, by Regulation (EC) No 967/2000<sup>3</sup> (the "provisional Regulation") imposed a provisional anti-dumping duty on imports of hairbrushes originating in the People's Republic of China ("China"), the Republic of Korea ("Korea"), Taiwan and Thailand.
- (2) In the same Regulation, it was concluded that the proceeding concerning imports of hairbrushes originating in Hong Kong should be terminated since the volume of these imports was found to be negligible during the investigation period.

### **B. SUBSEQUENT PROCEDURE**

- (3) Subsequent to the disclosure of the essential facts and considerations on the basis of which it was decided to impose provisional measures on imports of hairbrushes originating in China, Korea, Taiwan and Thailand ("provisional disclosure"), several interested parties made written submissions making their views known. The parties who so requested were also granted an opportunity to be heard orally.
- (4) The Commission continued to seek and verify all information it deemed necessary for its definitive findings.

---

<sup>2</sup> 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, page 18.

<sup>3</sup> OJ L 111, 9.5.2000, page 4

- (5) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-dumping duties and the definitive collection of amounts secured by way of provisional duties ("definitive disclosure"). They were also granted a period within which they could make representations subsequent to this definitive disclosure.
- (6) The oral and written comments submitted by the parties were considered, and, where appropriate, the provisional findings have been modified accordingly.

## **C. PRODUCT CONCERNED AND LIKE PRODUCT**

### **1. General**

- (7) In recital 9 of the provisional Regulation, all hairbrushes currently classifiable within CN Code 9603 29 30 were considered to be a single product for the purpose of this investigation since they had the same basic characteristics and uses.
- (8) Following provisional disclosure, certain parties claimed that hairbrushes did not constitute a single product but that they should be differentiated according to their physical characteristics and manufacturing process, to their applications and use as well as to their quality and price.
- (9) As regards their physical characteristics, it was confirmed that, irrespective of the manufacturing process used, the majority of hairbrushes had basic standard shapes and were produced with the same basic materials. Only very marginal quantities of hairbrushes were manufactured with special shapes and materials.
- (10) Concerning their applications and use, it was confirmed that all hairbrushes had essentially the same use, i.e. brushing, styling or untangling of human hair. Furthermore, while certain types of hairbrushes are clearly intended for particular applications (i.e. some professional hairbrushes used by hairdressers), it was found that there is no clear definition of what constitutes a professional hairbrush or a hairbrush for private purposes. Furthermore, it was established that there was significant overlapping between these two alleged groups of products, since hairbrushes destined for private purposes and sold via the so-called retail market can also be used in professional applications, whereas professional hairbrushes are also used for private purposes by consumers. This shows the existence of competition and interchangeability between these types, rendering impossible an identification into two separate groups of products.
- (11) As concerns quality and price, while hairbrushes in the high end and in the low end of the market are probably not interchangeable, hairbrushes in adjoining price and quality segments of the market have indeed been found to be interchangeable. Therefore, a certain degree of overlapping and competition does exist between hairbrushes belonging to different segments of the market.
- (12) Given this overlap between hairbrushes belonging to different groups in terms of applications, quality and price, there were no generally accepted criteria by which hairbrushes could be grouped in distinct categories. Finally, as far as differences in the manufacturing process are concerned, it should be noted that these are normally only relevant to the extent that such differences lead to differences in the basic

physical characteristics and uses. However, as pointed out above, such differences do not exist in the present case.

- (13) On this basis, and given that all hairbrushes were in addition found to have the same basic physical characteristics and uses, even if differences exist between the top end and bottom end of a range, since a certain degree of overlapping and competition exist amongst hairbrushes, therefore it was concluded that all products in the range formed one single product and therefore all hairbrushes were considered to be one product.

## **2. Product concerned**

- (14) Following provisional disclosure, a number of apparently contradictory statements were submitted. On the one hand it was claimed that low quality hairbrushes were only manufactured in the countries concerned. On the other hand it was also claimed that sophisticated professional products were only manufactured in the countries concerned, following particular specifications, design and sometimes using special raw materials. This contradiction simply confirmed that the countries concerned were in fact capable of producing, and did indeed manufacture and export to the Community, as shown by the investigation, the full range of products on offer in the market, even if this is not apparent from import statistics because the average prices were driven by the bulk of imports which indeed comprised mainly low-priced hairbrushes. In the light of the above findings, findings set out in recital 9 of the provisional Regulation are confirmed.

## **3. Like product**

- (15) Following provisional disclosure, it was argued that since manufacturing processes for hairbrushes in the countries concerned and in the Community were different, the Community-produced product could not be considered a like product to the imported one. However, given the above conclusions and in line with the constant practice of the Community institutions, any difference in the manufacturing process which has no consequences on basic physical characteristics and uses is irrelevant for the determination of the like product.
- (16) Furthermore, it was claimed that imported and Community produced hairbrushes belonged to different product segments which did not compete with each other and were not consequently a like product. However, as stated above, exporting producers were found to manufacture products belonging to both the high end and low end of the market. Furthermore, the Community industry was also manufacturing and selling in the Community products including both the high end and low end of the market.
- (17) In the light of the above, recital 10 of the provisional Regulation is hereby confirmed, i.e. that the hairbrushes produced and sold on the domestic markets of Korea, which was used as an analogue country for China, Taiwan and Thailand, or produced and sold by the Community industry on the Community market, are a like product within the meaning of Article 1(4) of the Council Regulation (EC) No 384/96<sup>4</sup> ("the Basic Regulation").

---

4 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, page18.

## **D. DUMPING**

### **I. China**

#### **I.1 Individual dumping margins**

- (18) As mentioned in recital 26 of the provisional Regulation, it was considered that the original sample had failed. In view of this and given the considerable number of different models of hairbrushes imported from China, it was decided to apply an alternative method of sampling and to establish the dumping margin for China on the basis of the four best-selling models sold by the two largest exporters, as set out in recital 28 of the provisional Regulation.
- (19) After the imposition of the provisional measures a number of exporting producers objected to the method of sampling applied by the Commission and argued that the Commission should not apply an average dumping margin for all companies which had been granted individual treatment.
- (20) The Commission agreed to review the sampling methodology and broadened the basis of the sample. This was done by increasing the number of companies in the sample from the two largest to the four largest and by using the export transactions of the four best-selling types of hairbrushes (pneumatic, round, oval/rectangular and web) sold by those four companies. Moreover the Commission accepted the argument made by the exporters and applied to the companies in the sample to determine individual margins for each company, rather than the average margin as was done for the purpose of provisional measures. The two remaining companies which had not been selected in the sample have been given the average margin of the four companies in the sample.

#### **I.2 Normal value**

- (21) One exporting producer requested that its normal value be determined on the basis of the export prices of Tong Fong Brush Factory Co, Ltd from Taiwan on the grounds that this was a related company selling similar types of hairbrushes. This request was not accepted since it is the established practice of the Community institutions to give preference to prices or constructed values in an appropriate market economy third country as provided for by Article 2(7) of the Basic Regulation. In this case it was decided to use Korea as the market economy third country for the reasons set out in recitals 17 to 20 of the provisional duty Regulation and not Taiwan as requested by the exporter.
- (22) In the absence of any other new arguments, the findings set out in recitals 13 to 19 of the provisional Regulation concerning normal value are therefore confirmed.
- (23) For the purpose of calculating normal value the Commission finally decided to use the fifteen most basic products of the four best-selling types (pneumatic, round, oval/rectangular and web) since it was found that these were the most comparable with the models exported by the Chinese exporting producers. In this respect it should be noted that the adjustments which were made to the Korean normal values in the light of further information submitted by the Korean exporters (see recital 29 to 32), were also taken into account in the Korean normal value used for the calculation of dumping for China.

### I.3 Export price and comparison

- (24) In the absence of any new arguments, the findings set out in recitals 21 to 25 of the provisional Regulation concerning export prices and the comparison are confirmed.

### I.4 Dumping margin

#### *Individual dumping margins*

- (25) The dumping margins are as follows:

Kai Fat Brush Factory Ltd/ Ningbo Kai Fat Brush Factory Ltd	39.2%
Lung Tain (Brothers) Company Ltd	75.3%
National Brushes & Plastic Manufactory Ltd.	59.2%
Yang Hau (Xiamen) Home Product Ltd	18.4%
Lee Chung Kee Plastic Brush Factory Ltd	26.3%
Long Sure Industries Ltd	26.3%

#### *Dumping margin for non co-operating exporting producers*

- (26) A number of objections were made to the methodology used to calculate the dumping margin for the non co-operating companies.
- (27) It should however be noted that the level of co-operation in this investigation was extremely low (25.9%) and that therefore the method provisionally used has been maintained, in accordance with the established practice of the Community institutions. On the basis of a comparison of the revised weighted average Korean normal value with the Eurostat export price, the residual dumping margin now amounts to 114%.

## II. Korea

### II.1 Normal value

- (28) The Korean exporting producer with domestic sales claimed that some amounts for sales, general and administrative expenses (hereinafter 'SG&A') were not related to domestic sales. Since it was found that this claim was justified, the domestic SG&A used in the constructed normal value was recalculated, in accordance with the evidence obtained. This also had an impact on the other Korean producers with no domestic sales.
- (29) Another Korean exporting producer claimed that the cost of manufacturing (hereinafter 'COM') used when constructing normal value for provisional measures was wrongly calculated due to a technical failure in the file submission. In accordance with the evidence obtained, it was found that this claim was justified and consequently the COM for this producer has been revised.
- (30) The same two Korean exporting producers made comments on the method of calculating the profit margin to be added to the SG&A in order to arrive at the constructed normal value. They claimed that profits calculated on the basis of

profitable domestic sales did not represent the actual profits of the companies. However, profits in respect of one of those companies could be determined on the basis of actual data because it had representative sales in the ordinary course of trade. Therefore, in accordance with Article 2(6) of the basic Regulation the profit margin was based on the weighted average of the actual amount determined for the only Korean exporting producer with sales in the ordinary course of trade. The methodology used by the Community institutions in this instance is set out in more detail in recitals 31 to 36 of the provisional duty Regulation and is in line with the standard practice of the Community institutions.

- (31) Since no other comments concerning the normal value were presented, the findings set out in recitals 31 to 36 of the provisional Regulation are confirmed.

## II.2 Export price and comparison

- (32) Since no comments were presented, the findings set out in recitals 37 and 38 of the provisional Regulation are confirmed.

## II.3 Dumping margin

### *General methodology*

- (33) Since no new arguments were presented, the methodology used for the establishment of the provisional findings as set out in recital 39 of the provisional Regulation is confirmed.

### *Individual dumping margins*

- (34) On the basis of recitals (28) and (29), the dumping margins definitively established, expressed as a percentage of the CIF price at Community frontier level, are as follows:

Kumduk Brush Co, Inc	1.7%
Kyung Sung Plastics and Brush Co	4.4%
Seodoo Industrial, Co	11.2%

### *Dumping margin for non co-operating exporting producers*

- (35) The comparison of Eurostat figures with the data on the volume of exports to the Community supplied by the three co-operating Korean exporting producers showed that the level of co-operation was low at a level of only 66.4%. The residual dumping margin was therefore set in this case at the level of the average of the fifty most dumped models found in the Korean company with domestic sales, i.e. 19.0%.

## III. **Taiwan**

- (36) In the absence of any new arguments, the findings set out in recitals 41 to 46 of the provisional Regulation are confirmed.



## **IV. Thailand**

- (37) In the absence of any comments the findings set out in recitals 47 to 49 of the provisional Regulation are confirmed.

### **E. COMMUNITY INDUSTRY**

- (38) Since no new arguments were presented as regards the procedure and criteria to select the sample, recitals 51 to 53 of the provisional Regulation are confirmed. As concerns the sampled Community producers, the information provided by Industrias Fushima could not be fully taken into consideration at the provisional stage of the investigation as set out in recital 54 of the provisional Regulation, since it could not be aggregated with the information obtained from the other Community producers which were selected in the sample and provided the requested data. Further to the publication of the provisional Regulation, revised information was obtained from Industrias Fushima which was still incomplete and had to be disregarded. It was therefore concluded that Industrias Fushima, even if expressly supporting the proceeding, had to be excluded from the sample.
- (39) On the basis of the above, it is concluded that 10 out of the 11 companies mentioned under recital 7 (a) of the provisional Regulation, which provided the information requested that was in turn verified on-the-spot, constituted the sampled Community producers. These 10 companies accounted for the largest representative volume of production and sales of the Community industry which could be reasonably investigated within the time available and were representative from the point of view of company size, product mix and production structure of the variety of companies which constituted the Community industry.
- (40) In the absence of any other information, the provisional findings as described in recitals 50 to 61 of the provisional Regulation were therefore confirmed.

### **F. INJURY**

#### **1. Community consumption**

- (41) Further to the provisional disclosure, information concerning the provisional assessment of the apparent Community consumption was submitted and was in turn verified. This led to a re-evaluation of the provisional findings.
- (42) On this basis, between 1996 and the investigation period ("the period under consideration"), the apparent Community consumption increased by 32%, from around 78 million units to around 103 million units.

#### **2. Imports concerned**

- (43) Since no arguments were put forward by any of the parties concerned with respect to the provisional cumulative assessment, the volume and the prices of the imports concerned, the facts and findings as set out in recitals 67 to 74 of the provisional Regulation are confirmed.
- (44) However, as regards market shares of the imports concerned, on the basis of the newly determined apparent Community consumption, the provisional findings set out in recital 70 of the provisional Regulation are accordingly modified. Thus, the share of

the Community market held by imports from the countries concerned has increased from around 74% in 1996 to around 81% during the investigation period. It increased substantially between 1996 and 1997, i.e. by around 5 percentage points, remained relatively stable between 1997 and 1998, and increased again from 1998 to the investigation period.

### **3. Situation of the Community industry**

- (45) Pursuant to Article 3 (5) of the Basic Regulation, all relevant economic factors and indices having a bearing on the state of the Community industry were examined.
- (46) In this respect, it is to be outlined that the return on investments, actual or potential negative effects on cash flow, wages, growth and the ability to raise capital have been considered not to be relevant to the injury determination concerning the Community industry for hairbrushes. Indeed, the above mentioned factors were not separately identifiable for the product concerned but, since the Community industry also manufactures other products not covered by the present proceeding, they were only gathered and evaluated by the Community industry at a global level for the total companies. An examination of these factors on the basis of allocations would already be implicit in the evaluation of other economic indicators of the Community industry. Thus, the analysis of the trend for such factors was therefore not to provide any guidance as to the specific situation of the Community industry for hairbrushes.
- (47) In this respect, further to the provisional disclosure, information was submitted concerning the economic indicators relating to the situation of the Community industry which was in turn verified at the premises of the national federations of manufacturers of brushes and of the Community producers. Therefore, the provisional findings as set out in recitals 75 to 84 of the provisional Regulation have been accordingly modified, where applicable.

#### ***3.1. Data relating to the Community industry as a whole***

##### *Production*

- (48) The provisionally established decreasing trend of the Community industry's production is reinforced since it was found that during the period under consideration, its production volume decreased from around 23 million units to around 19.5 million units, i.e. by around 14%. The most significant decrease took place between 1997 and 1998, i.e. by 9%, and production further decreased, i.e. by 3%, from 1998 to the investigation period.

##### *Sales volume and market share*

- (49) While Community consumption rose by around 32% during the period under consideration, the sales volume of the Community industry decreased by around 7%, from around 13 million units to around 12 million units. In particular, it decreased significantly between 1996 and 1998, i.e. by 16%, and although it partly recovered thereafter, i.e. by 9%, between 1998 and the investigation period, it did not however re-reach the levels of 1996.
- (50) The corresponding market share of the Community industry decreased from around 17% in 1996 to 12% during the investigation period. It sharply decreased between

1996 and 1998, i.e. by around 6 percentage points, and slightly increased from 1998 to the investigation period, without however regaining earlier levels.

#### *Employment*

- (51) The decreasing trend for Community industry's employment for hairbrushes as established in recitals 83 and 84 of the provisional Regulation was confirmed, although the level of employment was found to be substantially higher, i.e. 1280 employees during the investigation period instead of 770 employees. This revision is due to the fact that the provisionally established figures for employment were only reflecting the situation in some of the Member States where manufacturing activities for hairbrushes exist.

### **3.2. Data relating to the sampled Community producers**

#### *Prices*

- (52) It had been provisionally found that sales prices of the Community industry had remained relatively stable during the period under consideration, although showing a slight decrease between 1998 and the investigation period. The overall stable trend was confirmed, although showing an increase from Euro 1,57 to Euro 1,62 between 1998 and the investigation period.

#### *Investments*

- (53) During the period under consideration, the sampled Community producers more than doubled their rate of investments, reaching around EUR 316 000 during the investigation period.

#### *Profitability*

- (54) During the period under consideration the profitability of the sampled Community producers changed from around -0.1% to around 1.0%.

### **4. Conclusions on injury**

- (55) Following provisional disclosure, it was claimed that the Community industry had not suffered material injury in the sense of Article 3 of the Basic Regulation, since indicators concerning production, capacity, sales, prices, investments and profitability remained stable or improved during the period under consideration.
- (56) It should be recalled that during the period under consideration, the situation of the Community industry deteriorated. Indeed, its share of the Community market decreased during the period under consideration by 5 percentage points and, at the same time, its sales volume decreased by 7%, whilst Community consumption expanded by 32% during the same period. Substantial price undercutting was found, as well as price suppression since the Community industry was not able to increase its sales prices following a shift towards higher end models during the period under consideration. In addition, even if it was able to slightly improve its profitability and investments, it was at the expense of a substantial reduction of its production and sales volume.

- (57) Furthermore, the slightly positive trend of certain economic indicators towards the investigation period only reflected the fact that the Community industry was made up of those companies which were so far strong enough to survive the competition from the dumped imports and which had absorbed machinery and assets of other companies which latter had stopped manufacturing hairbrushes in the Community. In these circumstances, the confirmed overall decreasing trend of its sales and production volume, capacity utilisation and employment as well as the loss of market shares justifies the conclusion that the Community industry was suffering material injury.
- (58) The above argument was therefore rejected and the conclusion that the Community industry suffered material injury as set out in recitals 91 to 95 of the provisional Regulation is confirmed.

## **G. CAUSATION**

- (59) It is recalled that in recitals 96 to 111 of the provisional Regulation, the Commission found that dumped imports of hairbrushes had caused injury to the Community industry. Following disclosure of the provisional findings and publication of the provisional Regulation, certain interested parties claimed that the injury suffered by the Community industry had been caused by other factors.
- (60) It was argued that the material injury suffered by the Community industry had not been caused by the dumped imports, since these belonged to different market niches, i.e. low quality niches for the dumped imports and high quality niches for the hairbrushes manufactured in the Community. As mentioned above under *C*, these arguments should be rejected since the Community-produced product is a like product to the imported product and since both the Community industry and the exporting producers were found to manufacture and sell products including both the high end and low end of the market via the same sales channels.
- (61) Furthermore, it was alleged that the material injury found was not caused by the dumped imports but by the Community producers' decision to move to high end products which did not enable them to benefit from the expansion of the demand for low end products, as the exporting producers could do. As mentioned above under *C*, a significant degree of overlapping and competition existed between hairbrushes in different groups and no clear dividing line existed at any point in the range of hairbrushes. Since both the exporting producers and the Community industry manufacture and sell the entire range of products, the dumped imports are in direct competition with the products manufactured and sold by the Community industry.
- (62) In this respect, it was also found that the dumped imports accounted for around 81% of the Community market and led the price evolution, that the Community industry's prices were substantially undercut by those of the dumped imports which were found to belong to the same market segments and being sold via the same sales channels, and that the Community industry suffered price suppression due to these dumped imports. This pressure from low-priced imports forced the Community industry to abandon production activities of certain low end models, without, however, as mentioned above, abandoning completely the production of all low end models which indeed are necessary to reach the critical mass of production and sales needed by the Community industry to cover its fixed costs. The above argument therefore had to be rejected.

- (63) Finally, it was argued that the Community industry was made up of small companies, sometimes with a handicraft production, which were not able to meet and adapt to the market needs and changing demand, which had inadequate machinery and were unable to compete with exporting producers from the countries concerned in terms of product range, innovation and active market behaviour.
- (64) It should be recalled that the Community industry is characterised by a high number of operators, in many cases small and medium sized companies, amongst which there is a certain diversity of companies in particular in terms of competitiveness, product development and market behaviour in general (see recital 64 of the provisional Regulation). The Community industry as a whole was found to maintain a certain level of investments and to have replaced, modernised and complemented its machinery in order to render its plants more efficient and be able to offer a wider product range at competitive prices. Indeed, the Community industry developed new models of hairbrushes in order to respond to the changing demand and was also found to be active and competitive in export markets (see recitals 113 to 116 of the provisional Regulation).
- (65) On the basis of the above, these arguments were therefore rejected. The provisional conclusion set out at recitals 96 to 111 of the provisional Regulation was therefore confirmed, i.e. that the material injury suffered by the Community industry had been caused by imports of hairbrushes originating in the countries concerned.

## **H. COMMUNITY INTEREST**

- (66) Following disclosure of the provisional findings and publication of the provisional Regulation, certain arguments were put forward concerning the assessment of Community interest in recitals 112 to 132 of the provisional Regulation.

### **1. The Community industry**

- (67) It was argued that the measures would have no positive effect on the situation of the Community industry due to its inability to adapt to the changing demand by increasing significantly its production and to a potential shift of the production in the countries concerned to other third countries. Moreover, it was argued that the situation of the Community industry for hairbrushes in this respect was comparable to that of the plastic and textile handbags manufacturers<sup>5</sup> and that accordingly no measures should be adopted in the present case.
- (68) In this respect, the Community industry was found to be viable, to have automated and rationalised its production, to have the capacity to supply a significantly larger share of the Community market than it currently does, and was also found to have the potential to react competitively to imports at fair prices of hairbrushes originating in the countries concerned or in other third countries.
- (69) As to the potential shift of supply from the countries concerned to other third countries, on the one hand, given that the level of the definitive duty established is

---

<sup>5</sup> Council Regulation Council Regulation (EC) No 1567/97 of 1 August 1997 imposing a definitive anti-dumping duty on imports of leather handbags originating in the People's Republic of China and terminating the proceeding concerning imports of plastic and textile handbags originating in the People's Republic of China, OJ L 208, 2.8.1997 page 31.

relatively small for a number of exporting producers in the countries concerned, they will most likely not shift their production facilities to other third countries. On the other hand, it cannot be excluded that other exporting producers in the countries concerned might decide to shift production facilities to other third countries. On the whole, given that a number of the exporting producers in the countries concerned are small and medium sized companies and that de-localising manufacturing facilities for hairbrushes requires a certain level of investment, a shift of some of the exporting producers' manufacturing facilities to other third countries will not jeopardise the efficiency of the measures.

- (70) In this respect, it should be stressed that in view of the fact that certain exporting producers own manufacturing facilities in several of the countries concerned, it cannot be excluded either that they might decide to de-localise their manufacturing facilities to countries with the lowest rate of duties<sup>6</sup>. Given the above mentioned investments required for the de-localisation of the production activities, this would not jeopardise the efficiency of any measures either. The argument was therefore rejected.
- (71) As to the alleged parallelism between the present proceeding and the synthetic handbags case, it is to be stressed that, unlike in the synthetic handbags case, the significant market share still held by the complainant Community industry in the present proceeding as well as the investments for hairbrushes carried out by the Community industry in the last years clearly distinguishes this industry from the synthetic handbags industry. The argument was therefore rejected.
- (72) No new evidence having been submitted in respect of these arguments, the conclusions presented in recitals 113 to 119 of the provisional Regulation are accordingly confirmed.

## **2. Suppliers of raw material for hairbrushes**

- (73) Since no new information was presented in this respect, recitals 120 to 122 of the provisional Regulation are hereby confirmed.

## **3. Unrelated importers and traders in the Community**

- (74) In recitals 123 to 126 of the provisional Regulation, it was found that no employment or any significant investment was directly related to hairbrushes for unrelated importers or traders in the Community since they were also dealing with a number of other products. It was therefore provisionally concluded that anti-dumping measures, if any, would most likely not have a decisive impact on these economic operators. Following disclosure of the provisional findings and publication of the provisional Regulation, it was claimed by certain parties that the imposition of measures would have an overall negative economic impact on the distribution chain for hairbrushes as a whole.

---

<sup>6</sup> Given that the individual duty rates are applicable to products produced by the companies mentioned in the operative part of the Regulation, certificates of production will be requested from the companies benefiting from individual anti-dumping duty rates.

Furthermore, imported products produced by any other company not specifically mentioned in the operative part of the Regulation cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'. In these cases, companies should introduce a claim to the Commission as described below in recitals (101) and (102).

- (75) In this respect, it was found that the distribution chain in the Community is constituted by independent retailers, branded chains and department stores, non-specialised supermarkets, and hairdressers. These are supplied by unrelated importers or source themselves directly from the countries concerned. A detailed analysis of the situation of every sales channel for hairbrushes in the Community, as well as of the situation of the unrelated importers based on the limited information submitted by both co-operating and other interested parties, showed that hairbrushes represent only a minor part of their range of hair accessories and of their turnover. These companies were found to trade, in most cases, with hairbrushes from different sources, i.e. the countries concerned and Community manufactured products. Furthermore, high mark-ups, i.e. above 200%, were found for these intermediaries. Therefore, imports from the countries concerned were found to reach the consumer at a price several times higher than the import price, the price being the higher the more steps in the chain are involved. On this basis, the situation of the different traders involved in the distribution chain for hairbrushes was not found to be likely to be affected by the imposition of measures.
- (76) Furthermore, as regards specifically the situation of unrelated importers, it was claimed that the assessment presented in recitals 123 to 126 of the provisional Regulation was not representative, since it was based on only nine replies and an important number of companies in the Community were not aware of the existence of the proceeding. In addition, the immediate implementation of provisional measures, i.e. on the day following publication, without any previous warning to the parties concerned was considered disproportionate, since it affected goods which had been ordered well before the entry into force of the provisional Regulation. It was furthermore also argued that hairbrushes constitute the essential part of the hair accessories range for unrelated importers and that a price increase in hairbrushes would have negative effects on their sales of the complete range, that the Community industry was unlikely to be able to satisfy demand and to supply innovative and low-medium range products and that provisional measures have already lowered their profit margins and might force some of them to reduce personnel or to switch to other products. Finally, it was argued that, given the level of the provisional measures imposed and in particular the residual specific duty for China, these measures would not be in the interest of the Community, since they would lead to imports of hairbrushes ceasing completely.
- (77) As to the representativity, the provisional findings are based on verified information obtained from the co-operating unrelated importers and traders. It is to be recalled that the level of co-operation from those companies was extremely low in spite of the number of questionnaires sent and of contacts with certain associations of unrelated importers and traders in the Community. In addition, arguments submitted by a number of interested parties immediately after the imposition of provisional measures were given due consideration.
- (78) As to the immediate implementation of the provisional measures, the Notice of Initiation of an anti-dumping proceeding is published in the Official Journal of the European Communities, which is accessible to all parties in the Community. Furthermore, economic operators in the Community are made aware that provisional measures may be imposed from sixty days after publication of the above Notice onwards and therefore products imported after this date risk to be subject to provisional measures.

- (79) Concerning the argument on the effects of a price increase on unrelated importers, the investigation confirmed the provisional conclusion that hairbrushes only represented a minor part of the turnover of these importers (between 5 and 10% for most of the co-operating companies) and that hairbrushes did not constitute the basic activity for these companies.
- (80) Given however that, as stated in recital 98 of the provisional Regulation, there is an important presence on the demand side for hairbrushes of actors with a significant purchasing power, it cannot be excluded that margins of the unrelated importers for hairbrushes would be reduced. Therefore, it cannot be excluded that some importers will face negative consequences after the imposition of anti-dumping measures.
- (81) However, as regards the argument that imports of hairbrushes might cease completely, given the lower level of definitive measures for exporting producers in some of the countries concerned and the change in the level and form of the definitive residual duty for China, imports are not likely to cease, but rather to continue to take place, albeit at non-dumped prices. Moreover, it was confirmed that certain unrelated importers already moved, even if only partially, to the existing alternative sources of supply such as hairbrushes originating in third countries or manufactured in the Community. Therefore, unrelated importers would most likely continue to supply their clients with a range of hairbrushes and, as provisionally found, at prices which would not be substantially higher than the current ones.
- (82) In conclusion, the effect of the imposition of any anti-dumping measures on hairbrushes originating in the countries concerned would not be such as to affect significantly the financial situation of either the unrelated importers of hairbrushes or the operators of the distribution chain as a whole, and this especially since these companies were not found to deal exclusively with the product concerned but with a wide range of products. Therefore, the provisional findings set out in recitals 123 to 126 of the provisional Regulation are confirmed.

#### **4. Consumers**

- (83) Although no submissions have been received either from consumers or consumer organisations following the publication of the provisional Regulation, some parties argued that anti-dumping measures would seriously affect Community consumers and, among these, in particular those with the lowest income. This argument was related to a more general argument on the level of the provisionally imposed residual specific duty on imports originating in China, which was considered to be disproportionate since it led to import prices, on a duty paid basis, which were several times higher than the export prices and would thus lead to the disappearance of imports of low-priced hairbrushes or to significant price increases for these products, therefore having an impact on the situation of consumers.
- (84) The potential impact of any measures on the consumers' buying price was therefore examined in detail. It was found that the Community industry (with a 12% market share and an average price of around EUR 1,6) would most likely not be able to increase its prices without potentially worsening its current negative trend in terms of market share.
- (85) Imports from third countries with around 5% market share would not be able to command significant price increases either, given that prices for hairbrushes are led by



the pricing strategy of the exporting producers in the countries concerned and by the distribution system in the Community holding an important purchasing power.

- (86) Furthermore, as regards Korea and Taiwan, average prices of these imports are at a higher level than other imports concerned. As to Thailand (with a market share significantly lower than that of China, i.e. around 10% during the investigation period, and an average price of EUR 0,31), it will not be able to command any important price increase either. However, given the level of the country-wide duty established for this country (i.e. around 48%), it cannot be excluded that sales prices in the Community of hairbrushes originating in Thailand would increase. The average maximum impact of the definitive measures on consumers would amount to EUR 0,14 per hairbrush depending, as explained below, on the extent to which the distribution chain decides to keep its margins unchanged and to pass over the entirety of the duty to consumers.
- (87) Finally, as regards China, its market share is around 61% (with an average price of EUR 0,41 per hairbrush) and in view of the duty rate established, the average maximum foreseeable impact of the definitive measures on the consumer, all imports from China taken together, would amount to around EUR 0,4 per hairbrush.
- (88) Thus, it is only if the distribution chain chooses to keep its margins unchanged and charges the entirety of its potentially increased costs to the consumers that the latter would have in turn to pay the corresponding price increase per hairbrush. However, since the average per head consumption of the hairbrushes in the Community is below one per person per year, the impact of the measures for the consumer would even then remain clearly marginal.
- (89) As to the arguments on the disproportionate impact of the residual specific duty provisionally imposed on imports originating in China on the final prices to consumers, given that the level of the definitive duty is lower and that the definitive residual duty is an *ad valorem* duty, any impact on sales prices to final consumers would be lower and the duty would affect in the same proportion low, medium or high end products.
- (90) In the absence of any other elements, and given that there was no reaction from consumer organisations, it is concluded that the impact of the definitive measures on the consumer of the hairbrushes concerned is likely to be minimal and the provisional findings set out in recitals 127 to 129 are accordingly confirmed.

## **5. Competition and trade distorting effects**

- (91) It was alleged that anti-dumping measures would affect competition in the sense that there would be an overall reduction in the demand and a diminution of the choice for consumers.
- (92) In this respect, it is to be outlined that, given the moderate level of duties for a number of the exporting producers and of the countries concerned as well as the above-mentioned length and high mark-ups of the distribution chain, prices for hairbrushes would most likely not increase significantly and therefore, demand is not likely to decrease either.
- (93) As regards the diminution of the choice for consumers, the Community industry was found to have the capacity to supply a larger share of the Community market than it

currently does. Exporting producers from the countries concerned are expected to continue to export to the Community albeit at non-dumped prices. Furthermore, given the level of the definitive residual duty for imports originating in China, imports of hairbrushes originating in this country would not cease but most likely also continue at non-dumped prices. Therefore, there will be an important number of actors in the market which will be able to satisfy the demand, offering a wide range of product models. Thus, the findings set out in recitals 130 and 131 of the provisional Regulation are confirmed, i.e. the imposition of anti-dumping duties, if any, will not limit the choice of the consumer or weaken competition.

## **6. Conclusion on Community interest**

- (94) As a conclusion, and having examined all the various interests involved, it is considered that there were no compelling reasons not to impose measures against the dumped imports concerned. The conclusions set out in recital 132 of the provisional Regulation are therefore confirmed.

### **I. DEFINITIVE ANTI-DUMPING DUTY**

#### **1. Injury elimination level**

- (95) In line with the above mentioned claim (under D) of a number of exporting producers following publication of provisional measures that individual dumping margins should be established for those companies which had been granted individual treatment, individual injury elimination levels were also established for the seven Chinese exporting producers which had been granted individual treatment following the methodology established in recitals 135 and 136 of the provisional Regulation. The injury elimination levels were in all cases above the dumping margins found.
- (96) Since no other arguments were put forward in this respect, the general injury elimination level methodology, as established in recitals 133 to 136 of the provisional Regulation, was therefore confirmed.

#### **2. Form and level of the definitive anti-dumping duty**

- (97) For the reasons set out in recital 138 of the provisional Regulation (i.e. the low degree of co-operation of Chinese exporting producers), a residual specific duty (i.e. EUR 0.55) had provisionally been imposed on imports originating in China. Following the imposition of provisional measures, it was alleged that the effects of the residual specific duty provisionally imposed on imports originating in China were disproportionate since, as mentioned above, import prices, on a duty paid basis, became even several times higher.
- (98) Given that there is a large variety of hairbrushes, that a large proportion of the prices of the imports from the co-operating Chinese exporting producers was found to range between EUR 0.10 and 0.30 and that there were no indications that the situation would be significantly different for the non co-operating exporting producers, the effects of a specific residual duty would most likely be disproportionate for those products belonging to the low end of the market. An *ad valorem* residual duty, i.e. 114%, should therefore be imposed on imports of hairbrushes originating in China instead of the specific residual duty provisionally imposed.

(99) In accordance with Article 9(4) of the Basic Regulation, where the margins of dumping found in respect of a particular exporting producer were below the corresponding increases in import prices necessary to remove injury, as calculated above, the definitive duty rates have been limited to the dumping margin established, which was the case for all exporting producers.

(100) These duty rates expressed as a percentage of the cif net, free-at-Community-frontier price, before import duty amount to:

**China**

Kai Fat Brush Factory Ltd and Wangjiang Xiaoxiang Longxiang Machine Fty 39.2%

Lee Chung Kee Plastic Brush Factory Ltd and Long Gang Xin Sheng Chung Hing Plastic & Metal Factory 26.3%

Long Sure Industries Ltd 26.3%

Lung Tain (Brothers) Company Ltd and Sun Sang Metal & Plastic Toys Mfy 75.3%

National Brushes & Plastic Manufactory Ltd and National Plastic Manufactory 59.2%

Ningbo Kai Fat Brush Factory Ltd 39.2%

Yang Hau (Xiamen) Home Product Ltd 18.4%

All other companies 114%

**Korea**

Kumduk Brush Co, Inc 0%

Kyung Sung Plastic & Brushes Co 4.4%

Seodoo Industrial, Co 11.2%

All other companies 19.0%

**Taiwan**

Tong Fong Brush Factory Co Ltd 2.6%

All other companies 11.9%

**Thailand**

All companies 48.4%

(101) 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, 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'.

- (102) 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<sup>7</sup> 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.

## **J. COLLECTION OF PROVISIONAL DUTIES**

- (103) In view of the magnitude of the dumping margins found for the exporting producers and in the light of the level of the injury caused to the Community industry, it is considered necessary that the amounts secured by way of the provisional anti-dumping duty, imposed by Regulation (EC) No 967/2000, should be definitively collected at the rate of the duty definitively imposed unless the provisional duty rates are lower, in which case the latter should prevail.

HAS ADOPTED THIS REGULATION:

### *Article 1*

1. A definitive anti-dumping duty is hereby imposed on imports of hairbrushes currently classifiable within CN code 9603 29 30 originating in the People's Republic of China, the Republic of Korea, Taiwan and Thailand.
2. The rate of the duty applicable to the net free-at-Community-frontier price, before duty, for products produced by the following companies shall be as follows:

---

<sup>7</sup> European Commission  
Directorate-General Trade  
Directorate C  
DM 24 - 8/38  
Rue de la Loi/Wetstraat 200  
B-1049 Brussels / Belgium

Country/Company	Rate of anti-dumping duty	TARIC additional code
<b>China</b>		
Kai Fat Brush Factory Ltd and Wangjiang Xiaoxiang Longxiang Machine Fty	39.2%	A134
Lee Chung Kee Plastic Brush Factory Ltd and Long Gang Xin Sheng Chung Hing Plastic & Metal Factory	26.3%	A135
Long Sure Industries Ltd	26.3%	A136
Lung Tain (Brothers) Company Ltd and Sun Sang Metal & Plastic Toys Mfy	75.3%	A137
National Brushes & Plastic Manufactory Ltd and National Plastic Manufactory	59.2%	A138
Ningbo Kai Fat Brush Factory Ltd	39.2%	A139
Yang Hau (Xiamen) Home Product Ltd	18.4%	A140
All other companies	114%	8900
<b>Korea</b>		
Kumduk Brush Co, Inc	0%	A141
Kyung Sung Plastic & Brushes Co	4.4%	A142
Seodoo Industrial, Co	11.2%	A143
All other companies	19.0%	8900
<b>Taiwan</b>		
Tong Fong Brush Factory Co Ltd	2.6%	A144
All other companies	11.9%	8900
<b>Thailand</b>	48.4%	

3. Certificates of production delivered by the above mentioned companies shall be requested by the customs services in order to apply the above individual duty rates.
4. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

*Article 2*

The amounts secured by way of provisional anti-dumping duties pursuant to Regulation (EC) No 967/2000 on imports of hairbrushes originating in the People's Republic of China, the Republic of Korea, Taiwan and Thailand shall be collected at the rate of the duty definitively imposed. Amounts secured in excess of the definitive rate of anti-dumping duties shall be released.

*Article 3*

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

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

Done at Brussels,

*For the Council*  
*The President*