Council Regulation (EC) No 1205/2007 of 15 October 2007 imposing anti-dumping duties on imports of integrated electronic compact fluorescent lamps (CFL-i) originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 384/96 and extending to imports of the same product consigned from the Socialist Republic of Vietnam, the Islamic Republic of Pakistan and the Republic of the Philippines

COUNCIL REGULATION (EC) No 1205/2007

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

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

Having regard to the proposal from the Commission, after consulting the Advisory Committee,

Whereas:

A. PROCEDURE
Measures in force

(1) By Regulation (EC) No 1470/2001[(2)] (the original Regulation), the Council imposed definitive anti-dumping duties ranging from 0 to 66,1 % on imports of integrated electronic fluorescent lamps (CFL-i) originating in the People's Republic of China (the country concerned) (the original investigation). Prior to that, the Commission had imposed provisional anti-dumping duties by Regulation (EC) No 255/2001[(3)] (the provisional Regulation).

(2) By Regulation (EC) No 866/2005[(4)] (the extending Regulation), the Council extended the anti-dumping measures in force to also cover imports of CFL-i consigned from the Socialist Republic of Vietnam, the Islamic Republic of Pakistan and the Republic of the Philippines. The extension followed an anti-circumvention investigation carried out pursuant to Article 13(3) of the basic Regulation.

(3) By Regulation (EC) No 1322/2006, (the amending Regulation), the Council amended the anti-dumping measures in force. The amendment was made following an interim review carried out with regard to the product scope. The result of the investigation and the effect of the amending Regulation was that direct current

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 1205/2007. (See end of Document for details)*

voltage lamps (DC-CFL-i) should be excluded from the scope of the measures. The anti-dumping measures would henceforth only cover alternating current voltage lamps (including electronic compact fluorescent discharge lamps functioning on both alternating and direct current) (AC-CFL-i).

Current investigations

(4) Following the publication of a notice of impending expiry, the Commission received a request for a review pursuant to Article 11(2) of the basic Regulation. The request was lodged on 18 April 2006 by the Community Federation of Lighting Industry of Compact Fluorescent Lamps Integrated (CFL-i) (the applicant) on behalf of a major proportion, in this case more than 25 %, of the total Community production of CFL-i.

(5) The request was based on the grounds that the expiry of the measures would be likely to result in a continuation of dumping and injury to the Community industry. Having determined, after consultation of the Advisory Committee, that sufficient evidence existed for the initiation of a review, the Commission, on 19 July 2006, initiated an investigation[(5)] pursuant to Article 11(2) of the basic Regulation. The applicant also lodged a request for a partial interim review pursuant to Article 11(3) of the basic Regulation. Having determined, after consultation of the Advisory Committee, that sufficient evidence existed for the initiation of a review, the Commission, on 8 September 2006, initiated an investigation[(6)] pursuant to Article 11(3) of the basic Regulation. The scope of the interim review is limited to the level of dumping as far as one exporting producer, Lisheng Electronic & Lighting (Xiamen), is concerned. The latter review is on-going and is not the subject of the present Regulation.

Investigation and parties concerned

(6) The Commission officially advised the applicant, the Community producers, the exporting producers in the PRC (hereinafter 'Chinese exporters'), the importers, traders, users and their associations known to be concerned, as well as the representatives of the government of the exporting country, of the initiation of the reviews.

(7) The Commission sent questionnaires to all these parties and to those who made themselves known within the time limit set in the notices of initiation.

(8) The Commission also gave the parties directly concerned the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.

(9) In view of the apparent high number of exporting producers in the PRC and importers of the product concerned, sampling was envisaged in the notice of initiation, in accordance with Article 17 of the basic Regulation. In order to be able to decide whether sampling would be necessary and, if so, to select a sample, the Commission sent out sampling forms asking specific information on average sales volume and prices of each exporting producer and importer concerned.

(10) Complete replies were received from three Chinese exporters and three importers.

(11) A questionnaire was also sent to the known producers in the potential analogue country, namely the Republic of Korea (Korea).

(12) Replies to the questionnaires were also received from four Community producers, two producers in the analogue country Korea, one retailer (which also imported) and seven suppliers of components to Community producers.

(13) The Commission sought and verified all information deemed necessary for the purpose of a determination of the likely continuation of dumping and injury and of the Community interest. Verification visits were carried out at the premises of the following companies:

(a) *exporting producer in the PRC related to the applicant Community producer*

— Osram China Lighting Ltd., Foshan City, Guangdong Province,

(b) *exporting producer in the PRC related to the other Community producers*

— Zhejiang Yankon Group Co Ltd., Shangyu City, Zhejiang Province,

(c) *exporting producer in the PRC unrelated to any Community producers*

— Shenzhen Zuoming Electronic Co. Ltd. Shenzhen City, Guangdong Province,

(d) *trader related to the other Community producers*

— Philips Hong Kong Ltd., Hong Kong SAR,

(e) *trader unrelated to any Community producers*

— Super Trend Lighting Ltd., Hong Kong SAR,

(f) *producers in the analogue country*

— Osram Korea Ltd., Seoul, Republic of Korea,

— Hyosun Electric Co., Ltd., Paju-City, Republic of Korea,

(g) *Community manufacturers*

— Osram GmbH, München and Augsburg, Germany and Osram Slovakia, Nove Zamky, Slovakia,

— Philips Lighting B.V., Eindhoven, Netherlands and Philips Lighting Poland S.A, Pila, Poland,

— General Electric Zrt., Budapest and Nagykaniza, Hungary,

— Sylvania Lighting International, Frankfurt/Main, Germany and Leeds, United Kingdom,

(h) *Community importers*

— Electro Cirkel B.V., Rotterdam, the Netherlands,

— Kemner B.V., Amsterdam, the Netherlands,

— Omicron UK Ltd., Huntingdon, United Kingdom,

(i) *Community suppliers*

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— ST Microelectronics Srl, Milano, Italy,

— Vitri Electro-Metalurgica S.A., Barcelona, Spain,

(j) *Community retailer*

— IKEA AB, Älmhult City, Region of Småland, Sweden.

Investigation Period

(14) The investigation of the likelihood of continuation and/or recurrence of dumping and injury for the expiry review covered the period from 1 July 2005 to 30 June 2006 ('review investigation period' or 'RIP'). The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2003 up to the end of the RIP (period considered).

B. PRODUCT CONCERNED AND LIKE PRODUCT

Product concerned

(15) The product concerned is the same as determined in the amending Regulation, i.e. electronic compact fluorescent discharge lamps functioning on alternating current (including electronic compact fluorescent discharge lamps functioning on both alternating and direct current), with one or more glass tubes, with all lighting elements and electronic components fixed to the lamp foot, or integrated in the lamp foot originating in the People's Republic of China (the product concerned), currently classifiable within CN code ex 8539 31 90.

Like product

(16) The Commission found that

— CFL-i manufactured and sold domestically in the PRC,

— CFL-i manufactured in the PRC and exported to the Community,

— CFL-i manufactured and sold in the Community, and,

— CFL-i manufactured and sold domestically in the analogue country,

have basically the same physical and technical characteristics and uses. Therefore, these products are alike within the meaning of Article 1(4) of the basic Regulation.

(17) Several parties alleged that the types of CFL-i imported from the PRC and the CFL-i manufactured in the Community were not like products since the quality of the product concerned (life-time) was different and since the product concerned had a different category of end-users (consumer CFL-i lamps) than the CFL-i lamps manufactured in the Community (CFL-i lamps for professional uses).

(18) In respect of the alleged different quality between CFL-i lamps imported from the PRC and CFL-i lamps manufactured in the Community, the same claim was put forward in the original investigation and rejected in the original Regulation. Since the claim contained no new elements showing that the description of the like product, as defined in recital 13 of the provisional Regulation, was incorrect, the definition of the original Regulation, as amended by Regulation (EC) No 1322/2006, has been maintained in this investigation.

(19) In respect of an alleged different end-use between imported CFL-i lamps and CFL-i lamps manufactured in the Community, this situation does not alter the fact that the CFL-i lamps imported and CFL-i lamps manufactured in the Community are completely interchangeable from a technical point of view and are in direct competition with each other. Moreover, whereas the users may differ and be supplied by different sales channels, this does not impinge upon the fact that such CFL-i lamps are technically alike and are used for the same purposes, i.e. to generate light in an energy-saving manner.

C. LIKELIHOOD OF CONTINUATION AND/OR RECURRENCE OF DUMPING

1. **Dumping of imports during the investigation period**

(20) In accordance with Article 11(2) of the basic Regulation, it was examined whether dumping was currently taking place and whether or not the expiry of the measures would be likely to lead to a continuation or recurrence of dumping.

(21) In accordance with Article 11(9) of the basic Regulation, the same methodology was used as in the original investigation. As an expiry review does not provide for any examination of changed circumstances, it was not reconsidered whether producers merited or not to be granted market economy treatment (MET).
Sampling/cooperation

(22) It is recalled that in the original investigation a total of nine Chinese exporting producers fully cooperated with the investigation. Two of these exporting producers were granted MET, namely Lisheng Electronic & Lighting (Xiamen) Co., Ltd. and Philips & Yaming Lighting Co., Ltd. (recital 15 of the provisional Regulation and recital 14 of the original Regulation). Six of the total nine were granted individual treatment (IT) (recital 35 of the provisional Regulation and recital 17 of the original Regulation). It is noted that none of the companies awarded with MET and only three of those awarded with IT cooperated with the present expiry review investigation.

(23) In view of the apparent large number of Chinese exporting producers listed in the complaint sampling was envisaged in the notice of initiation for the determination of dumping, in accordance with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all exporting producers from the PRC were asked to make themselves known to the Commission and to provide, as specified in the notice of initiation, basic information on their activities related to the product concerned during the investigation period.

(24) 17 Chinese exporting producers replied to the sampling forms. The investigation was based on information from two cooperating exporting producers which had originally received individual treatment, and also on information from a third one that, originally, was granted neither this treatment nor market economy treatment. This was done in agreement with the Chinese authorities. These three exporting producers represented more than 30 % of the total exported quantities to the Community from the PRC, and more than 40 % of the quantities excluding the Chinese exporter subject to 0 % duty. The two companies which received individual treatment account