Commission Regulation (EC) No 1582/2004 of 8 September 2004 initiating an investigation concerning the possible circumvention of 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 by imports of integrated electronic compact fluorescent lamps (CFL-i) consigned from Vietnam, Pakistan or the Philippines, whether declared as originating in Vietnam, Pakistan or the Philippines or not, and making such imports subject to registration

COMMISSION REGULATION (EC) No 1582/2004

of 8 September 2004

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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 13(3) and Article 14(3) and (5) thereof,

After having consulted the Advisory Committee,

Whereas:

A. REQUEST

The Commission has received a request pursuant to Article 13(3) of the basic Regulation to investigate the possible circumvention of the anti-dumping measures imposed on integrated electronic compact fluorescent lamps (CFL-i) originating in the People's Republic of China.

The request has been lodged on 16 August 2004 by Lighting Industry and Trade in Europe (LITE) on behalf of producers and importers of CFL-i in the Community.

B. PRODUCT

The product concerned by the possible circumvention is electronic compact fluorescent discharge lamps with one or more glass tubes, with all lighting elements and electronic components fixed to the lamp foot or integrated in the lamp foot normally declared under CN code ex 8539 31 90 (TARIC code 8539 31 90 *91) (the product concerned) originating in the People's Republic of China. These CN codes are given only for information.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1582/2004. (See end of Document for details)*

The product under investigation is electronic compact fluorescent discharge lamps with one or more glass tubes, with all lighting elements and electronic components fixed to the lamp foot or integrated in the lamp foot consigned from Vietnam, Pakistan or the Philippines (the product under investigation) normally declared under the same CN codes as the product concerned originating in the People's Republic of China.

C. EXISTING MEASURES

The measures currently in force and possibly being circumvented are anti-dumping measures imposed by Council Regulation (EC) No 1470/2001[(2)].

D. GROUNDS

The request contains sufficient *prima facie* evidence, that the anti-dumping measures on imports of the product concerned originating in the People's Republic of China are being circumvented by means of transhipment via Vietnam, Pakistan or the Philippines and/or by assembly in Vietnam, Pakistan or the Philippines of the product under investigation. The evidence submitted is as follows:

The request shows a significant change in the pattern of trade, as imports of the products under investigation have increased substantially, whereas imports of the product concerned originating in the People's Republic of China have decreased following the imposition of measures, and that there is insufficient due cause or justification other than the imposition of the duty for such a change.

This change in the pattern of trade appears to stem from the transhipment of CFL-i originating in the People's Republic of China via Vietnam, Pakistan or the Philippines and/or assembly in Vietnam, Pakistan or the Philippines of CFL-i.

Furthermore, the request contains sufficient prima facie evidence that the remedial effects of the existing anti-dumping measures on imports of the product concerned originating in the People's Republic of China are being undermined in terms of quantity and prices. Significant volumes of imports of CFL-i from Vietnam, Pakistan and the Philippines appear to have replaced imports of the product concerned originating in the People's Republic of China.

Finally, the request contains sufficient *prima facie* evidence that the prices of the product under investigation are dumped in relation to the normal value previously established for CFL-i originating in the People's Republic of China.

Should circumvention practices via Vietnam, Pakistan or the Philippines covered by Article 13 of the basic Regulation, other than transhipment and assembly, be identified in the course of the investigation, the investigation may cover these practices also.

E. PROCEDURE

In the light of the above, the Commission has concluded that sufficient evidence exists to justify the initiation of an investigation pursuant to Article 13 of the basic Regulation and to make imports of CFL-i consigned from Vietnam, Pakistan and the Philippines,

whether declared as originating in Vietnam, Pakistan or the Philippines or not, subject to registration, in accordance with Article 14(5) of the basic Regulation.

(a) Questionnaires

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the exporters/producers and to the associations of exporters/producers in Vietnam, Pakistan and the Philippines, to the exporters/producers and to the associations of exporters/producers in the People's Republic of China, to the importers and to the associations of importers in the Community which co-operated in the investigation that lead to the existing measures or which are listed in the request and to the authorities of the People's Republic of China, Vietnam, Pakistan and the Philippines. Information, as appropriate, may also be sought from the Community industry.

In any event all interested parties should contact the Commission forthwith, but not later than the time limit set in Article 3 in order to find out whether they are listed in the request and, if necessary, request a questionnaire within the time limit set in Article 3(1) of this Regulation, given that the time limit set in Article 3(2) of this Regulation applies to all interested parties.

The authorities of the People's Republic of China, Vietnam, Pakistan and the Philippines will be notified of the initiation of the investigation and provided with a copy of the request.

(b) Collection of information and holding of hearings

All interested parties are hereby invited to make their views known in writing and to provide supporting evidence. Furthermore, the Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

(c) Exemption of registration of imports or measures

Since the possible circumvention takes place outside the Community, exemptions may be granted, in accordance with Article 13(4) of the basic Regulation, to producers of the product concerned that can show that they are not related to any producer subject to the measures and that are found not to be engaged in circumvention practices as defined in Articles 13(1) and 13(2) of the basic Regulation. Producers wishing to obtain an exemption should submit a request duly supported by evidence within the time limit indicated in Article 3(3) of this Regulation.

F. REGISTRATION

Pursuant to Article 14(5) of the basic Regulation, imports of the product under investigation should be made subject to registration in order to ensure that, should the investigation result in findings of circumvention, anti-dumping duties of an appropriate amount can be levied retroactively from the date of registration of such imports consigned from Vietnam, Pakistan or the Philippines.

G TIME LIMITS

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1582/2004. (See end of Document for details)*

In the interest of sound administration, time limits should be stated within which:

— interested parties may make themselves known to the Commission, present their views in writing and submit questionnaire replies or any other information to be taken into account during the investigation,

— producers in Vietnam, Pakistan and the Philippines may request exemption from registration of imports or measures,

— interested parties may make a written request to be heard by the Commission.

Attention is drawn to the fact that the exercise of most procedural rights set out in the basic Regulation depends on the party's making itself known within the time limits mentioned in Article 3 of this Regulation.

H. NON-COOPERATION

In cases in which any interested party refuses access to or otherwise does not provide necessary information within the time limits, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made in accordance with Article 18 of the basic Regulation, on the basis of the facts available.

Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made, in accordance with Article 18 of the basic Regulation, of facts available. If any interested party does not cooperate or cooperates only partially, and findings are therefore based on facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to the party than if it had cooperated,

HAS ADOPTED THIS REGULATION:

Article 1

An investigation is hereby initiated pursuant to Article 13(3) of Regulation (EC) No 384/96, in order to determine if imports into the Community of electronic compact fluorescent discharge lamps with one or more glass tubes, with all lighting elements and electronic components fixed to the lamp foot or integrated in the lamp foot, falling within CN code ex 8539 31 90**[**[X1](TARIC code 8539 31 90 *92)**]**, consigned from Vietnam, Pakistan or the Philippines, whether declared as originating in Vietnam, Pakistan or the Philippines or not, are circumventing the 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.

For the purpose of this Regulation, electronic compact fluorescent discharge lamps shall consist of one or more glass tubes, with all lighting elements and electronic components fixed to the lamp foot or integrated in the lamp foot. They are designed to replace normal incandescent lamps and fit into the same sockets as the incandescent lamps and are produced in different types, depending on, *inter alia*, the lifetime, the wattage and the cover of the lamp.

Editorial Information

X1 Substituted by Corrigendum to Commission Regulation (EC) No 1582/2004 of 8 September 2004 initiating an investigation concerning the possible circumvention of 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 by imports of integrated electronic