Commission Regulation (EC) No 1620/2006 of 30 October 2006 imposing a provisional anti-dumping duty on imports of ironing boards originating in the People's Republic of China and Ukraine

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community[(1)] (the basic Regulation) and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

1. PROCEDURE

1.1. Initiation of the proceeding

(1) On 4 February 2006, the Commission announced by a notice published in the *Official Journal of the European Union*[(2)] (notice of initiation), the initiation of an anti-dumping proceeding concerning imports into the Community of ironing boards originating in the People's Republic of China (PRC) and Ukraine.

(2) The anti-dumping proceeding was initiated following a complaint lodged on 23 December 2005 by three Community producers (the complainants) representing a major proportion, in this case more than 40 %, of the total Community production of ironing boards. The complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

1.2. Parties concerned and verification visits

(3) The Commission officially advised the complainants, other known producers in the Community, exporting producers in the PRC and Ukraine, importers and retailers known to be concerned, the representatives of the exporting countries concerned, producers in the United States of America, which was initially envisaged as analogue country and producers in other potential analogue countries. In addition, the Commission contacted all other Community operators potentially involved in the production and/or distribution of the like product/product concerned whose contact details were provided to the Commission following the initiation of the proceeding. The interested parties were given the opportunity to make their views known in writing and

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to request a hearing within the time limit set out in the notice of initiation. All interested parties who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

(4) In view of the high number of Chinese exporting producers, 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 Chinese exporting producers 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 period 1 January 2005 to 31 December 2005. However, only eight Chinese exporting producers came forward and provided the requested information for sampling within the deadlines set out in the notice of initiation. Therefore, it was decided that sampling was not necessary.

(5) In order to allow exporting producers in the countries concerned to submit a claim for market economy treatment (MET) or individual treatment (IT), if they so wished, the Commission sent claim forms to the exporting producers known to be concerned and to the authorities of the PRC and Ukraine. Eight companies in the PRC and one company in Ukraine requested MET pursuant to Article 2(7) of the basic Regulation or IT should the investigation establish that they did not meet the conditions for MET.

(6) The Commission sent questionnaires to all parties known to be concerned and to all other parties that requested so within the deadlines set out in the notice of initiation.

(7) Questionnaire replies were received from six Chinese exporting producers, from the sole Ukrainian exporting producer, from four Community producers, from two importers not related to the exporting producers and from one trader. In addition, one importer submitted comments without replying to the questionnaire.

(8) Certain information was also received from 17 Community producers of the like product (15 of which supported the complaint, one expressed a neutral position and one opposed) and three companies only importing the product concerned.

(9) The Commission sought and verified all the information it deemed necessary for the purpose of MET and for a provisional determination of dumping, resulting injury and Community interest. Verification visits were carried out as follows:

(a) *Community producers*

Verification visits were carried out at the premises of the four Community producers. These producers requested that their identities be kept confidential on the basis of the provisions of Article 19 of the basic Regulation. They claimed that the disclosure of their identity could lead to a risk of significant adverse effects.

Indeed, certain complainant Community producers supply customers in the Community that also source their products from the PRC and Ukraine,

thus benefiting directly from these imports. Those complainants argued that they were therefore in a particularly sensitive position since they had good reasons to believe that some of their suppliers and customers would not be satisfied with their lodging or supporting a complaint against alleged injurious dumping and would react to such action. Indeed, they alleged that they risk retaliation from these suppliers and customers, including the possible termination of their business relationship. The request was granted as it was sufficiently substantiated.

(b) *Exporting producers in the PRC*

— Foshan City Gaoming Lihe Daily Necessities Co. Ltd, Foshan,

— Foshan Shunde Heng Yip Housewares Co. Ltd, Foshan,

— Guangzhou Power Team Houseware Co. Ltd, Guangzhou,

— Since Hardware (Guangzhou) Co. Ltd, Guangzhou,

— Foshan Shunde Yongjian Housewares and Hardware Co. Ltd, Foshan and its related company Wire King International Ltd, Hong Kong,

— Zhejiang Harmonic Hardware Products Co. Ltd, Guzhou.

(c) *Exporting producer in Ukraine*

— Eurogold Industries Ltd, Zhitomir and its related company Eurogold Service Zumbühl & Co., Zug in Switzerland.

(10) In the light of the need to establish a normal value for the exporting producers in the PRC and Ukraine to which MET might not be granted, a verification to establish normal value on the basis of data from an analogue country took place at the premises of the following company:

— Gİpaş elektronik sanayi ithalat ihracaat dahili ticaret ve pazarlama anonim şirketi sanayi A.Ş., Istanbul, Turkey.

1.3. Investigation period

(11) The investigation of dumping and injury covered the period from 1 January 2005 to 31 December 2005 (the investigation period or IP). The examination of trends relevant for the assessment of injury covered the period from 1 January 2002 to the end of the IP (the period considered).

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

(12) The product concerned is ironing boards, whether or not free-standing, with or without a steam soaking and/or heating top and/or blowing top, including sleeve boards, and essential parts thereof, i.e. the legs, the top and the iron rest originating in the People's Republic of China and Ukraine (the product concerned), normally declared within CN codes ex 3924 90 90, ex 4421 90 98, ex 7323 93 90, ex 7323 99 91, ex 7323 99 99, ex 8516 79 70 and ex 8516 90 00.

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(13) There are different types of ironing boards and their essential parts depending mainly on their construction and size, their construction material and accessories. However, all different types have the same basic physical characteristics and uses. Consequently, all existing types are considered as one product for the purposes of this investigation.

2.2. Like product

(14) The product concerned and the ironing boards and the essential parts thereof produced and sold on the domestic market of the PRC and Ukraine, and on the domestic market of Turkey, which finally served as an analogue country, as well as the ironing boards and their essential parts produced and sold in the Community by the Community industry were found to have the same basic physical and technical characteristics and uses. Therefore, these products are provisionally considered to be alike within the meaning of Article 1(4) of the basic Regulation.

3. DUMPING

3.1. Market economy treatment (MET)

(15) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in the PRC and in Ukraine (in the latter case for all proceedings lodged or initiated before 30 December 2005), normal value shall be determined in accordance with paragraphs 1 to 6 of the said Article for those exporting producers which have shown that they meet the criteria laid down in Article 2(7)(c) of the basic Regulation, i.e. where it is demonstrated by such exporting producers that market economy conditions prevail in respect of the manufacture and sale of the like product. Briefly, and for ease of reference only, these criteria are set out in a summarised form below:

— business decisions and costs are made in response to market conditions, and without significant State interference,

— accounting records are independently audited, in line with International Accounting Standards (IAS) and applied for all purposes,

— there are no significant distortions carried over from the former non-market economy system,

— legal certainty and stability is provided by bankruptcy and property laws,

— currency exchanges are carried out at the market rate.

(16) Eight Chinese exporting producers initially requested MET pursuant to Article 2(7)(b) of the basic Regulation and replied to the MET claim form for exporting producers within the given deadlines. However, two of them decided subsequently not to co-operate with the investigation. Thus, only the MET claims of the remaining six co-operating Chinese exporting producers listed in recital 9 were considered.

(17) The sole Ukrainian exporting producer requested MET pursuant to Article 2(7)(b) of the basic Regulation and replied to the MET claim form for exporting producers within the given deadlines.

(18) However, the Ukrainian producer remarked that Ukraine was by Council Regulation (EC) No 2117/2005 removed from the list of non-market-economy countries mentioned under Article 2(7)(b) of the basic Regulation. The company claimed that the decision to grant market economy status to Ukraine was taken on the basis of an assessment of the situation in the preceding months. Therefore, it was submitted that it should be granted MET because (i) the IP is the calendar year 2005; (ii) the complainants should have provided evidence showing that market economy conditions were not applicable to the Ukrainian producers concerned and (iii) a failure to grant MET status to Ukraine would discriminate Ukraine with regard to Russia.

(19) In this respect, it is noted that Council Regulation (EC) No 2117/2005 clearly states that normal value for Ukrainian exporters and producers will be established in accordance with the provisions of Article 2(1) to (6) of the basic Regulation only in investigations initiated after 30 December 2005, either on the basis of an application for initiation lodged after the above said date or at the initiative of the Commission. As the complaint for this proceeding was lodged on 23 December 2005, it is evident that the provisions of Article 2(1) to (6) of the basic Regulation cannot apply and that the co-operating Ukrainian company has, therefore, to prove that it meets the criteria laid down in Article 2(7)(c) of the basic Regulation. It is evident from the wording of the aforesaid Article that it is the exporting producers that carry the burden of proof on the fulfilment of the MET criteria and not the complainants. Furthermore, it should be noted that the granting of MET status to a certain country is based on an overall assessment of its economic situation as a whole with a view to establish whether costs and prices can, in general, be relied on for the purpose of anti-dumping investigations. In other words, it is not an evaluation of the particular situation of each individual enterprise. Finally, the argument that Ukraine would be discriminated with regard to Russia is without foundation as Russia has been considered to be a market economy since 2002. For these reasons the Commission rejected the claims made by the Ukrainian exporting producer and proceeded with the MET determination process.

(20) For the co-operating exporting producers the Commission sought all information deemed necessary and verified the information submitted in the MET claim at the premises of the companies in question.

3.1.1. MET determination regarding exporting producers in the PRC

(21) One Chinese exporting producer, Since Hardware (Guangzhou) Co., Ltd, Guangzhou, showed that it fulfilled all five criteria set out in Article 2(7)(c) of the basic Regulation and it was granted MET.

(22) As far as the remaining Chinese exporting producers listed in recital 9 are concerned, one did not fulfil criteria 1, 2 and 3, one did not fulfil criteria 2 and 3 and three did not meet criterion 2.

(23) All co-operating Chinese exporting producers and the Community industry were given an opportunity to comment on the above findings. Four companies disagreed with the determinations made and claimed that they should be granted MET.