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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1687/2006
of 15 November 2006
establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables ⁽¹⁾, and in particular Article 4(1) thereof,

Whereas:

- (1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the

standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

- (2) In compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 16 November 2006.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 15 November 2006.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 386/2005 (OJ L 62, 9.3.2005, p. 3).

ANNEX

to Commission Regulation of 15 November 2006 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	71,2
	204	37,3
	999	54,3
0707 00 05	052	114,5
	204	65,9
	628	196,3
	999	125,6
0709 90 70	052	118,2
	204	132,8
	999	125,5
0805 20 10	204	86,5
	999	86,5
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	65,4
	092	17,6
	400	86,5
	528	40,7
	999	52,6
0805 50 10	052	52,6
	388	62,4
	528	37,8
	999	50,9
0806 10 10	052	114,7
	388	229,6
	508	265,8
	999	203,4
0808 10 80	096	29,0
	388	88,8
	400	104,6
	404	100,1
	720	70,3
	800	140,1
0808 20 50	999	88,8
	052	113,3
	400	216,1
	720	39,3
	999	122,9

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 750/2005 (OJ L 126, 19.5.2005, p. 12). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 1688/2006

of 15 November 2006

derogating from Regulation (EC) No 2375/2002 as regards certain import licences issued for tranche No 4 of subquota III of the tariff quotas for imports of common wheat of a quality other than high quality

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals ⁽¹⁾, and in particular Article 12(1) thereof,

Whereas:

(1) Commission Regulation (EC) No 2375/2002 of 27 December 2002 opening and providing for the administration of Community tariff quotas for common wheat of a quality other than high quality from third countries ⁽²⁾ establishes three subquotas for different origins. Subquota III concerns third countries other than the United States and Canada. It is divided into four quarterly tranches. Tranche No 4 covers the period 1 October to 31 December.

(2) Under Article 6 of Regulation (EC) No 2375/2002, licences issued pursuant to that Regulation are valid for 45 days from the day of issue.

(3) Under the third subparagraph of Article 5(1) and point (a) of Article 9 of Regulation (EC) No 2375/2002, import licences mention a single country of origin and are valid only for the products originating in that country.

(4) From 1 October 2006, the pattern of imports into the European Community of common wheat originating in Ukraine has been disturbed by the introduction by Ukraine of control measures and limits on its exports. This might prevent operators from complying with their undertakings as regards import licences issued with Ukraine as the country of origin, at least in part.

(5) To avoid penalising these operators, and to ensure the proper execution of this quota, a certain degree of flexi-

bility should be introduced as regards the use of the licences issued. To this end, by way of derogation from Regulation (EC) No 2375/2002, the period of validity those licences should be extended until the end of 2006 and their use should be authorised for the import of common wheat originating in third countries other than Ukraine, with the exception of the United States and Canada.

(6) Import licences issued for imports of common wheat of a quality other than high quality (CN code 1001 90 99) under subquota III (serial number 09.4125) referred to in Article 3 of the above Regulation from 1 October 2006 will expire from 16 November 2006. The amendments provided for in this Regulation should therefore apply as soon as possible. This Regulation should therefore enter into force on the day of its publication in the *Official Journal of the European Union*.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

Notwithstanding Article 6 of Regulation (EC) No 2375/2002, the period of validity of import licences issued for imports of common wheat of a quality other than high quality (CN code 1001 90 99) under subquota III (serial number 09.4125) referred to in Article 3 of that Regulation between 1 October 2006 and 16 November 2006, bearing in Section 8 'Ukraine' as the country of origin, may be extended until 31 December 2006 at the request of licence holders. To this end, the authority which issued the licence concerned shall cancel the licence and replace it with a new licence valid until 31 December 2006 or shall extend the validity of the original licence until 31 December 2006.

Article 2

Notwithstanding Article 9 of Regulation (EC) No 2375/2002, the import licences referred to in Article 1 of this Regulation may be used for the import of common wheat originating in all third countries, with the exception of the United States and Canada.

⁽¹⁾ OJ L 270, 21.10.2003, p. 78. Regulation as amended by Commission Regulation (EC) No 1154/2005 (OJ L 187, 19.7.2005, p. 11).

⁽²⁾ OJ L 358, 31.12.2002, p. 88. Regulation as last amended by Regulation (EC) No 971/2006 (OJ L 176, 30.6.2006, p. 51).

Article 3

1. Section 44 of customs declarations for imports carried out under import licences as referred to in Article 1 shall contain the following entry:

'Import under Commission Regulation (EC) No 1688/2006'.

2. Member States shall send the Commission, electronically and by 15 February 2007, the following information:

(a) the quantities (tonnes) of products imported under import licences as referred to in Article 1;

(b) the numbers and the dates of issue of the licences under which those products were imported.

Article 4

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 15 November 2006.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

COMMISSION REGULATION (EC) No 1689/2006**of 15 November 2006****on the issuing of system A3 export licences in the fruit and vegetables sector (tomatoes, oranges, lemons, table grapes and apples)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables ⁽¹⁾, and in particular the third subparagraph of Article 35(3) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1579/2006 ⁽²⁾ opens an invitation to tender setting the indicative refund rates and indicative quantities for system A3 export licences, which may be issued, other than those tendered for as part of food aid.
- (2) In the light of the tenders submitted, the maximum refund rates and the percentages of quantities to be awarded for tenders quoting those maximum rates should be set.

- (3) In the case of tomatoes, oranges, lemons, table grapes and apples, the maximum rate necessary to award licences for the indicative quantity up to the quantities tendered for is not more than one-and-a-half times the indicative refund rate,

HAS ADOPTED THIS REGULATION:

Article 1

In the case of tomatoes, oranges, lemons, table grapes and apples, the maximum refund rates and the percentages for reducing the quantities awarded under the invitation to tender opened by Regulation (EC) No 1579/2006 shall be fixed in the Annex.

Article 2

This Regulation shall enter into force on 16 November 2006.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 15 November 2006.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 297, 21.11.1996, p. 1. Regulation as last amended by Commission Regulation (EC) No 47/2003 (OJ L 7, 11.1.2003, p. 64).

⁽²⁾ OJ L 291, 21.10.2006, p. 5.

ANNEX

Issuing of system A3 export licences in the fruit and vegetable sector (tomatoes, oranges, lemons, table grapes and apples)

Product	Maximum refund rate (EUR/t net)	Percentage awarded of quantities tendered for quoting the maximum refund rate
Tomatoes	—	100 %
Oranges	40	100 %
Lemons	60	100 %
Table grapes	—	100 %
Apples	35	100 %

COMMISSION REGULATION (EC) No 1690/2006**of 15 November 2006****fixing the import duties in the cereals sector applicable from 16 November 2006**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector ⁽²⁾, and in particular Article 2(1) thereof,

Whereas:

- (1) Article 10 of Regulation (EC) No 1784/2003 provides that the rates of duty in the Common Customs Tariff are to be charged on import of the products referred to in Article 1 of that Regulation. However, in the case of the products referred to in paragraph 2 of that Article, the import duty is to be equal to the intervention price valid for such products on importation and increased by 55 %, minus the cif import price applicable to the consignment in question. However, that duty may not exceed the rate of duty in the Common Customs Tariff.
- (2) Pursuant to Article 10(3) of Regulation (EC) No 1784/2003, the cif import prices are calculated on the basis of the representative prices for the product in question on the world market.

(3) Regulation (EC) No 1249/96 lays down detailed rules for the application of Regulation (EC) No 1784/2003 as regards import duties in the cereals sector.

(4) The import duties are applicable until new duties are fixed and enter into force.

(5) In order to allow the import duty system to function normally, the representative market rates recorded during a reference period should be used for calculating the duties.

(6) Application of Regulation (EC) No 1249/96 results in import duties being fixed as set out in Annex I to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The import duties in the cereals sector referred to in Article 10(2) of Regulation (EC) No 1784/2003 shall be those fixed in Annex I to this Regulation on the basis of the information given in Annex II.

Article 2

This Regulation shall enter into force on 16 November 2006.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 15 November 2006.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 270, 21.10.2003, p. 78. Regulation as amended by Commission Regulation (EC) No 1154/2005 (OJ L 187, 19.7.2005, p. 11).

⁽²⁾ OJ L 161, 29.6.1996, p. 125. Regulation as last amended by Regulation (EC) No 1110/2003 (OJ L 158, 27.6.2003, p. 12).

ANNEX I

Import duties for the products covered by Article 10(2) of Regulation (EC) No 1784/2003 applicable from 16 November 2006

CN code	Description	Import duty ⁽¹⁾ (EUR/tonne)
1001 10 00	Durum wheat high quality	0,00
	medium quality	0,00
	low quality	0,00
1001 90 91	Common wheat seed	0,00
ex 1001 90 99	Common high quality wheat other than for sowing	0,00
1002 00 00	Rye	0,00
1005 10 90	Maize seed other than hybrid	8,24
1005 90 00	Maize other than seed ⁽²⁾	8,24
1007 00 90	Grain sorghum other than hybrids for sowing	0,00

⁽¹⁾ For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal (Article 2(4) of Regulation (EC) No 1249/96), the importer may benefit from a reduction in the duty of:

— EUR 3/t, where the port of unloading is on the Mediterranean Sea, or

— EUR 2/t, where the port of unloading is in Ireland, the United Kingdom, Denmark, Estonia, Latvia, Lithuania, Poland, Finland, Sweden or the Atlantic coasts of the Iberian peninsula.

⁽²⁾ The importer may benefit from a flat-rate reduction of EUR 24/t, where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

ANNEX II

Factors for calculating duties

(2.11.2006-14.11.2006)

1. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

Exchange quotations	Minneapolis	Chicago	Minneapolis	Minneapolis	Minneapolis	Minneapolis
Product (% proteins at 12 % humidity)	HRS2	YC3	HAD2	Medium quality (*)	Low quality (**)	US barley 2
Quotation (EUR/t)	158,69 (***)	107,18	174,15	164,15	144,15	155,60
Gulf premium (EUR/t)	—	19,42	—			—
Great Lakes premium (EUR/t)	12,24	—	—			—

(*) A discount of 10 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).

(**) A discount of 30 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).

(***) Premium of 14 EUR/t incorporated (Article 4(3) of Regulation (EC) No 1249/96).

2. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

Freight/cost: Gulf of Mexico–Rotterdam: 22,90 EUR/t; Great Lakes–Rotterdam: 30,68 EUR/t.

3. Subsidy within the meaning of the third paragraph of Article 4(2) of Regulation (EC) No 1249/96: 0,00 EUR/t (HRW2)
-
- 0,00 EUR/t (SRW2).

COMMISSION REGULATION (EC) No 1691/2006
of 15 November 2006
establishing a prohibition of fishing for cod in ICES zone IIIa Kattegat by vessels flying the flag
of Germany

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy ⁽¹⁾, and in particular Article 26(4) thereof,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to common fisheries policy ⁽²⁾, and in particular Article 21(3) thereof,

Whereas:

- (1) Council Regulation (EC) No 51/2006 of 22 December 2005 fixing for 2006 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks applicable in Community waters and for Community vessels, in waters where catch limitations are required ⁽³⁾, lays down quotas for 2006.
- (2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2006.

- (3) It is therefore necessary to prohibit fishing for that stock and its retention on board, transhipment and landing,

HAS ADOPTED THIS REGULATION:

Article 1

Quota exhaustion

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2006 shall be deemed to be exhausted from the date set out in that Annex.

Article 2

Prohibitions

Fishing for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. It shall be prohibited to retain on board, tranship or land such stock caught by those vessels after that date.

Article 3

Entry into force

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 15 November 2006.

For the Commission

Jörgen HOLMQUIST

Director-General for Fisheries and Maritime Affairs

⁽¹⁾ OJ L 358, 31.12.2002, p. 59.

⁽²⁾ OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 768/2005 (OJ L 128, 21.5.2005, p. 1).

⁽³⁾ OJ L 16, 20.1.2006, p. 1. Regulation as last amended by Commission Regulation (EC) No 1642/2006 (OJ L 308, 8.11.2006, p. 5).

ANNEX

No	47
Member State	Germany
Stock	COD/03AS.
Species	Cod (<i>Gadus morhua</i>)
Zone	IIIa Kattegat
Date	14 October 2006

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 13 November 2006

on avoiding double counting of greenhouse gas emission reductions under the Community emissions trading scheme for project activities under the Kyoto Protocol pursuant to Directive 2003/87/EC of the European Parliament and of the Council

(notified under document number C(2006) 5362)

(Text with EEA relevance)

(2006/780/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC ⁽¹⁾, and in particular Article 11b(7) thereof,

Whereas:

- (1) In order to ensure the environmental integrity of the Community emissions trading scheme, Directive 2003/87/EC requires the Member States to ensure that when hosting project activities as established under the flexible mechanisms of the Kyoto Protocol to the United Nations Framework Convention on Climate Change (UNFCCC), no emission reduction units (ERUs) or certified emission reductions (CERs) are issued for reductions or limitations of greenhouse gas emissions that take place in installations that participate in the Community emissions trading scheme, as this would result in a double counting of emission reductions or limitations.

- (2) Such reductions or limitations could in particular occur if: a project activity for fuel switching occurs in an installation falling under the Community emissions trading scheme, if a project activity in the municipal heat generation sector results in a lower production in another installation under the Community emissions trading scheme; or, if a project activity for a wind- or hydropower plant feeds electricity into the electricity grid, thereby replacing fossil fuel-based electricity generation.

- (3) Recognising that Member States might have committed themselves before the adoption of Article 11b(2) of Directive 2003/87/EC to issuing ERUs or CERs that result in double counting, Article 11b(3) and (4) allow ERUs and CERs to be issued until 31 December 2012, even if the reductions or limitations of the project activities indirectly or directly reduce or limit the emissions of installations that fall under the Community emissions trading scheme, provided that an equal number of allowances is cancelled.

- (4) Article 11b(3) and (4) of Directive 2003/87/EC differentiates between instances where it is possible to determine the extent of reductions or limitations in each installation under the Community emissions trading scheme that is affected by the project activity (direct reductions or limitations) and instances where the extent of reductions or limitations can only be determined for a group of installations under the scope of the Community emissions trading scheme (indirect reductions or limitations).

⁽¹⁾ OJ L 275, 25.10.2003, p. 32. Directive as amended by Directive 2004/101/EC (OJ L 338, 13.11.2004, p. 18).

- (5) For direct reductions or limitations, the operator of the installation where the reduction or limitation occurs is responsible for the cancellation of allowances corresponding to the quantity of ERUs and CERs issued for such reductions or limitations. For indirect reductions or limitations, the national authorities are responsible for cancelling these allowances in the national registry of the Member State that issues the ERUs and CERs.
- (6) The most appropriate way to account for reductions or limitations in an installation falling under the Community emissions trading scheme that result from a particular project activity is to calculate the share of such reductions or limitations within the total planned emission reductions or limitations of this project activity, as established by its approved baseline. If, in the case of indirect reductions or limitations, the quantity of reductions in individual installations falling under the Community emissions trading scheme cannot be identified exactly, the quantity of reductions or limitations within the total reductions or limitations of the project activity that would cause double counting should be estimated.
- (7) The Community emissions trading scheme requires Member States to notify to the Commission the total quantity of allowances intended to be allocated for the 2008-2012 period in their national allocation plans 18 months in advance of the start of the period. The precise amount of emission reductions or limitations generated by a particular project activity is, however, established annually after these have taken place.
- (8) A set-aside should be established in the national allocation plan for the period 2008 to 2012 of each Member State hosting activities under the project-based mechanisms of the Kyoto Protocol which could cause double-counting, listing each approved project activity and its anticipated reductions or limitations of emissions that take place in installations that participate in the Community emissions trading scheme and for which ERUs or CERs should be issued by the Member State ('trading sector project-reductions'). In addition, the set-aside table should contain all explanatory information needed to establish the extent of 'trading sector project-reductions' anticipated for each project activity being hosted by the Member State.
- (9) Another set-aside should be established in the national allocation plan for the period 2008 to 2012 of each Member State intending to host activities under the project-based mechanisms of the Kyoto Protocol which could cause double-counting, listing planned project activities and its anticipated reductions or limitations of emissions that take place in installations that participate in the Community emissions trading scheme and for which ERUs or CERs should be issued by the Member State ('trading sector project-reductions'). In addition, the set-aside table should contain all explanatory information needed to establish the extent of 'trading sector project-reductions' anticipated for planned project activities to be hosted by the Member State.
- (10) ERUs or CERs that represent 'trading sector project-reductions' may be issued up until 31 December 2012. Each such issuance should be notified to the Commission.
- (11) In their national allocation plans, Member States hosting, or intending to host, activities under the project-based mechanisms of the Kyoto Protocol which could cause double-counting should indicate the projected emissions for activities falling under the scope of Directive 2003/87/EC both with and without the effects of the anticipated trading sector project-reductions.
- (12) Member States should take into consideration any anticipated reductions or limitations caused by project activities that affect an installation or activity and would cause double counting when establishing their national allocation plan methodology for determining the allocation of individual installations.
- (13) The measures provided for in this Decision are in accordance with the opinion of the Climate Change Committee,
- HAS ADOPTED THIS DECISION:
- Article 1*
- This Decision lays down provisions for the implementation of Article 11b(3) and (4) of Directive 2003/87/EC.
- Article 2*
- For the purposes of this Decision, and in addition to the definitions laid down in Article 2 of Commission Regulation (EC) No 2216/2004 ⁽¹⁾, the following definitions shall apply:
1. 'direct emission reduction or limitation' means a reduction or limitation of emissions occurring due to a project activity which causes reductions or limitations of emissions in installations that are individually identified in the project activity's baseline established pursuant to Article 1 of Appendix B to Decision 16/CP.7 of the United Nations Framework Conference on Climate Change (UNFCCC), or pursuant to Article 44 of the Annex to Decision 17/CP.7 of the UNFCCC;

⁽¹⁾ OJ L 386, 29.12.2004, p. 1.

2. 'indirect emission reduction or limitation' means any reductions or limitations of emissions in installations falling under the scope of Directive 2003/87/EC that is not a direct emission reduction or limitation;
3. 'trading sector project-reduction' means a reduction or limitation in emissions of installations falling under the scope of Directive 2003/87/EC due to project activities for which a Member State hosting the project activity issues emission reduction units (ERUs) or certified emission reductions CERs;
4. 'letter of approval' means, in the case of project activities that generate ERUs, a binding obligation undertaken in a written form by the Member State hosting the project activity to issue ERUs in accordance with the Member State's national guidelines and procedures for approving project activities as referred to in Article 20 (a) of the Annex to Decision 16/CP.7 of the UNFCCC; and in the case of project activities that generate CERs, a written approval of voluntary participation from the designated national authority of the Member State hosting the project activity as referred to in Article 40(a) of the Annex to Decision 17/CP.7 of the UNFCCC;
5. 'letter of endorsement' means an official communication in a written form by the Member State to host the project activity that it considers the project as one with a potential to gain eventual approval as a project activity.

Article 3

1. In its national allocation plan for the period 2008 to 2012, a Member State shall include in the total quantity of allowances a set-aside of allowances drawn up for each project activity in the format set out in the table in Annex I to this Decision if, prior to the deadline for the notification of its national allocation plan set out in Article 9(1) of Directive 2003/87/EC, the Member State has issued letters of approval as a host country, pledging to issue ERUs or CERs for project activities which result in emission reductions or limitations in installations falling under the scope of Directive 2003/87/EC.
2. In its national allocation plan for the period 2008 to 2012, a Member State may also include in the total quantity of allowances an additional set-aside of allowances drawn up in the format set out in the Annex II to this Decision if after the decision pursuant to Article 11(2) of Directive 2003/87/EC it

intends to issue letters of approval as a host country that pledge to issue ERUs or CERs before 31 December 2012 for project activities which result in emission reductions or limitations in installations falling under the scope of Directive 2003/87/EC. Planned project activities using the same methodology to reduce emissions for which no letter of endorsement has been issued yet may be grouped together under one column in the set-aside table drawn up according to Annex II.

3. Until a decision pursuant to Article 11(2) of Directive 2003/87/EC has been taken by the Member State, but at the latest until the deadline for that decision in Article 11(2) of Directive 2003/87/EC, further allowances may be transferred from the set-aside established pursuant to Article 3(2) to the set-aside established pursuant to Article 3(1) that cover the trading sector project-reductions of projects for which the letter of approval has been issued after the deadline for the notification of its national allocation plan set out in Article 9(1) of Directive 2003/87/EC.

Article 4

The set-aside table shall be made available on the publicly accessible website of a Member State's registry.

Article 5

1. ERUs and CERs that represent trading sector project-reductions may be issued up until 31 December 2012, provided that each such issuance is preceded by the conversion of an equivalent amount of allowances from one of the set-asides into assigned amount units and the Commission is informed thereof.

2. The quantity of allowances in the set-aside established pursuant to Article 3(1) that is not converted into assigned amount units in accordance with Article 5(1) until 31 December 2012 may be sold as 2008-2012 period allowances. If the project activity causes direct emission reductions and limitations, this quantity may be issued as 2008-2012 period allowances to the installations identified in rows VII/a-VII/b of the table in Annex I.

3. Any allowances in the set-aside established pursuant to Article 3(2) that are not converted into assigned amount units in accordance with Article 5(1) until 31 December 2012 shall be cancelled.

Article 6

1. A Member State wishing to approve project activities as a host country after the deadline for the submission of the national allocation plan shall inform the Commission thereof, prior to the issuance of the letter of approval. This information shall be accompanied by a report of an independent verifier which verifies that any ERUs or CERs to be issued do not result in double counting, in doing so providing all necessary information ensuring that the project activities submitted for approval are in compliance with Article 11b of Directive 2003/87/EC.

2. Letters of approval issued in accordance with Article 3(2) and letters of endorsement issued after the deadline for the notification of the national allocation plan set out in Article 9(1) of Directive 2003/87/EC for project activities that will result in trading sector project-reductions shall assign the allowances that are to be converted into assigned amount

units from the set-aside established pursuant to Article 3(2) in the event of the issuance of ERUs or CERs. If an allowance was already assigned by a letter of approval to a particular project activity for future conversion, it cannot be reassigned to another project afterwards.

Article 7

This Decision is addressed to the Member States.

Done at Brussels, 13 November 2006.

For the Commission

Stavros DIMAS

Member of the Commission

ANNEX I

		Project activity X	Project activity Y	...	Total quantity of allowances in set-aside
I/a	Title of project activity ⁽¹⁾				
I/b	Project identification code of project activity ⁽²⁾				
I/c	Date of letter of approval for the project activity				
II	Total quantity of GHG to be reduced or limited (in tons for 2008-2012)				
III	% of total reductions that the government issues as ERUs or CERs				
IV	Description of baseline ⁽³⁾				
V	% of emissions of installations covered by Directive 2003/87/EC in the total emissions included in the baseline (in case of indirect reductions or limitations, an estimate is to be provided) ⁽⁴⁾				
VI	Planned trading sector project-reduction quantity (II*III*V)				(Σ VI) = (Σ VIII/a-VIII/e)
VII/a	For direct reductions and limitations, the name of the installation where the trading sector project-reduction will occur ⁽⁵⁾				
VII/b	For direct reductions and limitations, the installation ID of the installation where the trading sector project-reduction will occur ⁽⁵⁾				
VIII/a	Quantity of ERUs or CERs that represent trading sector project- reductions issued for 2008				
VIII/b	Quantity of ERUs or CERs that represent trading sector project- reductions issued for 2009				
VIII/c	Quantity of ERUs or CERs that represent trading sector project- reductions issued for 2010				
VIII/d	Quantity of ERUs or CERs that represent trading sector project- reductions issued for 2011				
VIII/e	Quantity of ERUs or CERs that represent trading sector project- reductions issued for 2012				

⁽¹⁾ List all project activities approved by the Member State.

⁽²⁾ Use the code assigned according to Annex VI, point 19 of Regulation (EC) No 2216/2004.

⁽³⁾ Give the total annual emissions that are expected to occur in the absence of the project activity, and the group of installations where these emissions are expected to occur. Attach a short description of the baseline applied. If more than one baseline is applied in the project activity, each baseline (with the corresponding total annual emissions expected in the absence of that part of the project activity) needs to be entered on a separate line in the set-aside table.

⁽⁴⁾ Provide a brief description of the method and data used for the estimate.

⁽⁵⁾ If more than one installation is to be listed in rows VII/a and VII/b, use separate rows. The share of each installation in the allowances in the set-aside is to be calculated separately.

ANNEX II

		Planned project activity X	Planned project activity Y	...	Total quantity of allowances in set-aside
I/a	Title of planned project activity ⁽¹⁾				
I/b	Project identification code of planned project activity ⁽¹⁾ ⁽²⁾				
I/c	Date or projected date of letter of endorsement for the planned project activity				
I/d	Projected date of letter of approval for the planned project activity				
II	Planned total quantity of GHG to be reduced or limited (in tons for 2008-2012) by the planned project activity				
III	% of total reductions that the government issues as ERUs or CERs for the planned project activity				
IV	Description of baseline ⁽¹⁾ ⁽³⁾				
V	Estimate of the % of emissions of installations covered by Directive 2003/87/EC within the total emissions included in the baseline ⁽⁴⁾				
VI	Planned trading sector project-reduction quantity (II*III*V)				(Σ VI)
VII/a	For direct reductions and limitations, the name of the installation(s) where the planned trading sector project-reduction is to occur ⁽⁵⁾				
VII/b	For direct reductions and limitations, the installation ID of the installation(s) where the planned trading sector project-reduction is to occur ⁽⁵⁾				
VII/c	For indirect reductions and limitations, the activity category where the planned trading sector project-reduction is to occur ⁽⁶⁾				
VIII	The quantity of allowances deducted from the allocation of the installations/activity category indicated under rows VII/a-VII/c to fill the set-aside ⁽⁵⁾ ⁽⁶⁾				

⁽¹⁾ This information only needs to be provided if already available by the time of the submission of the national allocation plan. If no letter of endorsement was issued yet for a project activity, more project activities using the same methodology to reduce emissions may be grouped together under one column.

⁽²⁾ Use the code assigned according to Annex VI, point 19 of Regulation (EC) No 2216/2004.

⁽³⁾ Give the total annual emissions that are expected to occur in the absence of the project activity, and the group of installations where these emissions are expected to occur. Attach a short description of the baseline applied. If more than one baseline is applied in the project activity, each baseline (with the corresponding total annual emissions expected in the absence of that part of the project activity) needs to be entered on a separate line in the set-aside table.

⁽⁴⁾ Provide a brief description of the method and data used for the estimate.

⁽⁵⁾ If more than one item is to be listed in rows VII/a, VII/b and VIII, use separate rows. The share of the allowances provided by each installation for the set-aside is to be indicated separately.

⁽⁶⁾ Use the categories of activities defined in Annex I of Directive 2003/87/EC.

COMMISSION DECISION

of 15 November 2006

terminating the anti-dumping proceeding concerning imports of cathode-ray colour television picture tubes originating in the People's Republic of China, the Republic of Korea, Malaysia and Thailand

(2006/781/EC)

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 Communities ⁽¹⁾ (the basic Regulation), and in particular Article 9 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Initiation

- (1) On 11 January 2006, pursuant to Article 5 of the basic Regulation, the Commission announced by a notice (notice of initiation) published in the *Official Journal of the European Union* ⁽²⁾, the initiation of an anti-dumping proceeding with regard to imports into the Community of cathode-ray colour television picture tubes (CPT) originating in the Peoples Republic of China (PRC), the Republic of Korea (Korea), Malaysia and Thailand (the countries concerned).
- (2) The proceeding was initiated following a complaint lodged on 29 November 2005 by the Taskforce against unfair business in Europe (TUBE) (the complainant) on behalf of two producers (the complainant producers), namely AB Ekranas (Ekranas) and Ecimex Group A.S. (Ecimex), representing a major proportion of the total Community production of cathode-ray colour television picture tubes. The complaint contained *prima facie* evidence of dumping of CPT originating in the countries concerned and of material injury resulting there from, which was considered sufficient to justify the initiation of a proceeding.

2. Parties concerned by the proceeding

- (3) The Commission officially advised the complainant, the Community producers mentioned in the complaint, other

known Community producers, the authorities of the exporting countries concerned, the exporting producers, importers, users as well as the associations known to be concerned of the initiation of the proceeding. 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 notice of initiation.

- (4) The complainant producers, other Community producers, exporting producers, importers and users made their views known. All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.
- (5) In view of the anticipated large number of exporting producers in the PRC, sampling was envisaged in the notice of initiation for the determination of dumping, in accordance with Article 17 of the basic Regulation.
- (6) In order to enable the Commission to decide whether sampling of exporting producers in the PRC would be necessary and, if so, to select a sample, all exporting producers in the PRC were requested to make themselves known and to provide, as specified in the notice of initiation, basic information on their activities related to the product concerned during the period of 1 January to 31 December 2005.
- (7) Only two exporting producers in the PRC came forward and provided the requested information within the time limit set for this purpose. In these circumstances, the Commission decided that sampling was not necessary with regard to the exporting producers in the PRC.
- (8) Moreover, in order to allow exporting producers in the PRC to submit a claim for market economy treatment (MET) or individual treatment (IT), if they so wished, the Commission sent market economy treatment and individual treatment claim forms to the Chinese companies known to be concerned as well as to the Chinese authorities. Two exporting producers in the PRC requested MET pursuant to Article 2(7) of the basic Regulation.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).

⁽²⁾ OJ C 6, 11.1.2006, p. 2.

(9) The Commission sent questionnaires to all parties known to be concerned, and to all other companies that made themselves known within the time limits set out in the notice of initiation. Replies were received from two exporting producers in the PRC, from one exporting producer in Korea, in Malaysia and in Thailand respectively, from one importer in the Community related to one of the Chinese exporters and to the Korean exporter, from one trader located in a country other than the country concerned or the Community and related to one Chinese producer, from three Community producers, and from one unrelated user in the Community.

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

(a) *Community producers*

- AB Ekranas, Panevezys, Lithuania and its related company Farimex SA, Geneva, Switzerland,
- Thomson Displays Polska Sp. Zo.o, Piaseczno, Poland, (Thomson);

(b) *Exporting producers in the PRC*

- Beijing Matsushita Color CRT Co., Ltd, Beijing,
- Hua Fei Colour Display Systems Co., Ltd, NanJing, and its related producer LG Philips Shuguang Electronic Co., Ltd, Changsha;

(c) *Exporting producer in Korea*

- LG Philips Displays Korea Co., Ltd, Seoul;

(d) *Exporting producer in Malaysia*

- Chunghwa Picture Tubes (Malaysia) Sdn. Bhd, Shah Alam;

(e) *Exporting producer in Thailand*

- CRT Display Technology Co., Ltd, Rayong and its related producer Thai CRT Co., Ltd., Chonburi;

(f) *Related importer in the Community*

- LG. Philips Displays Netherlands BV (The Netherlands).

3. Investigation period

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

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

- (12) The product concerned is cathode-ray colour television picture tubes (CPT), including video monitor cathode-ray tubes, of all sizes, originating in the PRC, Korea, Malaysia and Thailand (the product concerned), normally declared within CN codes 8540 11 11, 8540 11 13, 8540 11 15, 8540 11 19, 8540 11 91 and 8540 11 99.

- (13) The product concerned can have a diagonal measurement of the screen (i.e. the active part of the picture tube measured in a straight line) of any size, with a screen width/height ratio of any number, and with a pitch (i.e. the gap between two lines of the same colour at the centre of the screen) of not less than 0,4 mm. Furthermore, the products can be specified by the flatness of their tubes: the bulb-type (including semi-flat/full square), the flat tubes and real flat or flat-slim tubes. Finally, they can operate under a frequency of 50, 60 or 100 Hz. These products are mainly, but not exclusively, applied in colour television sets.

- (14) The product concerned is commonly designated as 14 inch, 15 inch, 20 inch, etc. tubes depending on the diagonal measurement of the screen and is marketed in inches. It is usually sold on the market as a complete tube, which is the case for the complainant Community producers. However, some exporting producers sold CPTs before they were completed, i.e. without one or more of the components, mainly the deflection yoke. In these cases, CPTs are described as bare tubes. The investigation showed that these tubes already have the essential characteristics of a complete CPT in respect of their basic physical and technical characteristics. Therefore, they form a single product with the complete CPTs.

2. Like product

- (15) There were no differences between the basic physical and technical characteristics and uses of the product concerned and the CPTs produced and sold on the respective domestic markets in the PRC, Korea, Thailand and Malaysia, which also served as an analogue country, as well as those produced and sold in the Community by the Community industry.

- (16) Therefore, these products are considered to be alike within the meaning of Article 1(4) of the basic Regulation.

— Beijing Matsushita Color CRT Co., Ltd, Beijing,

— Hua Fei Colour Display Systems Co., Ltd, Nanjing, and its related producer LG. Philips Shuguang Electronic Co., Ltd, Changsha.

C. DUMPING

1. Market Economy Treatment (MET)

- (17) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in the PRC, normal value shall be determined in accordance with paragraphs 1 to 6 of the said Article for those producers which were found to meet the criteria laid down in Article 2(7)(c) of the basic Regulation. Briefly, and for ease of reference only, these criteria are set out in summarised form below:

- business decisions are made in response to market signals, without significant State interference, and costs reflect market values,
- firms have one clear set of basic accounting records, which are independently audited in line with international accounting standards and are applied for all purposes,
- there are no significant distortions carried over from the former non-market economy system,
- bankruptcy and property laws guarantee stability and legal certainty,
- exchange rate conversions are carried out at market rates.

- (18) Two exporting producers in the PRC 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 deadline. A MET claim form was submitted also by a company located in the PRC that is related to one of the exporting producers and involved in the production of the product concerned. Indeed, it is the Commission's consistent practice to examine whether a group of related companies as a whole fulfils the conditions for MET. For these three companies, the Commission sought and verified at their premises all information submitted in the MET application as deemed necessary.

- (19) The investigation revealed that all companies having requested MET fulfilled all conditions for being granted MET.

- (20) The two exporting producers in the PRC which obtained MET are:

2. Normal value

2.1. General methodology

- (21) The general methodology as described below has been applied to all exporting producers in Korea, Thailand and Malaysia and to those exporting producers in the PRC which were granted MET. The subsequent presentation of the findings on dumping for the countries concerned therefore only describes issues specific to each exporting country.

2.1.1. Global representativeness

- (22) In accordance with Article 2(2) of the basic Regulation, the Commission first examined for each exporting producer concerned whether its domestic sales of the product concerned to independent customers were representative, i.e. whether the total volume of such sales was equal to or greater than 5 % of its total export sales volume of the product concerned to the Community.

2.1.2. Comparison of product types

- (23) The Commission subsequently identified those types of the product concerned sold domestically by the exporting producers having overall representative domestic sales, which were identical or directly comparable with the types sold for export to the Community. The criteria used are the following: the diagonal measurement of the viewable screen in inches, the width/height aspect ratio, the tube type (bulb, flat screen or flat slim), the pitch size in millimetres and the frequency.

2.1.3. Product type specific representativeness

- (24) For each product type sold by the exporting producers on their domestic markets and found to be directly comparable with the product type sold for export to the Community, it was established whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the basic Regulation. Domestic sales of a particular product type were considered sufficiently representative when the total volume of that product type sold on the domestic market to independent customers during the IP represented 5 % or more of the total sales volume of the comparable product type exported to the Community.

2.1.4. Ordinary course of trade test

- (25) The Commission subsequently examined for each exporting producer in each exporting country whether the domestic sales of each product type sold domestically in representative quantities could be regarded as being sold in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation.
- (26) This was done by establishing the proportion of profitable domestic sales to independent customers of each exported product type during the IP.
- (27) Where the volume of profitable sales of a product type represented 80 % or less of the total sales volume of that type, or where the weighted average price of that type was below the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of profitable sales of that type only, provided that these sales represented 10 % or more of the total sales volume of that type.
- (28) Where the volume of profitable sales of any product type represented less than 10 % of the total sales volume of that type, it was considered that this particular type was sold in insufficient quantities for the domestic price to provide an appropriate basis for the establishment of the normal value.
- (29) Wherever domestic prices of a particular product type sold by an exporting producer could not be used in order to establish normal value, another method had to be applied. In this regard, the Commission used constructed normal value, in accordance with Article 2(3) of the basic Regulation.
- (30) When constructing normal value pursuant to Article 2(3) of the basic Regulation, the selling, general and administrative (SG&A) expenses incurred and the weighted average profit realised by each of the cooperating exporting producers concerned on their domestic sales of the like product, in the ordinary course of trade, during the IP, was added to their own average cost of manufacturing during the IP. Where necessary, the manufacturing costs and SG&A expenses reported were adjusted, before being used in the ordinary course of trade test and in constructing normal values.

2.2. PRC

2.2.1. Companies granted MET

- (31) Since both cooperating exporting producers in the PRC were granted MET, normal value for them was established in line with the methodology set out in recitals 21 to 30, on the basis of the information submitted by

these producers on their domestic prices and their cost of production for the product concerned. Normal value could be based on actual domestic prices as the companies had sufficient domestic sales in the ordinary course of trade for all product types. For one of the exporting producers with a related producer, the consolidated data on the domestic prices and cost of production of both companies were used in order to establish normal value.

2.2.2. Analogue country

- (32) According to Article 2(7) of the basic Regulation, for economies in transition, for the companies not granted MET, normal value has to be established on the basis of the prices or constructed value in an analogue country.
- (33) In the notice of initiation, the Commission indicated that it envisaged using Malaysia as an appropriate analogue country for the purpose of establishing normal value for the PRC and interested parties were invited to comment on this.
- (34) No interested party has objected to the selection of Malaysia as an analogue country.
- (35) In view of the above, and taking also into account that Malaysia is a competitive market and that its size is representative, it was concluded that Malaysia constitutes an appropriate analogue country in accordance with Article 2(7)(a) of the basic Regulation.

2.3. Korea, Malaysia, Thailand

- (36) For the sole cooperating exporting producer from each of the above countries normal value was established in line with the methodology set out in recitals 21 to 30. For the Malaysian producer, normal value could be based on actual domestic prices as the company had sufficient domestic sales in the ordinary course of trade for all product types. For the Korean producer, the normal value was constructed for one out of total two product types exported to the Community and for the Thai producer normal value was constructed for the single product type. With regard to the cooperating exporting producer in Thailand, the consolidated data on the domestic prices and cost of production of that company and of its related producer was used in order to establish normal value, because these two companies functioned as one fully integrated business-operation for the product concerned. For one of the exporting producers with a related producer, the consolidated data on the domestic prices and cost of production of both companies were used in order to establish normal value.

3. Export price

- (37) In case of export sales made to related end-users (producers of CTVs) in the Community, these sales were not taken into account in the calculations of the dumping margins as the product produced by the end-users did not fall under the scope of the investigation. The volume of these sales was relatively small (slightly above 10 % of the total EU exports of the companies concerned) and the sales to unrelated customers were considered to give a representative picture.
- (38) Where the product concerned was exported to independent customers in the Community, the export price was established in accordance with Article 2(8) of the basic Regulation, namely on the basis of export prices actually paid or payable.
- (39) Where sales were made via a related importer, the export price was established in accordance with Article 2(9) of the basic Regulation on the basis of price at which the imported products were first resold to an independent buyer. In these cases, adjustments were made for all costs incurred between importation and resale, including SG&A expenses, and for profits accruing.
- (40) Where sales were made via a related trader located outside the Community, the export price was established on the basis of the first resale prices to independent customers in the Community.

3.1. PRC

- (41) One exporting producer in the PRC made export sales to the Community either directly to independent customers or through two related companies located in the Community. The other exporting producer made all its exports sales to independent customers in the Community via its related company located outside the Community.
- (42) One of the companies related to the first exporting producer failed to cooperate with the investigation as it did not submit a response to the questionnaire intended for related companies involved in the sales or marketing of the product concerned destined for the European Community. The exporting producer claimed that the sales made via that company should not be considered related sales since there allegedly no longer was a de facto association between the companies concerned. In any event, at least during the IP there was a legal relationship, as defined in Article 143 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code⁽¹⁾, due to a common ultimate mother company.

Therefore, in view of this apparent partial cooperation, the Commission, having made the exporting producer concerned aware of the consequences of non-cooperation, used facts available for the determination of the export price for the sales made via this non-cooperating related company pursuant to the provisions of Article 18 of the basic Regulation.

- (43) It was also claimed by the exporting producer that, for the event that the companies concerned would be considered related, the sales made via the non-cooperating related company to the end-customer should also be considered related sales, given the exclusive contractual arrangements between the end-customer and the ultimate mother company of the exporting producer, and should therefore not be taken into account in the calculation of the dumping margin. However, since the conditions set out in Article 143(2) of Regulation (EEC) No 2454/93 were not met, the sales to the end-customer concerned were considered unrelated sales. In this regard, the resale prices to this first independent customer were established by adding to the transfer price the mark-up found in the case of the cooperating related importer. Subsequently, in order to establish the export price at Community frontier level, the adjustments made in the case of the cooperating importer (costs between importation and sales, SGA expenses and a reasonable profit margin) were applied to the resale price as calculated above.
- (44) In the absence of cooperation by independent importers and in view of the fact that CPTs pertain to the same brown goods sector as colour television receivers (CTV), it was considered reasonable to revert for this purpose to the profit margin of 5 % used in the CTVs anti-dumping proceeding⁽²⁾.

3.2. Korea

- (45) The sole cooperating exporting producer made exports of the product concerned to the Community via a related importer. The export price was therefore established on the basis of the resale prices to independent customers.
- (46) For the adjustment, the profit margin indicated in recital 44 was used.

3.3. Malaysia, Thailand

- (47) The product concerned was exported by both cooperating exporting producers to independent customers in the Community. Therefore, the export price was established in accordance with Article 2(8) of the basic Regulation, namely on the basis of export prices actually paid or payable.

⁽¹⁾ OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 883/2005 (OJ L 148, 11.6.2005, p. 5).

⁽²⁾ See recital 59 of Council Regulation (EC) No 1531/2002 (OJ L 231, 29.8.2002, p. 1).

4. Comparison

- (48) The normal value and export prices were compared on an ex-works basis and at the same level of trade. For the purpose of ensuring a fair comparison between the normal value and export prices, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation.
- (49) On this basis, for all investigated exporting producers, allowances for differences in transport, insurance, handling, loading and ancillary costs, packing costs, credit costs, commissions and after sales costs (warranty/guarantee) were made where applicable and justified.
- (50) One exporting producer in the PRC and the sole cooperating exporting producer in Korea claimed an adjustment for currency conversions pursuant to Article 2(10)(j) of the basic Regulation. They argued that since the local currencies (CNY and KRW respectively) declined against the Euro during the IP, an equivalent adjustment on the invoiced amount for the export sales to the Community denominated in Euro should be made. In this respect, it was found contrary to the claims, that both currencies had appreciated against the Euro during the IP. Thus, these claims were found to be irrelevant and were therefore rejected.
- (51) The same exporting producers claimed an adjustment for level of trade, pursuant to Article 2(10)(d)(ii) of the basic Regulation, by alleging that their export sales to the Community were made to distributors whereas their domestic sales were made to end-users. In this respect, it was found that the first independent customers on both markets were end-users. Consequently, this claim was considered unfounded and was therefore rejected.
- (52) The same cooperating exporting producers claimed an adjustment for other factors pursuant to Article 2(10)(k) of the basic Regulation. The companies argued that the sharp fall in prices of CPTs during the IP due to the competition from flat panel displays affected differently their domestic and export prices. They alleged that this was because of the fact that while the volume of sales on the domestic market was spread evenly over the course of the IP, their exports were concentrated only to a part of the IP. However, this claim was not accepted since it was not demonstrated that it affected price comparability nor was it demonstrated that customers consistently paid different prices on the domestic market because of this factor.
- (53) Adjustments pursuant to Article 2(10)(b) of the basic Regulation were also made for differences in the Chinese VAT reimbursement, as it was found that a

lower level of VAT was reimbursed on export sales than that which was reimbursed for domestic sales.

- (54) In the case of one exporting producer in the PRC, which exported via its related trader outside the Community, an adjustment was also made to the export price, pursuant to Article 2(10)(i) of the basic Regulation, since this trader performed functions similar to an agent working on a commission basis. The adjustment pursuant to this Article was made at the level of 2 % since this level was considered reasonable to reflect commissions paid to independent agents involved in the trade of the product concerned.

5. Dumping margin

5.1. Individual dumping margins

- (55) For all the investigated exporting producers, dumping margins were established on the basis of a comparison of a weighted average normal value by product type with a weighted average export price by product type as established above, pursuant to Article 2(11) and 2(12) of the basic Regulation.
- (56) It has been the practice of the Commission to establish for related exporting producers or producers belonging to the same group only one weighted average dumping margin based on the individual dumping margins. This is in particular because calculating individual duty rates might encourage circumvention of anti-dumping measures, thus rendering them ineffective, by enabling related exporting producers to channel their exports to the Community through the company with the lowest individual dumping margin.
- (57) In accordance with this practice, a single dumping margin was attributed to the cooperating exporting producers in the PRC belonging to the same group, i.e. Hua Fei Colour Display Systems Co., Ltd and its related producer LG Philips Shuguang Electronic Co., Ltd. Similarly, a single dumping margin was attributed to the Thai cooperating exporting producers belonging to the same group, i.e. CRT Display Technology Co., Ltd and its related producer Thai CRT Co., Ltd.

5.2. Countrywide dumping margins

- (58) For those exporting producers which neither replied to the Commissions questionnaire nor otherwise made themselves known, the dumping margin was established on the basis of the facts available, in accordance with Article 18(1) of the basic Regulation.

(59) In order to determine the countrywide dumping margin for all non-cooperating exporting producers, the level of non-cooperation was first established. To this end, the volume of exports to the Community reported by the cooperating exporting producers was compared with the equivalent Eurostat import statistics.

(60) In the case of Malaysia and Thailand, where the level of cooperation was low, i.e. less than 80 %, it was considered appropriate to set the dumping margin for the non-cooperating exporting producers at a level higher than the highest dumping margin established for the cooperating exporting producers. Indeed, there is reason to believe that the low level of cooperation results from the non-cooperating exporting producers in the investigated country generally having dumped at a higher level than any cooperating exporting producer. Moreover, there were no indications that any non-cooperating company was dumping at a lower level and no bonus should be given for non-cooperation. The dumping margins were therefore established on the highest margins established for representative types of one cooperating producer in the countries concerned or the highest margins established for representative transactions by one cooperating producer in the countries concerned.

(61) In the case of the Republic of Korea, the extremely low level of cooperation, i.e. only 2 % of total exports in volume based on Eurostat statistics, shows clearly a deliberate non-cooperation of major exporting producers. In view of this peculiar situation, and in the absence of any more appropriate information, it was considered appropriate to set a dumping margin for the non-cooperating companies at the level of the dumping margin for a representative product type indicated in the complaint, namely, 15,0 %. The level of the dumping margin indicated in the complaint was checked by reference to published price lists and Eurostat statistics.

(62) In the case of the PRC, the level of cooperation was very high as the volume of exports to the Community reported by the cooperating exporting producers during the IP exceeded the import volumes according to the Eurostat data and as there was no reason to believe that any exporting producer deliberately abstained from cooperation. In order to differentiate between the cooperating Chinese exporting producers who have all been granted MET, and potential other Chinese exporting producers that have not cooperated in the investigation, it was considered appropriate to establish the countrywide dumping margin for the PRC based on a comparison between the export prices of the most sold representative product types according to the Eurostat data and the normal value of the same product types in the analogue country.

(63) The dumping margins, expressed as a percentage of the CIF Community frontier price, duty unpaid are the following:

(a) *Peoples Republic of China*

— Beijing Matsushita Color CRT Co., Ltd	0 %
— Hua Fei Colour Display Systems Co., Ltd and LG Philips Shuguang Electronic Co., Ltd	25,5 %
— all other companies	28,3 %

(b) *Republic of Korea*

— LG Philips Display Korea Co., Ltd	0 %
— all other companies	15,0 %

(c) *Malaysia*

— Chunghwa Picture Tubes Sdn Bhd	5,1 %
— all other companies	14,5 %

(d) *Thailand*

— Thai CRT Co., Ltd and CRT Display Technology Co., Ltd	41,4 %
— all other companies	47,2 %

D. INJURY

1. Community production and Community industry

(64) During the IP, the like product was produced by seven Community producers. However, four of these producers are related to exporters in the countries concerned. These four companies might thus be shielded from the negative consequences of the injurious dumping due to their relationship with the exporter. This is also indicated by the fact that these producers did not cooperate in the proceeding. It was considered appropriate to exclude their output from the Community production and also to exclude them from the definition of the Community industry. Furthermore, two of these four producers have definitively stopped production after the IP.

(65) Therefore the output of three producers, namely Ekranas, Ecimex and Thomson, constitute the total Community production within the meaning of Article 4(1) of the basic Regulation.

- (66) As indicated in recital 2, the complaint was lodged on behalf of two Community producers, namely Ekranas and Ecimex. Those complainants were found to account for a major proportion of the total Community production of the product concerned, i.e. in this case more than 40 %.
- (67) It should be noted that both complainants, which produced the like product during the IP, stopped production and filed for bankruptcy during the first half of 2006. As bankruptcy proceedings are presently on-going, it is still unclear whether production of CPT by Ekranas and Ecimex will resume or not. After the initiation of the proceeding, Thomson has informed the Commission of their support to the complaint lodged by TUBE, and properly cooperated in the investigation. Therefore, in the absence of information that these two producers had definitively stopped their operation, Ekranas and Ecimex are still considered to be part of the Community industry. Ekranas, Ecimex and Thomson are therefore deemed to constitute the Community industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation and will hereinafter be referred to as the Community industry.

2. Community consumption

- (68) Community consumption was established on the basis of the sales volumes of the Community industry's own production on the Community market, the sales volumes obtained from the other producers and the import volumes data obtained from Eurostat.
- (69) Between 2002 and the IP, the Community market for the product concerned declined by around 14 %. Community consumption was around 9,5 million pieces in 2002, and around 8,2 million pieces in the IP. Specifically, it decreased by 2 % in 2003, rose by seven percentage points in 2004, and dropped suddenly by almost 20 percentage points in the IP.

	2002	2003	2004	IP
Total EC consumption (pieces)	9 540 185	9 387 212	10 023 216	8 170 802
Index (2002 = 100)	100	98	105	86

- (70) Further to disclosure of the provisional findings, the complainant contested the methodology used by the Commission to establish consumption. More precisely, the complainant claimed (i) that on the basis of the information provided in recital 64, it would appear that all the sales made by those Community producers related to exporters in the countries concerned had been excluded from the calculation of consumption and from the injury analysis, and (ii) that certain volumes of captive sales supplied by one of the three Community producers mentioned in recital 67 had been improperly excluded from the calculation of the consumption whereas they should have been included.
- (71) As to claim (i), it must be noted that recital 64 refers only to the definition of the Community industry and the establishment of the total Community production within the meaning of Article 4(1) of the basic Regulation, and not to the calculation of the total Community consumption. For the establishment of the Community consumption, the sales from those producers who were excluded from the definition and production of the Community industry were included. This is also evident from recital 68 and from specific information disclosed to the complainant showing that the sales volume in question amounted to around 3 million pieces during the IP. Therefore, the sales of all producers within the Community, known to the complainant and to the Commission to have been operating during the period 2002 to the IP, have been included in the establishment of consumption. However, the producers excluded from the definition of Community industry had to be excluded from the analysis of the situation of the Community industry precisely because they were not considered to be part of it, in line with Article 4(1) of the basic Regulation. Claim (i) is therefore rejected.

- (72) As regards claim (ii), it is indeed true that the Commission excluded certain sales volumes from the calculation of consumption and from the analysis of some key injury indicators, notably sales volume and prices, market share and profitability, as these sales were considered to be captive. It is a long-standing practice of the Commission to separate captive sales from sales on the open market because only sales on the open market enter in competition with each other ⁽¹⁾. Conversely, captive sales do not compete with products sold on the free market and are therefore not affected by the dumped imports. In this particular industry, most of the large producers of the like product (unlike the two complainants) also have operations in the downstream industry, namely the further processing of the TV tube into a TV set. As an example, the Commission has excluded from the analysis the captive sales made by Sony, and this approach was supported by the complainant. The same methodology has been applied consistently to all Community producers, be they part of the Community industry or considered as 'other Community producers' and referred to in recital 64.
- (73) Concerning the particular volumes of captive sales mentioned under claim (ii), the Commission observed that until July 2004, the tube factory which is today incorporated as Thomson Displays Polska Sp. Zo.o, Piaseczno, Poland, was, together with the TV sets factory of Zyrardow, Poland, incorporated under one single legal entity, namely the company TMM Polska, itself wholly owned by the mother company Thomson SA. In line with standard practice, the Commission considered that it was in the presence of an integrated producer and that supplies of the like product from the tube factory of Piaseczno to the TV set factory of Zyrardow constituted an internal transfer, and were thus captive sales made at transfer prices. The claimant *de facto* acknowledged the situation of transfer pricing as it stated that '*the relationship between Thomson Display and Thomson's CTV display could have influenced prices, but it does certainly not influence quantities*'. The Commission therefore confirms that these transfers cannot be considered alike sales on the free market.
- (74) Finally and for the sake of clarity only, it should be noted that, even if those captive sales were to be included in the consumption (see table just below), only the total levels would change, but the trend, namely the substantial demand contraction of the IP would remain very similar to the one described in recital 69. Claim (ii) is therefore rejected.

	2002	2003	2004	IP
Total EC consumption based on captive and non-captive sales (pieces)	15 655 283	14 243 625	12 850 690	9 425 280
Index (2002 = 100)	100	91	82	60

3. Imports from the countries concerned

(a) Cumulative assessment of the effects of the imports concerned

- (75) The Commission considered whether imports from the countries concerned should be assessed cumulatively on the basis of the criteria set out in Article 3(4) of the basic Regulation. The Commission verified that (i) the dumping margin established for each country concerned is more than the *de minimis* threshold as defined in Article 9(3) of the basic Regulation and (ii) conditions of competition between imported products and the like Community product are similar.
- (76) It is firstly noted that the data pertaining to Beijing Matsushita Color CRT Co., Ltd and to LG Philips Display Korea Co., Ltd, i.e. the two exporting producers in the countries concerned which were found not to have dumped the product concerned, have been properly excluded from the following analysis, which concerns exclusively dumped imports. For information, the volume of imports from the two aforementioned producers was marginal during the IP as it was significantly less than 1 % of Community consumption.

⁽¹⁾ See notably hot-rolled coils (HRC) case, recitals 37 to 49 of Commission Decision No 283/2000/ECSC (OJ L 31, 5.2.2000, p. 15).

- (77) On this basis, the dumping margin found for each of the countries concerned was above the *de minimis* threshold as defined in Article 9(3) of the basic Regulation and the volume of dumped imports from each of these countries was not negligible in the sense of Article 5(7) of the basic Regulation, their market shares attaining between 3,6 % and 6,5 %, depending on the country concerned in the IP. As regards the conditions of competition between the dumped imports from the countries concerned and the like Community product, it was found that there were indeed similar conditions of competition. This was evidenced by the fact that the product concerned imported from the countries concerned and the like product produced and sold by the Community industry within the Community market were alike, compete against each other and are distributed via the same trade channels. Moreover all import volumes were substantial and resulted in significant market shares.
- (78) In the light of the above, it was considered that all the criteria set out in Article 3(4) of the basic Regulation were met. The dumped imports from the four countries concerned were therefore examined cumulatively.

(b) *Volume*

- (79) The volume of dumped imports into the Community of the product concerned originating from the countries concerned stood just below 1,6 million pieces in the IP, a level close to that observed in 2002. This apparent stability hides sharp variations in the years 2003, 2004 and the IP. Imports rose by 44 % in 2003, declined by three percentage points in 2004 and dropped further by 44 percentage points in the IP.

	2002	2003	2004	IP
Volume of dumped imports from the countries concerned (pieces)	1 626 027	2 337 736	2 296 547	1 585 294
Index (2002 = 100)	100	144	141	97
Market share of dumped imports from the countries concerned	17,0 %	24,9 %	22,9 %	19,4 %
Prices of dumped imports from the countries concerned (EUR/piece)	50	43	32	39
Index (2002 = 100)	100	85	64	76

(c) *Market share*

- (80) The market share held by exporters in the countries concerned increased from 17 % in 2002 to 19,4 % in the IP. In detail, the market share experienced a jump by almost eight percentage points in 2003, declined by around two percentage points in 2004 and dropped further by around 3,5 percentage points in the IP. The fact that the market share of the imports from the countries concerned was higher in the IP than in 2002, although there were fewer imports in volume in the IP than in 2002 can be explained by a sudden drop in consumption as described in recital 69.

(d) *Prices*

(i) *Price evolution*

- (81) Between 2002 and the IP, the average price of imports of the product concerned originating in the countries concerned declined by 24 %. Specifically, the price dropped by 15 % in 2003, by a further 21 percentage points in 2004, before increasing again by 12 percentage points in the IP.

(ii) Price undercutting

- (82) A model-to-model price comparison was made between the exporting producers and the Community industry's weighted average selling prices in the Community. To this end, Community industry's ex-works prices to unrelated customers have been compared with the compared to cif Community frontier import prices, of co-operating exporting producers of the countries concerned, duly adjusted in order to reflect a landed price. The comparison showed that during the IP, the product concerned originating in the countries concerned sold in the Community undercut the Community industry's prices by between – 37 % (i.e. no undercutting) and a maximum of 13 %, depending on the exporter concerned. Overall, undercutting was very limited. However, Eurostat data indicate that in the years preceding the IP, the prices of the dumped imports from the countries concerned were substantially lower than those of the Community industry.

4. Situation of the Community industry

- (83) Pursuant to Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Community industry included an evaluation of all relevant economic factors and indices having a bearing on the state of the Community industry during the period considered.

(a) Production

- (84) Between 2002 and the IP, the Community industry's production decreased by 5 %. Specifically, it increased by 8 % in 2003, by a further 12 percentage points in 2004 and finally declined sharply by 25 percentage points in the IP.

	2002	2003	2004	IP
Production (pieces)	9 727 029	10 461 957	11 685 396	9 276 778
Index (2002 = 100)	100	108	120	95

(b) Capacity and capacity utilisation rates

- (85) The production capacity increased steadily throughout the period considered. It rose by 4 % in 2003, by a further 19 percentage points in 2004 and finally by five percentage points in the IP. This corresponds to an increase in machinery.

	2002	2003	2004	IP
Production capacity (pieces)	11 865 163	12 297 545	14 626 819	15 133 449
Index (2002 = 100)	100	104	123	128
Capacity utilisation	82 %	85 %	80 %	61 %
Index (2002 = 100)	100	104	97	75

- (86) Capacity utilisation stood in the range of 80 to 85 % in the years 2002 to 2003, before declining sharply to 61 % in the IP.

(c) *Stocks*

- (87) Between 2002 and the IP, there were large fluctuations in the level of inventories of finished products. It first declined sharply in 2003, reflecting the economic climate for this particular product which was still good in 2002 and 2003, before rising sharply at the end of 2004, reflecting the sudden drop in demand. During the IP, the level of actual production was adapted downwards, as seen above, and the level of closing stock came back to a more sustainable level.

	2002	2003	2004	IP
Closing stock (pieces)	627 641	56 996	943 655	278 406
Index (2002 = 100)	100	9	150	44

(d) *Sales volume*

- (88) The sales by the Community industry of its own production to unrelated customers on the Community market initially increased by 6 % in 2003, rose further by 16 percentage points in 2004, but then declined by six percentage points in the IP. Overall, during the period considered the sales volume increased by 16 %. The substantial gap between the volumes of production and of domestic sales is explained by the fact that the Community industry exports around two thirds of its production outside of the Community.

	2002	2003	2004	IP
EC Sales volume to unrelated customers (pieces)	2 645 562	2 814 515	3 229 069	3 078 543
Index (2002 = 100)	100	106	122	116

(e) *Market share*

- (89) The market share held by the Community industry rose steadily, by 10 percentage points, between 2002 and the IP. Specifically, it was close to 28 % in 2002, rose to 30 % in 2003 and to around 32 % in 2004, before rising finally to close to 38 % during the IP. This increase of market share has to be seen against the background of a declining consumption in the EC as described in recital 69.

	2002	2003	2004	IP
Market share of Community industry	27,7 %	30,0 %	32,2 %	37,7 %
Index (2002 = 100)	100	108	116	136

(f) *Growth*

- (90) Between 2002 and the IP, when the Community consumption decreased by 14 %, the volume of sales of the Community industry on the Community market increased by 16 %. The Community industry gained around 10 percentage points of market share, whereas dumped imports gained around 2,4 percentage points of market share between 2002 and the IP.

(g) *Employment*

- (91) The employment level of the Community industry declined by around 10 % between 2002 and the IP. It decreased by 4 % between 2002 and 2003, increased by six percentage points in 2004, but declined by 12 percentage points in the IP, reflecting partly the decrease of production.

	2002	2003	2004	IP
Employment (persons)	9 604	9 254	9 805	8 632
Index (2002 = 100)	100	96	102	90

(h) *Productivity*

- (92) Productivity of the Community industry's workforce, measured as output (in pieces) per person employed per year, increased by 12 % in 2003, increased further by six percentage points in 2004, and finally decreased by 12 percentage points in the IP. Confronted with the IP sudden market contraction, the volume of production was adjusted immediately, but as is commonly observed, the adjustment of the labour force was less rapid, thereby triggering the observed productivity loss.

	2002	2003	2004	IP
Productivity (pieces per employee)	1 013	1 131	1 192	1 075
Index (2002 = 100)	100	112	118	106

(i) *Wages*

- (93) The average wage per employee in the IP remained approximately at the same level as in 2002. Specifically, it decreased by 11 % in 2003, by a further two percentage points in 2004 and finally increased by 14 percentage points in the IP.

	2002	2003	2004	IP
Annual labour cost per employee (000 EUR)	11	10	10	11
Index (2002 = 100)	100	89	87	101

(j) *Sales prices and factors affecting Community prices*

- (94) Unit prices for Community sales to unrelated customers of the Community industry's own production decreased steadily, by 42 % in total, between 2002 and the IP. Specifically, prices declined by 25 % in 2003, by a further nine percentage points in 2004 and finally by a further eight percentage points in the IP. The investigation showed marginal undercutting, if any, of the sales price of the Community industry by the dumped imports. For a certain number of models, undercutting was larger than the average undercutting margins mentioned in recital 82.

	2002	2003	2004	IP
Unit price EC market (EUR/piece)	66	49	44	38
Index (2002 = 100)	100	75	66	58

(k) Profitability and return on investments

- (95) During the period considered, the profitability of the sales in the Community of the Community industry's own production, expressed as a percentage of net sales, declined steadily. Profitability declined from 24 % in 2002 to around 18 % in 2003, and to around 10 % in 2004. In the IP, the Community industry made a loss of – 3,6 %.

	2002	2003	2004	IP
Profitability of EC sales to unrelated (% of net sales)	24,0 %	18,2 %	10,1 %	– 3,6 %
ROI (profit in % of net book value of investments)	17,5 %	9,1 %	5,7 %	– 2,1 %

- (96) The return on investments (ROI), expressed as the profit as a percentage of the net book value of investments, broadly followed the above profitability trend. It declined from around 17 % in 2002 to – 2,1 % in the IP.

(l) Cash flow and ability to raise capital

- (97) The net cash flow from operating activities also declined during the period considered. From a level of around 175 million EUR in 2002, it declined to around 125 million EUR in 2003, increased again to around 141 million EUR in 2004, before dropping sharply to around – 25 million EUR in the IP. The situation deteriorated so badly that two of the companies constituting the Community industry were declared bankrupt during the first half of 2006, as indicated in recital 67. Only Thomson was able to obtain funding from its mother company, and, in that way, avoided a more serious financial situation. Ekranas and Ecimex were unable to raise capital. Looking forward, the ability of the Community industry to raise further capital is obviously seriously hampered by the poor demand prospects.

	2002	2003	2004	IP
Cash flow (000 EUR)	175 468	124 804	140 548	– 24 626

(m) Investments

- (98) The Community industry's annual investments in the production of the product concerned declined steadily between 2002 and the IP. It declined by 14 % in 2003, by a further 25 percentage points in 2004 and by a further 40 percentage points in the IP.

	2002	2003	2004	IP
Net investments (000 EUR)	81 445	69 807	49 426	16 996
Index (2002 = 100)	100	86	61	21

(n) Magnitude of dumping margin

- (99) As concerns the impact on the Community industry of the magnitude of the actual margins of dumping, given the volume and the prices of the imports from the countries concerned, this impact cannot be considered to be negligible.

(o) Recovery from past dumping

- (100) By means of Council Regulation (EC) No 2313/2000 ⁽¹⁾, measures have been imposed on imports of certain cathode-ray colour television picture tubes originating in India and the Republic of Korea. These measures expired on 21 October 2005. However, these measures concerned only one country from the four targeted in the present proceeding, and only a part of CN code 8540 11 11, from the five CN codes mentioned in recital 12. For information, CN code 8540 11 11 covers a scope of around 20 % of the product scope covered by the present proceeding. Given the dissimilarity of situations, it is therefore difficult to draw any conclusion on the particular issue of recovery from past dumping.

5. Conclusion on injury

- (101) Between 2002 and the IP, the volume of the dumped imports of the product concerned originating in the countries concerned decreased by 3 % but their share of the Community market increased by around 2,4 percentage points. The average prices of dumped imports from the countries concerned, based on Eurostat data, were generally lower than those of the Community industry during the period considered. However, during the IP, the prices of the imports from the countries concerned did not substantially undercut those of the Community industry. Indeed, as indicated in recital 82, on a weighted average basis, price undercutting was between - 37 % and 13 % in the IP, depending on the country and exporter concerned. However, Eurostat data indicate that in the years preceding the IP, the prices of the dumped imports from the countries concerned were substantially lower than those of the Community industry.
- (102) A clear deterioration of the situation of the Community industry has been found over the period considered. Firstly, two of the three companies constituting the Community industry were declared bankrupt during the first half of 2006. Secondly, most of the injury indicators developed negatively between 2002 and the IP: the volume of production declined by 5 %, capacity utilisation declined by 25 %, employment declined by 10 %, unit sales prices declined by 42 %, profitability,

return on investment and cash flow deteriorated markedly and investment dropped by 79 %. The deterioration of the situation of the Community industry was extremely sudden as it occurred mainly during the IP. Indeed, before the IP, the profitability of the Community industry was still comfortably above 10 %.

- (103) Some indicators showed apparently positive developments between 2002 and the IP. Production capacity increased by 28 %, the volume of sales of the Community industry to the Community market rose by 16 % and the market share held by the Community industry rose by 10 percentage points. However, these developments could not prevent the sharp deterioration of the financial situation of the Community industry, which ultimately triggered the bankruptcy of two Community producers.
- (104) In the light of the foregoing, it is therefore concluded that the Community industry has suffered material injury within the meaning of Article 3(5) of the basic Regulation.

E. CAUSATION**1. Introduction**

- (105) In accordance with Article 3(6) and (7) of the basic Regulation, the Commission examined whether dumped imports have caused injury to the Community industry to a degree that may be considered as material. Known factors other than the dumped imports, which could at the same time be causing injury to the Community industry, were also examined to ensure that possible injury caused by these other factors was not attributed to the dumped imports.

2. Effects of the dumped imports

- (106) During the IP, the dumped imports from the four countries concerned accounted for a substantial market share of 19,4 %. Between 2002 and the IP, the volume of the dumped imports of the product concerned originating in the countries concerned decreased by around 3 % but their share of the Community market increased by around 2,3 percentage points as consumption declined even faster than the above import volume. However, it is important to observe that both the volume and the market share of dumped imports peaked in 2003, and then substantially declined up until the IP. During the IP, the market share of the dumped imports was 5,5 percentage points lower than in 2003.

⁽¹⁾ OJ L 267, 20.10.2000, p. 1.

(107) The average prices of dumped imports from the countries concerned, based on Eurostat data, were generally lower than those of the Community industry during the period considered and likely exerted a downward pressure on them. Import prices also decreased considerably between 2002 and 2004, but recovered in the IP by 12 percentage points, as noted in recital 81. As the Community industry had also lowered its sales prices gradually over the period considered, the prices of the imports from the countries concerned did not substantially undercut those of the Community industry during the IP, on a model to model comparison. Indeed, on a weighted average basis, price undercutting was between -37 % and 13 % in the IP, depending on the country and exporter concerned. However, while there was hardly any price undercutting, there was in any event price underselling by the dumped imports.

(108) As noted in recital 102, a sharp contrast can be observed in the situation of the Community industry between the period 2002/2003 and the IP. It is important to note that the deterioration of the situation of the Community industry was extremely sudden as it occurred mainly during the IP. Indeed, before the IP, the profitability of the Community industry was still comfortably above 10 % and most injury indicators were still showing positive developments. In particular, between 2002 and 2004, production capacity increased by 23 %, the production volume rose by 20 %, the volume of sales of the Community industry to the Community market rose by 22 % and the market share held by the Community industry rose from around 28 % to around 32 %, at a time when the market was still growing. During the IP, when the market suddenly contracted by 20 % in one year, the market share of the Community industry even jumped to 38 %.

(109) Furthermore it should be noted that the Community industry reached its highest profitability in 2002 and 2003 when its sales prices had already decreased substantially, when its market share was the smallest and when the volume of dumped imports was at its highest level. Profitability went only down in the IP when Community industry's market share reached its peak and at a time when the volume of dumped imports declined and when the prices of dumped imports increased.

(110) In conclusion, dumped imports may have exerted a downward pressure on the Community industry's sales prices throughout the period 2002 to the IP and may have had some consequent negative impact on the overall situation of the Community industry. However, as noted in recitals 108 and 109, the situation of the Community industry, which was still showing mixed signals in the years preceding the IP, suddenly and

dramatically worsened during the IP. Before the IP, the profitability of the Community industry was still above 10 %. Likewise, most injury indicators were still showing positive developments up until the IP. Between 2002 and 2004, production capacity increased by 23 %, the production volume rose by 20 %, the volume of sales of the Community industry to the Community market rose by 22 % and the market share held by the Community industry rose from around 28 % to around 32 %, at a time when the market was still growing. It is also recalled that the Community industry reached its highest profitability in 2002 and 2003, when its market share was the smallest and when the volume of dumped imports was at its highest level. Community industry's profitability went down in the IP, when its market share reached its peak and, importantly, at a time when the presence of dumped imports actually declined in terms of both volumes and market share (see recital 106) and when the prices of dumped imports recovered. On the other hand, the only new element in the environment of the Community industry during the IP was the sharp drop in demand by 20 %. Therefore, the absence of a clear coincidence in time between the deterioration of the situation of the Community industry and the effects of the dumped imports casts serious doubts on the correlation between the development of imports and the situation of the Community industry. Therefore, it cannot be concluded that the dumped imports had played a determining role in the injurious situation of the Community industry.

3. Effects of other factors — Development of consumption

(111) Several interested parties indicated that the drop in demand for CPT was the main cause for the sudden injury suffered by the Community industry.

(112) Indeed, as shown in recital 69, consumption of CPT suddenly dropped in the IP, by 20 %. This drop in consumption was the only parameter which dramatically changed in the environment of the Community industry. And this also coincides with a dramatic worsening of the situation of the Community industry. The investigation has shown that the sudden decline in demand indeed had a negative impact on the situation of the Community industry, as the sudden drop of Community industry's profitability and cash flow stems directly from the above market contraction via a cost effect (productivity loss in the IP as shown in recital 92 and rise in unit costs of production) and a price effect (sudden overcapacity). During the IP, the demand for CPT had become completely inelastic to prices, as shown by the fact that the substantial drop in prices observed between 2004 and the IP did not lead to any increase in sales volume at all. On the contrary, demand has actually dropped by around 20 %.

(113) The investigation showed that the drop in demand for CPT coincides in time with the increasing penetration of flat panel TV sets (Liquid Crystal Display (LCD) and Plasma), which increased sharply from less than 1 % of the market in 2002 to 28 % in the IP. These flat panel TV sets compete directly with CPT and both products are fully interchangeable. Although LCD and Plasma technologies are not completely new, it is only during the IP that the prices for flat panel televisions have come down significantly as prices have decreased by 44 % between 2001 and the IP. This decrease in price of flat panel television has on the one hand rendered these models more attractive to consumers, thereby reducing the demand for TV sets with CPT, and on the other hand has exerted a direct pressure on the selling prices of TV sets with CPT which had to decrease in order to remain competitive with the new, attractive, flat screen models. As an example, flat panel TV sets accounted for 63 % of the total value of all retail TVs bought in the UK in 2005, compared with just 37 % for 2004. Both the result of this investigation and information obtained from market intelligence suggest that the sales volume of CPT TVs peaked in the EU in 2004, and that the drop in demand is sustained since then.

4. Conclusion on causation

(114) The data suggests that the dumped imports had exerted a price pressure on the Community industry's prices and probably have also contributed to its injurious situation. However, a more detailed analysis, in particular based on the development of trends over the period considered did not allow a causal link to be established as there was no clear coincidence in time between the deterioration of the situation of the Community industry and the developments of the dumped imports.

(115) On the other hand and importantly, the investigation showed that there was indeed a clear coincidence in time between the injurious situation of the Community industry and the sharp and sudden decline in the demand for CPTs in the Community. This translated into a rise of unit production costs and a further price decrease. This strong decline coincides perfectly with the increasing penetration of flat panel technology.

(116) In conclusion, it could thus not be established that the dumped imports taken in isolation have caused material injury. Indeed, other factors were examined pursuant to Article 3(7) of the basic Regulation and the injury could be significantly attributed to the effects of a sudden and strong decline in demand and the increased availability of flat panel technology at competitive prices.

F. PROPOSAL FOR TERMINATION WITHOUT MEASURES

(117) In view of the conclusions reached in recitals 105 to 114 with regard to the fact that a causal link between the injury suffered by the Community industry and the dumped imports could not sufficiently be established, the Commission considers that the present antidumping proceeding should be terminated in accordance with Article 9(2) of the basic Regulation,

HAS DECIDED AS FOLLOWS:

Article 1

The anti-dumping proceeding concerning imports of cathode-ray colour television picture tubes, including video monitor cathode-ray tubes, of all sizes, falling within CN codes 8540 11 11, 8540 11 13, 8540 11 15, 8540 11 19, 8540 11 91 and 8540 11 99, originating in the Peoples Republic of China, the Republic of Korea, Malaysia and Thailand, is hereby terminated.

Article 2

This Decision shall enter into force on the day following its publication in the *Official Journal of the European Union*.

Done at Brussels, 15 November 2006.

For the Commission

Peter MANDELSON

Member of the Commission

CORRIGENDA

Corrigendum to Council Regulation (EC) No 584/2006 of 10 April 2006 amending Regulation (EC) No 1480/2003 imposing a definitive countervailing duty and collecting definitely the provisional duty imposed on imports of certain electronic microcircuits known as DRAMs (dynamic random access memories) originating in the Republic of Korea

(Official Journal of the European Union L 103 of 12 April 2006)

On page 25, in Nos 1, 2, 3, 4, 5, 6 and 7 of the table in Article 1(3) of Regulation (EC) No 1480/2003:

for: 'Multi-combinational forms of DRAMs ...',

read: '(Non-customised) multi-combinational forms of DRAMs ...';

and in Nos 2, 3, 4, 5, 6 and 7 of the table in Article 1(3), of Regulation (EC) No 1480/2003:

for: '... price of the multi-combinational form of DRAM',

read: '... price of the (non-customised) multi-combinational form of DRAM'.
