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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 495/2002

of 18 March 2002

repealing Regulation (EC) No 904/98 with respect to the imposition of a definitive anti-dumping duty on imports into the Community of personal fax machines originating in the People's Republic of China, Japan, the Republic of Korea, Malaysia, Singapore, 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 [1], and in particular Article 11(3) and (6) thereof,

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

Whereas:

PROCEDURE

1. Measures in force

(1) By Regulation (EC) No 904/98 [2] the Council imposed a definitive anti-dumping duty on imports of personal fax machines, falling within CN code ex 8517 21 00 and originating in the People's Republic of China, Japan, the Republic of Korea, Malaysia, Singapore, Taiwan and Thailand.

2. Product concerned

(2) The product concerned, as defined in Regulation (EC) No 904/98, is fax machines with a weight of 5 kilograms or less and with dimensions (width × depth × height) of the main body measuring 470 mm × 450 mm × 170 mm or less, excepting those fax machines using ink-jet or laser or LED printing technology that due to their difference in physical and technical characteristics are designed for professional rather than personal use, and are, to a significant extent, sold through different sales channels.

3. Review investigation

(3) On 1 July 2000, the Commission initiated on its own initiative [3], an interim review pursuant to Article 11(3) of Regulation (EC) No 384/96 (hereinafter referred to as the 'Basic Regulation') of the anti-dumping measures in force with regard to imports of personal fax machines originating in the People's Republic of China, Japan, the Republic of Korea, Malaysia, Singapore, Taiwan and Thailand.

(4) The Commission, in its Notice of Initiation, had invited interested parties to present their comments on the product definition given that there were indications of changed circumstances, in particular certain technical and technological developments. After receipt of the comments, the Commission published a second notice [4], setting out a proposal to modify the product definition by removing any reference to weight and dimensions. It was found that the original weight and dimension criteria were no longer valid as it is relatively easy for the producers to adapt their models by, for example, increasing the size of the paper tray of the personal fax machine above the original height limitation.

(5) It was also examined whether fax machines using the so-called thermal transfer technology and the ones using thermal paper could still be considered as one single product. In this respect no difference was found by comparison to the original investigation where it was concluded that 'in weight and size and their essential technical features, thermal transfer faxes are similar or identical to the thermal paper models. In comparison, the printing technology used for the two product types in question is, from the consumer perspective, just an ancillary element'. This aspect of the definition of the product concerned was therefore reconfirmed by the current review investigation.

(6) The only Community producer cooperating in the investigation, Österreichische Philips Industrie GmbH (hereinafter referred to as 'Philips'), represented during the period of investigation more than 50 % of the total Community production of personal fax machines pursuant to Articles 4(1) and 5(4) of the Basic Regulation, and therefore, as in the original investigation, constitutes the Community industry. There was no cooperation from any other Community producer, although one company which is subsidiary of an

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2238/2000, OJ L 257, 11.10.2000, p. 2.
[2] OJ L 128, 30.4.1998, p. 1.
[3] OJ C 184, 1.7.2000, p. 26.
[4] OJ C 311, 31.10.2000, p. 4.