# Council Regulation (EC) No 866/2005 of 6 June 2005 extending the definitive anti-dumping measures imposed by Regulation (EC) No 1470/2001 on imports of integrated electronic compact fluorescent lamps (CFL-i) originating in the People's Republic of China 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 866/2005

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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 Article 13 thereof,

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

Whereas:

A. PROCEDURE

1. Existing measures and former investigations

(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 compact fluorescent lamps ('CFL-i') originating in the People's Republic of China ('the original investigation').

(2) In October 2002, the Commission initiated an absorption investigation[(3)] pursuant to Article 12 of the basic Regulation with regard to the above anti-dumping measures. This investigation was terminated in March 2004 after the applicant formally withdrew its request[(4)].

2. Request

(3) On 16 August 2004, the Commission received a request pursuant to Article13(3) of the basic Regulation to investigate the alleged circumvention of the anti-dumping measures imposed on CFL-i originating in the People's Republic of China ('the PRC' or 'China'). The request was submitted by the Lighting Industry and Trade in

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Europe ('LITE') on behalf of producers and importers of CFL-i in the Community ('the applicant'). The request alleged that the anti-dumping measures in force on imports of CFL-i originating in the PRC were being circumvented by means of transhipment and/or assembly operations via Vietnam, Pakistan and/or the Philippines.

(4) The request further alleged that since the imposition of the anti-dumping measures, there had been a change in the pattern of trade (with decreasing Chinese imports and increasing imports from the abovementioned countries), for which there is insufficient due cause or economic justification other than the imposition of the anti-dumping measures and that the remedial effects of the existing anti-dumping measures on imports of CFL-i originating in the PRC were being undermined both in terms of quantity and price. In addition, there was sufficient evidence that these increased imports from Vietnam, Pakistan and the Philippines were made at prices below the non-injurious price established in the investigation that led to the existing measures.

(5) Finally, the applicant alleged that the prices of CFL-i consigned from Vietnam, Pakistan and the Philippines were dumped in relation to the normal value established for the like product during the original investigation.

3. Initiation

(6) Having determined, after consulting the Advisory Committee, that sufficient *prima facie* evidence existed for the initiation of an investigation pursuant to Article 13 of the basic Regulation, the Commission initiated an investigation by Regulation (EC) No 1582/2004[(5)] (the 'initiating Regulation'). Pursuant to Articles 13(3) and 14(5) of the basic Regulation, the Commission, by means of the initiating Regulation, also instructed the customs authorities to register imports of CFL-i consigned from Vietnam, Pakistan and the Philippines whether declared as originating in Vietnam, Pakistan or the Philippines or not, as from 11 September 2004.

4. Investigation

(7) The Commission officially advised the authorities of the PRC, Vietnam, Pakistan and the Philippines, the producers/exporters, the importers in the Community known to be concerned and the applicant Community industry of the initiation of the investigation. Questionnaires were sent to the exporters/ producers in Vietnam, Pakistan and the Philippines, to the exporters/producers in the PRC, to the importers in the Community named in the request, which were known to the Commission from the original investigation or which made themselves known within the deadlines specified in Article 3(1) of the initiating Regulation. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the initiating Regulation.

(8) Four producers/exporters in Vietnam, one producer/exporter in Pakistan and five producers/exporters in China submitted a reply to the questionnaire whilst no reply was received from the producers/exporters in the Philippines. Replies to the questionnaire were also submitted by two related and two unrelated importers in the Community.

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(9) The following companies cooperated in the investigation and submitted replies to the questionnaires:

*Unrelated importers:*

— Elektro Cirkel BV, the Netherlands

— Carrefour SA, France

*Related importers:*

— Energy Research 2000 BV, the Netherlands,

— e3light A/S, Denmark,

*Vietnamese producers/exporters:*

— Eco Industries Vietnam Co., Ltd, Haiphong (related to e3light A/S)

— Energy Research Vietnam Co., Ltd, Haiphong (related to Energy Research 2000 BV)

— Halong service and import export company (Halong Simexco), Haiphong

— Rang Dong Light Source and Vacuum Flask Joint Stock Company (Ralaco), Hanoi

*Pakistani producer/exporter:*

— Ecopak Lighting, Karachi

*Chinese producers/exporters:*

— Firefly Lighting Co. Ltd, Shenzhen

— Lisheng Electronic & Lighting (Xiamen) Co., Ltd

— City Bright Lighting (Shenzhen), Ltd, Shenzhen

— Ningbo Super Trend Electron Co. Ltd, Ningbo

— Zhejiang Sunlight Group Co. Ltd, Shangyu

(10) Verification visits were carried out at the premises of the following companies:

— Ecopak Lighting, Karachi (Pakistan)

— Eco Industries Vietnam Co., Ltd, Haiphong and its related company e3light in Denmark

— Energy Research Vietnam Co., Ltd, Haiphong

— Rang Dong Light Source and Vacuum Flask Joint Stock Company (Ralaco), Hanoi

— Carrefour SA, France.

5. Investigation period

(11) The investigation period (the 'IP') covered the period from 1 July 2003 to 30 June 2004. Data was collected from 1999 up to the end of the IP to investigate the alleged change in the pattern of trade.

6. Disclosure

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(12) All interested parties were informed of the essential facts and considerations on the basis of which it was intended to recommend:

(i) the extension of the definitive anti-dumping measures imposed by Council Regulation (EC) No 1470/2001 on imports of integrated electronic compact fluorescent lamps (CFL-i) originating in the People's Republic of China to imports of the same product consigned from Vietnam, Pakistan and the Philippines;

(ii) not to grant exemptions to the companies having requested them.

In accordance with the provisions of the basic Regulation, parties were granted a period in which they could make representations subsequent to this disclosure.

(13) The oral and written comments submitted by the parties were considered and, where appropriate, the definitive findings have been modified accordingly.

B. RESULTS OF THE INVESTIGATION

1. General considerations

(14) As mentioned above, the analysis of a change in the pattern of trade covered the period from 1999 up to the end of the IP, i.e. covering mainly the period before the enlargement of the European Union on 1st May 2004. A meaningful determination as to whether there has been a change of pattern in trade within this period could therefore only be made on the basis of a comparison of import levels of the product concerned into the 15 Member States before enlargement ('EU-15' or 'the Community'). Indeed, it should be noted that, since before enlargement the existing measures only applied to EU-15, before enlargement they could only be circumvented with respect to EU-15. Moreover, any data relating to the period after enlargement with regard to the 10 new Member States would as such not allow a trend to be discerned, as comparable data for previous years do not exist.

2. Degree of cooperation and determination of the import volume

(15) As stated above in recital 9, four exporters/producers in Vietnam, of which only one company exported CFL-i to the Community, one exporting producer in Pakistan and five exporting producers in China cooperated by submitting questionnaire replies. No cooperation was obtained from the Philippines.

(16) The import volume recorded in Eurostat covered a larger product group than CLF-i, i.e. all fluorescent lamps.

(17) The export volume of CFL-i reported by the sole cooperating exporter in Vietnam covered only 3 % of the export volume recorded in Eurostat. The information received during the investigation indicated the existence of a number of other non cooperating exporters/producers in Vietnam which exported CFL-i to the Community during the IP. Therefore, it was considered that the data provided by the cooperating exporter did not sufficiently reflect the overall import volume of CFL-i from Vietnam.

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(18) With regard to Pakistan, and as mentioned below in recital 52, it was found that the data reported by the cooperating exporter were unreliable. With regard to the Philippines, no cooperation at all was obtained. There was also a low level of cooperation from exporters in the PRC, where out of at least 12 known Chinese exporting producers (representing approximately 30 % of the total exports from China during the investigation period of the original investigation) only five submitted a questionnaire reply. Moreover, three of these questionnaire replies were largely incomplete. Therefore, on the basis of the information submitted by the cooperating parties no reasonable determination could be made as to import volumes of CFL-i into the Community.

(19) Given the above, findings in respect of exports of CFL-I into the Community had to be made partially on the basis of facts available in accordance with Article 18 of the basic Regulation. In the absence of any other more reliable source of information, Eurostat data were therefore used to determine overall import volumes from the PRC, Vietnam, Pakistan and the Philippines. These data were cross-checked and confirmed by other statistical sources.

3. Methodology

(20) In accordance with Article 13(1) of the basic Regulation, the assessment of the existence of circumvention was done by analysing successively whether there was a change in the pattern of trade between third countries and the Community, if this change stemmed from a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the duty, if there was evidence of injury or that the remedial effects of the duty were being undermined in terms of the prices and/or quantities of the like product, and whether there was evidence of dumping in relation to the normal values previously established for the like product, if necessary in accordance with the provisions of Article 2 of the basic Regulation.

(21) The practice, process or work referred to above includes, *inter alia*, the consignment of the product subject to measures via third countries and the assembly of parts by an assembly operation in the Community or a third country. For this purpose the existence of assembly operations was determined in accordance with Article 13(2) of the basic Regulation.

(22) In this regard, and as explained below in recitals 42 and 82, it is noted that none of the cooperating companies submitted reliable information which could have been used as a basis for the calculation of the value of the parts used in the assembly operations or the value added to the parts brought in during the completion of the operations. Findings in this regard were therefore based on facts available in accordance with Article 18 of the basic Regulation.

(23) To assess whether the operation started or substantially increased after, or just prior to, the initiation of the anti-dumping investigation, an analysis of the trade flow of the imports into the Community which occurred after the imposition of definitive measures on imports originating in China was made.