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COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

COUNCIL REGULATION

imposing anti-dumping duties on imports of integrated electronic compact fluorescent lamps (CFL-i) originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 384/96 and extending to imports of the same product consigned from the Socialist Republic of Vietnam, the Islamic Republic of Pakistan and the Republic of the Philippines

(presented by the Commission)

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

This proposal concerns the application of Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community, as last amended by Council Regulation (EC) No 2117/2005 of 21 December 2005 ('the basic Regulation') in the proceeding concerning imports of integrated electronic compact fluorescent lamps (CFL-i) originating in the People's Republic of China.

- **General context**

This proposal is made in the context of the implementation of the basic Regulation and is the result of an investigation which was carried out in line with the substantive and procedural requirements laid out in the basic Regulation.

- **Existing provisions in the area of the proposal**

There are no existing provisions in the area of the proposal.

- **Consistency with other policies and objectives of the Union**

Not applicable.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

Interested parties concerned by the proceeding have already had the possibility to defend their interests during the investigation, in line with the provisions of the basic Regulation.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

This proposal is the result of the implementation of the basic Regulation.

The basic Regulation does not foresee a general impact assessment but contains an exhaustive list of conditions that have to be assessed.

3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

On 19 July 2006, the Commission announced by a notice, published in the *Official*

*Journal of the European Union*¹, the initiation of an anti-dumping proceeding pursuant to Article 11(2) of the basic Regulation concerning imports into the Community of integrated electronic compact fluorescent lamps (CFL-i) originating in the People's Republic of China.

The request was lodged on 18 April 2006 by the Community Federation of Lighting Industry of Compact Fluorescent Lamps Integrated (CFL-i) ('the Applicant') on behalf of a major proportion, in this case more than 25 %, of the total Community production of CFL-i..

The enclosed Commission proposal for a Council Regulation contains the definitive conclusions regarding dumping, injury and Community interest.

Member States were consulted during the Anti-Dumping Committee of XX September 2007. XX Member States were in favour of the proposed course of action and XX opposed.

It is proposed that the Council adopt the attached proposal for a Regulation which should be published in the *Official Journal of the European Union* on 18 October 2007 at the latest.

- **Legal basis**

Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community, as last amended by Council Regulation (EC) No 2117/2005 of 21 December 2005.

- **Subsidiarity principle**

The proposal falls under the exclusive competence of the Community. The subsidiarity principle therefore does not apply.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason(s):

The form of action is described in the above-mentioned basic Regulation and leaves no scope for national decision.

Indication of how financial and administrative burden falling upon the Community, national governments, regional and local authorities, economic operators and citizens is minimized and proportionate to the objective of the proposal is not applicable.

- **Choice of instruments**

Proposed instruments: Regulation.

Other means would not be adequate for the following reason(s).

¹ OJ C 167, 19.7.2006, , p. 3.

The above-mentioned basic Regulation does not foresee alternative options.

4) BUDGETARY IMPLICATION

The proposal has no implication for the Community budget.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽²⁾ ('the basic Regulation') and in particular Articles 4(1), 5(4), and 11(2) thereof,

Having regard to the proposal from the Commission, after consulting the Advisory Committee,

Whereas:

A. PROCEDURE

Measures in force

- (1) By Regulation (EC) No 1470/2001⁽³⁾ (the 'original Regulation'), the Council imposed definitive anti-dumping duties ranging from 0 to 66,1 % on imports of integrated electronic fluorescent lamps ('CFL-i') originating in the People's Republic of China ('the country concerned') ('the original investigation'). Prior to that, the Commission had imposed provisional anti-dumping duties by Regulation (EC) No 255/2001⁽⁴⁾ (the 'provisional Regulation').
- (2) By Regulation (EC) No 866/2005⁽⁵⁾ (the 'extending Regulation'), the Council extended the anti-dumping measures in force to also cover imports of CFL-i consigned from the Socialist Republic of Vietnam, the Islamic Republic of Pakistan and the Republic of the Philippines. The extension followed an anti-circumvention investigation carried out pursuant to Article 13(3) of the basic Regulation.

² OJ L 56, 6.3.1996, p.1. Regulation as last amended by Council Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p.17).

³ OJ L 195, 19.7.2001, p.8

⁴ OJ L 38, 8.2.2001, p. 8

⁵ OJ L 145, 9.6.2005, p.1

- (3) By Regulation (EC) No 1322/2006⁶, (the 'amending Regulation'), the Council amended the anti-dumping measures in force. The amendment was made following an interim review carried out with regard to the product scope. The result of the investigation and the effect of the amending Regulation was that direct current voltage lamps ('DC-CFL-i') should be excluded from the scope of the measures. The anti-dumping measures would henceforth only cover alternating current voltage lamps (including electronic compact fluorescent discharge lamps functioning on both alternating and direct current) ('AC-CFL-i')."

Current investigations

- (4) Following the publication of a notice of impending expiry, the Commission received a request for a review pursuant to Article 11(2) of the basic Regulation. The request was lodged on 18 April 2006 by the Community Federation of Lighting Industry of Compact Fluorescent Lamps Integrated (CFL-i) ('the applicant') on behalf of a major proportion, in this case more than 25 %, of the total Community production of CFL-i.
- (5) The request was based on the grounds that the expiry of the measures would be likely to result in a continuation of dumping and injury to the Community industry. Having determined, after consultation of the Advisory Committee, that sufficient evidence existed for the initiation of a review, the Commission, on 19 July 2006, initiated an investigation⁷ pursuant to Article 11(2) of the basic Regulation. The applicant also lodged a request for a partial interim review pursuant to Article 11(3) of the basic Regulation. Having determined, after consultation of the Advisory Committee, that sufficient evidence existed for the initiation of a review, the Commission, on 8 September 2006, initiated an investigation⁸ pursuant to Article 11(3) of the basic Regulation. The scope of the interim review is limited to the level of dumping as far as one exporting producer, Lisheng Electronic & Lighting (Xiamen), is concerned. The latter review is on-going and is not the subject of the present Regulation.

Investigation and parties concerned

- (6) The Commission officially advised the applicant, the Community producers, the exporting producers in the PRC (hereinafter 'Chinese exporters'), the importers, traders, users and their associations known to be concerned, as well as the representatives of the government of the exporting country, of the initiation of the reviews.
- (7) The Commission sent questionnaires to all these parties and to those who made themselves known within the time limit set in the notices of initiation.
- (8) The Commission also gave the parties directly concerned the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.
- (9) In view of the apparent high number of exporting producers in the PRC and importers of the product concerned, sampling was envisaged in the notice of initiation, in

⁶ OJ L 244, 7.9.2006, p.1

⁷ OJ C 167, 19.7.2006, p.13

⁸ OJ C 217, 8.9.2006, p.2

accordance with Article 17 of the basic Regulation. In order to be able to decide whether sampling would be necessary and, if so, to select a sample, the Commission sent out sampling forms asking specific information on average sales volume and prices of each exporting producer and importer concerned.

- (10) Complete replies were received from three Chinese exporters and three importers.
- (11) A questionnaire was also sent to the known producers in the potential analogue country, namely the Republic of Korea ('Korea').
- (12) Replies to the questionnaires were also received from four Community producers, two producers in the analogue country Korea, one retailer (which also imported) and seven suppliers of components to Community producers.
- (13) The Commission sought and verified all information deemed necessary for the purpose of a determination of the likely continuation of dumping and injury and of the Community interest. Verification visits were carried out at the premises of the following companies:
 - (a) *exporting producer in the PRC related to the applicant Community producer*
 - Osram China Lighting Ltd., Foshan City, Guangdong Province
 - (b) *exporting producer in the PRC related to the other Community producers*
 - Zhejiang Yankon Group Co Ltd., Shangyu City, Zhejiang Province
 - (c) *exporting producer in the PRC unrelated to any Community producers*
 - Shenzhen Zuoming Electronic Co. Ltd. Shenzhen City, Guangdong Province
 - (d) *trader related to the other Community producers*
 - Philips Hong Kong Ltd., Hong Kong SAR
 - (e) *trader unrelated to any Community producers*
 - Super Trend Lighting Ltd., Hong Kong SAR
 - (f) *producers in the analogue country*
 - Osram Korea Ltd., Seoul, Republic of Korea
 - Hyosun Electric Co., Ltd., Paju-City, Republic of Korea
 - (g) *Community manufacturers*
 - Osram GmbH, München and Augsburg, Germany and Osram Slovakia, Nove Zamky, Slovakia
 - Philips Lighting B.V., Eindhoven, Netherlands and Pila, Poland
 - General Electric Zrt., Budapest and Nagykaniza, Hungary,

- Sylvania Lighting International, Frankfurt/Main, Germany and Leeds, United Kingdom

(h) *Community importers*

- Electro Cirkel B.V., Rotterdam, the Netherlands
- Kemner B.V., Amsterdam, the Netherlands
- Omicron UK Ltd., Huntingdon, United Kingdom

(i) *Community suppliers*

- ST Microelectronics Srl, Milano, Italy
- Vitri Electro-Metalurgica S.A., Barcelona, Spain

(j) *Community retailer*

- IKEA AB, Älmhult City, Region of Småland, Sweden

Investigation Period

- (14) The investigation of the likelihood of continuation and/or recurrence of dumping and injury for the expiry review covered the period from 1 July 2005 to 30 June 2006 ('review investigation period' or 'RIP'). The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2003 up to the end of the RIP ('period considered').

B. PRODUCT CONCERNED AND LIKE PRODUCT

Product concerned

- (15) The product concerned is the same as determined in the amending Regulation, i.e. electronic compact fluorescent discharge lamps functioning on alternating current (including electronic compact fluorescent discharge lamps functioning on both alternating and direct current), with one or more glass tubes, with all lighting elements and electronic components fixed to the lamp foot, or integrated in the lamp foot originating in the People's Republic of China ('the product concerned'), currently classifiable within CN code ex 8539 31 90.

Like product

- (16) The Commission found that
- CFL-i manufactured and sold domestically in the PRC,
 - CFL-i manufactured in the PRC and exported to the Community,
 - CFL-i manufactured and sold in the Community, and
 - CFL-i manufactured and sold domestically in the analogue country

have basically the same physical and technical characteristics and uses. Therefore, these products are alike within the meaning of Article 1(4) of the basic Regulation.

- (17) Several parties alleged that the types of CFL-i imported from the PRC and the CFL-i manufactured in the Community were not like products since the quality of the product concerned (life-time) was different and since the product concerned had a different category of end-users (consumer CFL-i lamps) than the CFL-i lamps manufactured in the Community (CFL-i lamps for professional uses).
- (18) In respect of the alleged different quality between CFL-i lamps imported from the PRC and CFL-i lamps- manufactured in the Community, the same claim was put forward in the original investigation and rejected in the original Regulation. Since the claim contained no new elements showing that the description of the like product, as defined in recital 13 of the provisional Regulation, was incorrect, the definition of the original Regulation, as amended by Regulation (EC) No 1322/2006, has been maintained in this investigation.
- (19) In respect of an alleged different end-use between imported CFL-i lamps and CFL-i lamps manufactured in the Community, this situation does not alter the fact that the CFL-i lamps imported and CFL-i lamps manufactured in the Community are completely interchangeable from a technical point of view and are in direct competition with each other. Moreover, whereas the users may differ and be supplied by different sales channels, this does not impinge upon the fact that such CFL-i lamps are technically alike and are used for the same purposes, i.e. to generate light in an energy-saving manner.

C. LIKELIHOOD OF CONTINUATION AND/OR RECURRENCE OF DUMPING

1. Dumping of imports during the investigation period

- (20) In accordance with Article 11(2) of the basic Regulation, it was examined whether dumping was currently taking place and whether or not the expiry of the measures would be likely to lead to a continuation or recurrence of dumping.
- (21) In accordance with Article 11(9) of the basic Regulation, the same methodology was used as in the original investigation. As an expiry review does not provide for any examination of changed circumstances, it was not reconsidered whether producers merited or not to be granted market economy treatment ('MET').

Sampling/Co-operation

- (22) It is recalled that in the original investigation a total of nine Chinese exporting producers fully co-operated with the investigation. Two of these exporting producers were granted MET, namely Lisheng Electronic & Lighting (Xiamen) Co., Ltd and Philips & Yaming Lighting Co., Ltd (recital 15 of the provisional Regulation and recital 14 of the original Regulation). Six of the total nine were granted individual treatment (IT') (recital 35 of the provisional Regulation and recital 17 of the original Regulation). It is noted that none of the companies awarded with MET and only three of those awarded with IT co-operated with the present expiry review investigation.

- (23) In view of the apparent large number of Chinese exporting producers listed in the complaint sampling was envisaged in the notice of initiation for the determination of dumping, in accordance with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all exporting producers from the PRC were asked to make themselves known to the Commission and to provide, as specified in the notice of initiation, basic information on their activities related to the product concerned during the investigation period.
- (24) 17 Chinese exporting producers replied to the sampling forms. The investigation was based on information from two co-operating exporting producers which had originally received individual treatment, and also on information from a third one that, originally, was granted neither this treatment nor market economy treatment. This was done in agreement with the Chinese authorities. These three exporting producers represented more than 30% of the total exported quantities to the Community from the PRC, and more than 40% of the quantities excluding the Chinese exporter subject to 0% duty. The two companies which received individual treatment account for a vast majority of these quantities, underlining that co-operation from companies receiving neither individual treatment nor market economy status was low.
- (25) Verification visits were carried out at the premises of the three co-operating exporting producers:
- Zhejiang Yankon Group Co Ltd
 - Shenzhen Zuoming Electronic Co. Ltd
 - Osram China Lighting Ltd.

Normal value

Domestic Sales Prices based on the Analogue Country

- (26) Since normal value had to be established on the basis of analogue country data for all producers that did not meet MET criteria, the same methodology as in the original investigation was used. Therefore, the normal value for all Chinese exporters had to be determined on the basis of data obtained from producers in a market economy third country, in accordance with Article 2(7) of the basic Regulation.
- (27) In the notice of initiation, Mexico was envisaged as an appropriate market economy third country in respect to the Community exports of the PRC. Mexico was already used an analogue country in the original investigation.
- (28) However, no co-operation could be obtained from Mexico. It was found that production of the product concerned had been shut down in Mexico before the beginning of the RIP.
- (29) Therefore, producers in other market economy third countries, including Indonesia, Malaysia, India and the Republic of Korea ('Korea'), were contacted with a view to co-operating with the review investigation.

- (30) The highest level of co-operation was obtained from Korea where two producers filed questionnaire responses and were willing to subsequently undergo on-spot verifications. One producer from Malaysia also replied to the Commission services' request but the data supplied were largely deficient. Another producer from India replied but its domestic sales were not representative. Moreover, it was found that the existence of several duties, such as countervailing duty, special countervailing duty, and Custom educational duty, had a negative impact on the openness of the Indian market. Therefore and given that no major competition or trade obstacles were found to exist on the Korean market it was considered that Korea was the most appropriate analogue country choice.
- (31) Subsequently, various producers and producers' associations in Korea were contacted and invited to cooperate through the completion of a questionnaire. Two producers in the Republic of Korea provided a questionnaire reply and fully cooperated in the investigation. Consequently, calculations were based on the verified information from these two cooperating producers.

Export Price

- (32) For the two co-operating exporting producers which had received individual treatment, export prices were to be established on the basis of the prices actually paid by unrelated customers in the Community in accordance with Article 2(8) of the basic Regulation.
- (33) To ensure a fair comparison between normal value and export price, allowances were made for differences in physical characteristics, transport, insurance, handling, loading and ancillary costs where applicable and justified.

Dumping Margin

- (34) Dumping margins were established for the two co-operating exporting producers who had received individual treatment. To calculate the dumping margin, the weighted average normal values were compared to the weighted average export price to the Community of the product concerned.
- (35) This comparison showed the existence of dumping of above 50% for both companies.
- (36) As to dumping margins for companies not receiving market economy treatment or individual treatment, cooperation from such companies was low. Against this background, dumping margins were established at least at the level mentioned in the preceding paragraph. This was done on the basis of normal value as described above, compared with export prices emanating from cooperating exporters and Community operators, and from official statistics, as cross-checked with confidential statistical information available to the Commission. Comparison was also undertaken as explained above.
- (37) Also due to non-cooperation in the review investigation by companies which obtained market economy treatment in the original investigation, there are no indications that dumping margins would differ from those originally established.

- (38) Therefore, in particular on the basis of the evidence available from the three co-operating exporting producers, the investigation shows strong evidence of continued dumping.

2. Developments of imports should measures be repealed

Preliminary remarks

- (39) The three exporting producers have available production capacities and stocks in order to continue to sell large volumes of sales on the Community market. In addition, it is emphasised that the Community market is very attractive given its size and the ever increasing demand for the product concerned. Accordingly, many Chinese exporting producers have established a well developed distribution network which facilitates sales of the product concerned. This is also mirrored by the fact that the existing measures were circumvented which led to the extension of these measures to Vietnam, Pakistan and the Philippines by Council Regulation (EC) No. 866/2005 of 6 June 2005.⁹ Also, the level of co-operation by Chinese exporting producers was rather poor (see above). In addition, the extent of dumping identified in the RIP points to a likelihood of continuation of dumping should measures lapse.

Relationship between prices in the Community and the exporting country

- (40) Prices in the Community were generally higher than those achieved by the three cooperating Chinese exporting producers for comparable models on their domestic market. This would suggest that it would be an attractive alternative for the Chinese exporting producers to shift sales to the Community should the anti-dumping measures be repealed.

Relationship between export prices to third countries and prices in the exporting country

- (41) During the RIP, export prices to third countries were generally higher than those achieved by the three cooperating Chinese exporting producers for comparable models on their domestic market. However, they were lower than the normal value determined in the analogue country. There is no reason to assume that this latter pattern would be different for exports to the Community if measures were lifted. Therefore, these facts support the conclusion that there is continuation and at least a risk of recurrence of dumping regarding most Chinese exports

Relationship between export prices to third countries and the price level in the Community

- (42) Chinese export prices to third countries were about the same level as the price level in the Community. However, if measures are repealed it is likely that the Community market will even become more attractive for Chinese exporting producers.

Unused capacities and stocks

⁹ OJ L 145, 9.6.2005, p. 1

- (43) All three co-operating exporting producers were close to producing and selling their full capacities during the RIP. New assembly-lines can be established relatively quickly if new market evolutions so require. That is why Chinese producers are likely to expand their capacities quickly once measures are repealed. In turn, dumping is likely to continue on that basis.

Circumvention practices

- (44) As established by Council Regulation (EC) No. 866/2005 of 6 June 2005¹⁰, the existing measures were circumvented by consignments through Vietnam, Pakistan and the Philippines. Subsequently, measures were extended to consignments of the product concerned. Again, the circumvention practices found stress the attractiveness of the Community market for Chinese exporting producers. This attractiveness will in all likelihood make Chinese producers export increased volumes once measures are repealed. Since exports were already made at dumped prices during the RIP (with measures in place), dumping is likely to continue once measures lapse and export volumes subsequently increase.

Conclusion

- (45) Dumping at significant levels (beyond 50%) was found to occur during the RIP. The Community market has been and will be attractive given its size and its increasing demand for the product concerned. In addition, the price level on the Community market with prices substantially beyond the levels in the PRC adds to such attractiveness. Once measures are repealed, Chinese producers are likely to expand their capacities to take advantage of such a changed market situation. All these factors taken together make the continuation of dumping very likely once measures are repealed.

3. Conclusion on the likelihood of a continuation and/or recurrence of dumping

- (46) On the basis of the above, it is concluded that dumping is likely to continue should measures be repealed.

D. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY

1. Analysis pursuant to Articles 4(1) and 5(4) of the basic Regulation

- (47) CFL-i is manufactured in the Community by four producers:
- General Electric Zrt., Hungary, with a production site in Hungary,
 - OSRAM GmbH, Germany, with production sites in Germany and Slovakia
 - Philips Lighting B.V., the Netherlands, with a production site in Poland,
 - Sylvania Lighting International, Germany, with a production site in the United Kingdom.

¹⁰ OJ L 145, 9.6.2005, p. 1

- (48) All four cooperating manufacturers belong to multinational groups and are active in the development and manufacturing of a large range of products. They all have their own sales and distribution systems in the Community as well as in other parts of the world.
- (49) During the investigation, the aforesaid manufacturers have been examined in the light of Articles 4(1) and 5(4) of the basic Regulation.. The detailed results (see annex) showed a complex picture of a sector whose structure appears to be in flux and where views are mixed, with the largest producer in terms of production volumes being in favour and the rest being opposed to the continuation of measures.
- (50) It is noted that the aforementioned largest Community producer, referred to as company B in the Annex, produces around 48% of Community production and its output therefore certainly constitutes a major proportion of Community production. Moreover, Art. 9(1) of the basic Regulation stipulates that the Community may take measures even if a complaint is withdrawn if that is in the Community interest. This rule *mutatis mutandis* also applies in an expiry review in which there is no complete withdrawal of a complaint, but a major Community producer continues to be in favour of the measures. Provided that producer accounts for a major proportion of Community industry, which is the case here, its injury data constitutes the best available data.
- (51) Therefore, for the purpose of the analysis of continuation and/or recurrence of injury, the situation of the supporting company has been analysed.. The analysis of the impact the measures have had on the other Community manufacturers is described below under "Community interest".

2. Situation on the community market

Community consumption

- (52) Community consumption was established on the basis of the sales volumes of the Community manufacturers and of Eurostat figures concerning the volume of imports from the country concerned and other third countries, duly adjusted where appropriate.
- (53) CN code 8539 31 90 may include imports from products other than the product concerned. As a consequence, an estimate of the percentage of imports of the product concerned within this code was made on the basis of questionnaire replies by interested parties, information provided by the complainant and cross-checked with confidential statistical information available to the Commission. Whereas in some instances it could be argued that full CN code data could well reflect import volumes and values of the product concerned, the assessment was made conservatively, thus minimising these amounts. In any event, the conclusions are the same whether this conservative approach or full CN code data are used. Some figures below have been indexed or bracketed to protect confidential company information and/or statistics (such as those emanating from 10 digit or 14 digit codes).

(54) The Community consumption developed as follows:

	2003	2004	2005	RIP
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Community consumption (million of units)	112	144	198	214
Index (2003 = 100)	100	129	176	190

- (55) During the period considered consumption of the product concerned increased by 90 %. This increase of consumption is supplied partly by an increase in imports of the product concerned destined to consumers. Smaller-sized CFL-i which resembles classical incandescent lamps has started to penetrate the market and, due to their apparent attraction to consumers (allegedly due to their design and low price), have triggered a significant increase in demand.

Development of imports

Volumes, market share and prices of imports from the PRC

- (56) The volumes and market shares of imports of the product concerned from the PRC developed as in Table 2 below. In line with the findings of the extending Regulation, imports recorded under CN code 8539 31 90 consigned from the Socialist Republic of Vietnam, the Islamic Republic of Pakistan and the Republic of the Philippines, in the period spanning from 2003 to the extension of the measures have been included as dumped imports below. It is underlined that this inclusion has no impact on the nature of the trends described. Since the interim review with respect to Lisheng Electronics (see above) is not yet finalised, it is presumed that the outcome in the original investigation (no dumping found) is also valid in this expiry review.

Table 2	2003	2004	2005	RIP
Volume of dumped imports (only index is provided due to confidentiality)	100	148	262	335
Volume of non-dumped imports (only index is provided due to confidentiality)	100	147	194	205
Total imports (thousands of units)	55.046	81.361	127.860	153.451
Market share of dumped imports	between 20 % and 30 %	between 27 % and 37 %	between 37 % and 47 %	between 47 % and 57 %
Market share of non dumped imports	between 17 % and 27 %	between 17 % and 27 %	between 17 % and 27 %	between 17 % and 27 %
Average prices of dumped imports	Between € 1,2 and € 1,3	Between € 1,0 and € 1,1	Between € 0,9 and €1,0	Between € 0,9 and € 1,0

- (57) Between 2003 and the end of the RIP, dumped imports from the PRC increased by 235 %. The share of dumped imports in Community consumption, in the meanwhile, increased from between 20% and 30% to between 47% and 57%.

- (58) Meanwhile non-dumped imports also increased its share of the Community market, albeit not to the extent that dumped imports did. During the RIP, non-dumped imports had a market share of the Community market in the range of 17% and 27%, much less than the market share of the dumped imports.
- (59) All in all, imports from the PRC, dumped and non-dumped, during the RIP held a market share of the Community market of around 72 %.
- (60) The approach to calculate the price undercutting is identical to the approach described in recital 60 in the provisional Regulation. The type of CFL-i exported to the Community by the exporting producers in the PRC (for which dumping was established) has been compared with the corresponding type of CFL-i manufactured by the supporter, and expressed as a percentage of supporter's ex-works price. On this basis, a level of undercutting ranging from 48,2 % to 61,5 % has been found.

Volumes, market shares and prices of imports from other countries

- (61) In order to present a complete picture of the situation on the Community market, the trends of imports of the product concerned from other countries concerned by this review were also examined.
- (62) Import volumes, market shares and average prices of imports from third countries have developed as indicated in table 3 below (two main exporting countries have been extracted).

Table 3	2003	2004	2005	RIP
Volume of imports from Malaysia	<i>between 1 and 2 million units</i>	<i>between 0 and 1 million units</i>	<i>between 1 and 2 million units</i>	<i>between 2 and 3 million units</i>
Market share	<i>between 1 % and 2 %</i>	<i>between 0 % and 1 %</i>	<i>between 0 % and 1 %</i>	<i>between 0 % and 1 %</i>
Average prices of imports	Between € 1,2 and €1,3	Between € 1,1 and € 1,2	Between € 1,2 and €1,3	Between € 1,2 and € 1,3
Volume of imports from Taiwan	<i>between 0 and 1 million units</i>	<i>between 1 and 2 million units</i>	<i>between 3 and 4 million units</i>	<i>between 3 and 4 million units</i>
Market share	<i>between 0 % and 1 %</i>	<i>between 0 % and 1 %</i>	<i>between 1 % and 3 %</i>	<i>between 1 % and 3 %</i>
Average prices of imports	Between €0 and €1,0	Between € 0 and €1,0	Between €0 and €1,0	Between € 0 and €1,0
Volume of imports from the rest of the world)	<i>between 3 and 4 million units</i>	<i>between 4 and 5 million units</i>	<i>between 7 and 10 million units</i>	<i>between 7 and 10 million units</i>

Market share			<i>between 3 % and 4 %</i>	<i>between 2 % and 3 %</i>	<i>between 4 % and 5 %</i>	<i>between 4 % and 5 %</i>
Average prices of imports			Between € 1,0and €1,1	Between € 1,0and € 1,1	Between € 1,0and €1,1	Between € 1,0and € 1,1

- (63) Between 2003 and the end of the RIP small increases have been noted for imports originating in Malaysia and Taiwan. In total, imports from third countries have been able to gain market shares despite imports originating in the PRC having successfully penetrated the Community market. However, as compared to imports from the PRC, imports from third countries only play a minor role.
- (64) Due to the small quantities imported, the price findings extracted from import statistics have, for some countries, been considered to be unrepresentative as they clearly substantially deviate from imports prices found for imports from the PRC. However, there is no reason to believe that exporting producers in third countries could deviate more than marginally from the prices charged by exporting producers in the PRC. Even if these prices were considered to be representative, given the limited magnitude of the volumes at hand, and the nature of Chinese export price and volumes, there would be no impact on the findings detailed below.

3. Economic situation of the supporter

Preliminary remarks

- (65) Pursuant to Article 3(5) of the basic Regulation, all relevant economic indicators having a bearing on the state of the single supporter of the investigation have been examined.
- (66) In view of the fact that figures pertain to only one company, for reasons of confidentiality all figures have been indexed.

Production, installed production capacity and capacity utilisation rate

Table 6	2003	2004	2005	RIP
Production	100	107	90	83
Installed Production capacity	100	100	100	100
Capacity utilisation rate	100	107	90	83

- (67) Following an increase in production between 2003 and 2004, the production of the supporter has fallen by 22 % from 2004 to the end of the RIP. As the level of installed production capacity remained unchanged, the capacity utilisation rate has decreased in correspondence with the production rate, i.e. by 22 % since 2004.
- (68) The reason for the lower level of production (and the lower rates of the capacity utilisation) is lower sales volumes on the Community market of the type of CFL-i lamps that the supporter is manufacturing.

Stocks

Table 7	2003	2004	2005	RIP
Stocks	100	49	0	116
Stocks as % of overall sales volumes on the Community market	100	49	0	168

(69) As the demand for CFL-i lamps by this manufacturer decreased (see preceding recital), the level of stocks of Community manufactured CFL-i lamps have increased during the period considered. The increase in stocks during the RIP should partly be seen in the light of the fact that CFL-i lamps are a seasonal product (with higher sales volumes preceding and during the darker period of the year). Thus, increase of stocks between 2005 and the RIP is partly due to seasonal effects. However, it is to some extent also due to lower sales volumes of Community manufactured CFL-i lamps during the RIP.

(70) Sales volumes of Community produced CFL-i lamps, market share of Community consumption and growth

Table 8	2003	2004	2005	RIP
Sales Volumes	100	102	103	83
Market share of Community consumption	100	80	59	44
Growth of Sales turnover	100	101	93	74

(71) Sales volumes of Community produced CFL-i lamps by the supporter for the Community market remained relatively stable in absolute terms during the first years of the period considered. During the RIP, however, a decrease in sales volumes of 20 % was noted.

(72) In relation to Community consumption, the market share of the Community-manufactured CFL-i lamps by the supporter has decreased.

sales prices

Table 9	2003	2004	2005	RIP
Average Sales price	100	98	90	88

(73) The average sales price of Community-manufactured CFL-i lamps has decreased during the period considered. The average sales price per unit has decreased by 12 % during the period considered.

Employment, wages and productivity per employee

Table 10	2003	2004	2005	RIP

Employees	100	97	90	82
Wages	100	97	90	85
Productivity (CFL-i lamps manufactured /employee in production)	100	109	101	106

- (74) The number of employees has decreased during the whole period considered, as a direct result of lower production within the Community border.
- (75) The cost for wages has decreased in line with the decrease of the number of employees.
- (76) The productivity by the employees in production has increased by 11 % during the period considered, i.e. the number of employees in production has fallen more than the number of CFL-i lamps produced.

Magnitude of the actual margin of dumping and recovery from the effects of past dumping

- (77) As concerns the impact on the supporter of the magnitude of the actual margin of dumping, given the volume and the prices of the imports from the countries concerned, this impact cannot be considered to be negligible.
- (78) In the light of the foregoing, it can not be concluded that the supporter has fully recovered from the effects of past dumping.

Profitability, return on investment and cash flow

Table 12	2003	2004	2005	RIP
Pre-tax profit on sales in the Community (% of Community sales)	100	126	38	- 36
Return on total assets	100	110	36	- 17
Cash Flow (% on total sales)	100	94	57	1

- (79) All the performance indicators above demonstrate the trend towards declined profitability. From a situation of reasonable financial performance (following the imposition of anti-dumping measures in 2001), the supporter enjoyed a period of healthy financial performance during the first years of the period considered. However, as a consequence of competition from imported CFL-I originating in the PRC, sales volumes and average sales prices have decreased and have had a negative effect of the financial performance of the supporter. Despite having anti-dumping measures in force, the supporter made losses during the RIP.

Investments and ability to raise capital

Table 13	2003	2004	2005	RIP
Investments	100	55	95	71

- (80) The level of investments has, overall, decreased during the period considered. It should also be mentioned that the level of investments in the product concerned has generally been low, as demonstrated by the fact that installed production capacity has not changed during the period considered.
- (81) The supporter has not reported any specific problems in relation to its ability to raise capital.

Conclusion on the economic situation of the supporter

- (82) The period considered has been characterized by an increase of imports from the PRC which partly has been on the expense of the supporter's financial performance as concerns Community-produced CFL-i lamps. Sales volumes and sales values have both decreased and the profitability has decreased to a level where it made losses during the RIP.
- (83) It is thus clear that, should anti-dumping measures be allowed to lapse, the financial performance as regards Community manufactured CFL-i lamps of the supporter would deteriorate.

4. Import activities of the supporter

Table 14	2003	2004	2005	RIP
Re-sales of imported CFL-i lamps	100	323	346	941
Proportion of total sales revenues that originate from re-sales of imported CFL-i lamps	100	104	104	188

- (84) It was stated by the supporting manufacturer that in order to defend itself from competition from imports and to guard its market share of the Community market, the supporter has started to import CFL-i lamps from the country concerned.
- (85) The volumes of imports represent only a relatively small portion of the total sales volumes on the Community market..

5. Export activities of the supporter

Table 14	2003	2004	2005	RIP
Export sales of Community manufactured CFL-i lamps	100	68	46	60

Average price of exported Community-produced CFL-i lamps	100	96	102	87
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- (86) The export performance by the supporter has deteriorated during the period considered.. Part of the explanation for this is that, for some of the export markets, the supporter has changed the location from where it supplies the CFL-i lamps, from Community manufacturing to a location closer to the export market.
- (87) The average price per unit for export sales has been fairly stable during the period considered, with a tendency towards lower prices towards the end of the RIP.

6. Conclusion on the likelihood of continuation or recurrence of injury

- (88) The investigation showed that the capacity of Chinese exporters is significant and can be easily increased. In addition, price levels in the Community remain attractive in comparison to other markets, –and there are well established distribution channels in the Community for Chinese exports. Chinese exports would therefore be likely to increase.
- (89) The significant levels of dumping and undercutting observed, as well as the low level of prices practiced in Chinese exports to other third countries, indicate that the export volumes to the Community mentioned above would be made at dumped prices which would lie below the prices and costs of the supporter.
- (90) The combined effect of such volumes and prices would be likely to lead to a deterioration of the supporter's situation. Whether the supporter's response thereto would be a drop in sales (and hence in production), a reduction in prices, or both, the financial deterioration would be substantial.
- (91) The investigation has not identified any other factors that would put into question the likely effect of dumped imports on the situation of the supporter. In particular, it is likely that dumped imports from China would gain ground over products from other sources, including from other Community manufacturers and from the Chinese producer subject to a 0% duty if measures lapse. Even if this were not to take place, the size and price levels of the dumped Chinese imports would be of such a magnitude that imports from non-dumped sources would, in all likelihood, not break the causal link. Moreover, no other factors to which injury must be attributed have been identified. In particular, there is no evidence that any factors enumerated in Art. 3(7) of the Basic Regulation apply, and certainly not that is so important as to break the causal link between dumping and injury.
- (92) Furthermore it cannot be considered that the imports carried out by the supporting manufacturer would have any substantial impact as to the likelihood of continuation of injury. In this respect it has been established that these imports have been the consequence of the need for the supporter to complete the product range.
- (93) On this basis, it is concluded that there is a likelihood of continuation and recurrence of injurious dumping should anti-dumping measures on imports of CFL-i originating in the People's Republic of China be allowed to lapse.

E. COMMUNITY INTEREST

1. Preliminary remarks

- (94) Firstly, it is recalled (see recital (50) above), that since Art. 9(1) of the basic Regulation stipulates that the Community may take measures even if a complaint is withdrawn if taking measures in the Community interest. *A fortiori*, this possibility is open to the Community in an expiry review in which the major Community producer continues to be in favour of the measures, even if other manufacturers oppose their continuation. Therefore, and also in accordance with Article 21 of the basic Regulation, it was examined whether the maintenance of the existing anti-dumping measures would be in the interest of the Community as a whole and if so, for what period. The determination of the Community interest was based on an appreciation of all the various interests involved. The present investigation analyses a situation in which anti-dumping measures have already been in place since 2001 and therefore allows for the assessment of any undue negative impact on the parties concerned due to the current anti-dumping measures.
- (95) On this basis, it was examined whether, despite the conclusions on the likelihood of a continuation or recurrence of injurious dumping, compelling reasons existed which would lead to the conclusion that it is not in the Community interest to maintain measures in this particular case.

2. Interest of manufacturer in the Community supporting the complaint.

- (96) As outlined in section D above, there is a likelihood of continuation as well as recurrence of dumping if measures were to be repealed.
- (97) There is likelihood, should the measures be repealed, that the loss-making situation will continue. The manufacturing plants currently employ several hundred staff. Therefore it would be in the interest of the Community manufacturer supporting the complaint that anti-dumping measures against dumped imports from the country concerned be re-imposed.

3 Interest of other manufacturers in the Community

- (98) In general, it should be underlined that, given the import activity of Community manufacturers, the existence of duties has had a negative impact on their overall activity. Aside from the expenses emanating from anti-dumping duties linked to importation, measures have prevented them from optimising their production mix, sales portfolio, and, as a corollary their profitability. Investment, production, R&D and other strategic decisions have also been affected as a result. These negative effects are an important aspect to take into consideration in this analysis.
- (99) It is recalled that Company A had announced, apart from its European production, a strategy to source from the PRC. It is therefore concluded that re-imposition of measures would not be in the interest of this manufacturer.
- (100) Two other Community manufacturers, (identified as 'Company C' and 'Company D' in the annex) both opposed re-imposition of measures. While these companies both source CFL-(i)-s from the PRC they both still have substantial production in the

Community. For this reason, it cannot be ruled out that the anti-dumping measures would be contrary to these two producers' interests, especially not in the medium term.

4. Interest of suppliers

- (101) Several suppliers, accounting for a significant amount of total supplies to the Community industry, co-operated with the Commission in the investigation. All but one supplier expressed support of continuation of measures and expressed concerns about losing business should the existence of CFL-i-manufacturing in the Community be at stake. These suppliers jointly had several hundreds of employees located in Germany, Spain, Italy, Slovakia and Hungary.
- (102) It can therefore be concluded that it would be in the interest of the suppliers to re-impose anti-dumping measures against dumped imports from the country concerned.

5. Interest of importers/traders and retailers

- (103) The Commission sent questionnaires to 8 importers/traders of the product concerned. Responses were received from 3 importers representing only just over 1% of the total import volume of the product concerned originating in the country concerned to the Community. The product concerned is important for all three companies and the turnover of the product concerned corresponds to between 10-70% of the total turnover of each company. This turnover was due to increase given the expected increase in consumption of this product in the medium term. One company representing the retail sector also made itself known.
- (104) Two of the importers and the one company representing the retail sector expressed clear opposition against the continuation of the measures, while the third importer identified both advantages and disadvantages with the measures in place. All three companies asserted that the Community is dependent on imports of the product concerned from the PRC since the Community production is unable to satisfy the demand on the market. In addition, they underlined that consumption in the Community was due to increase significantly. It was however also acknowledged that the measures in force have prevented so called C-grade spectra lamps of low quality from making significant inroads into the Community market. Given the fact that consumers could have problems in distinguishing these from the higher quality B grade lamps, the abolition of measures could mean that the B-grade lamps that are central to the business of the importers in question would have difficulties in competing.

6. Interest of consumers and the development of the product concerned on the Community market

- (105) Several interested parties submitted that anti-dumping duties are contrary to Community energy saving policies, as they have resulted in excessive retail prices for consumers and are therefore suppressing the sales of energy saving lamps (CFL-i). Conversely, one party argued that the discontinuation of measures would be detrimental to the Community environment policy as the CFL(i) produced in China contain more mercury and therefore have a greater negative effect on the environment when disposed of than the ones produced in the Community.

- (106) Anti dumping measures are aimed at addressing unfair competitive advantages resulting from practices of dumping of imports to the Community. The existence of other Community policies as such would therefore not preclude the imposition and continuation of duties should these be needed
- (107) Nevertheless, the investigation has shown that the consumption and demand for the product concerned has increased rapidly on the European market and this increase in demand is the likely consequence of an increased interest amongst European consumers to reduce their energy expenditure and thus contribute to a sustainable development. It is also clear that the measures in force have a significant impact on the retail prices in the Community of the product concerned. This has meant that consumers that would potentially have made the switch from incandescent lamps to the product concerned have not been able to do so given the substantial difference in retail price between these products—a difference exacerbated i.a. by the measures in force. To this end the supply to the market of the product concerned in sufficient quantities and at reasonable prices must therefore also be taken into account when assessing the Community interest in this case.
- (108) This should be set against the background of Community policy to foster the use of energy saving lamps, which can only reinforce the arguments mentioned above.
- (109) When taking into account the probable market developments, it is highly likely that the continuation of measures would pose a significant burden on consumers in the medium and long term.
- (110) In reaction to the disclosure, the manufacturer in the Community supporting the complaint has argued that the measures in force have not had a significant upward effect on consumer prices in the Community. Regarding this argument, it should be noted that whilst it may be true that the consumer price of some models has gone down since the imposition of the measures, it cannot be denied that duties of up to 66% which have furthermore been extended to circumventing imports must have had an upward effect on price. Moreover, in the Member State with the biggest Community retail market, according to the supporter's own data, prices for three out of the five models were higher at the start of 2006 than at the start of 2001. The company referred to as company A in the Annex stated it was unclear whether the complainant has withdrawn its complaint. As was stated before, the manufacturer in the Community supporting the complaint maintains its complaint.
- (111) Some interested parties have also asserted that the measures go against the Community interest as the Community manufacturers lack the capacity to satisfy the demand and that imports therefore are necessary to ensure the supply to the market
- (112) The purpose of anti-dumping measures is neither to prohibit imports nor to limit the supply of CFL(i) to the Community market. As show above the measures in place have not been detrimental to imports. On the contrary, the growing consumption has lead to an increase both in absolute terms as well as in the market share of imports from the PRC in the period considered. However, it is clear that in the medium term, the impact on supply emanating from a continuation of measures may be more significant

- (113) Some interested parties have furthermore stated that the measures in place distort competition on the Community market as only some operators are able to source CFL(i) lamps from the producers in the PRC that are subject to zero or very low duties. Other operators only have limited market access as they can only import from exporting producers that are subject to high duties.
- (114) It should be recalled that Article 21 of the basic Regulation refers to the need to remedy the trade distorting effects of injurious dumping. To this end, the imposition of measures will help to offset the advantage to exporters resulting from the dumping. Duties would thus help in maintaining a level playing field between on the one hand, Community producers, third country exporters and exporters in the country concerned where no dumping has been found and on the other hand, exporters that have been found to be operating by way of dumping practices. The fact that some exporters are subject to higher duties than others simply reflects different dumping margins between different exporters and does not therefore result in discrimination or a distortion of competition between importers with access to different sources in the PRC. In addition, the investigation has shown that Community operators can access to supply of CFL(i) from a number of producers in the Community as well as in the Country concerned and third countries and no evidence has been provided that would support the claim that some operators are excluded from access to the market. In view of the above, it must be concluded that the continuation of measures will have a significant effect on consumers in terms of retail prices, and availability of supply, in particular in the medium to long-term.

7. Conclusion on Community interest and duration of the measures.

- (115) Article 21(1) of the Basic Regulation provides that special consideration be given to the need to eliminate the trade distorting effects of injurious dumping and one producer, accounting for a substantial proportion of Community production, is suffering the effects of the injurious dumping established by the investigation. Against that however, there are substantial considerations that lead to the conclusion that it is in the Community interest to discontinue the measures; the Community industry is itself heavily reliant on imports from the PRC to meet demand, which is expanding rapidly, some Community producers themselves do not favour a continuation of the measures, and the measures have been shown to have a significant impact on consumer prices and hence on the choices made by consumers as to whether to buy CFL(i) or less efficient incandescent lamps.
- (116) Having regard to all the interests concerned, it is concluded that the overall balance of the relevant interests lies in discontinuing the measures. However, in light of the considerations noted above regarding the interests of the producer supporting continuation, when weighing them against the interests at stake and in particular those of the other producers in the Community, it is in the short term interest of the Community to continue the measures for a further adjustment period. It is therefore appropriate that the measures be maintained only for one year before they lapse. After this the likely negative effects on consumers and other operators would be disproportionate to the benefits which Community manufacturers would derive from the measures.

F. FINAL PROVISIONS

(117) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend that the existing measures be discontinued after one year. They were also granted a period to submit comments and claims subsequent to disclosure. None of the disclosure comments received was such as to alter the conclusions as contained in this regulation.

(118) It follows from the above that the anti-dumping duties should be discontinued after one year.

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of electronic compact fluorescent discharge lamps functioning on alternating current (including electronic compact fluorescent discharge lamps functioning on both alternating and direct current), with one or more glass tubes, with all lighting elements and electronic components fixed to the lamp foot, or integrated in the lamp foot, falling within CN code ex 8539 31 90 (TARIC code 8539 31 90 95) and originating in the People's Republic of China.
2. The rate of the anti-dumping duty applicable to the net, free-at-Community frontier price, before duty for products manufactured by the companies listed below shall be as follows:

Company	Anti-dumping duty (%)	TARIC additional code
Changzhou Hailong Electronics & Light Fixtures Co., Ltd Luoyang, Changzhou, Jiangsu Changzhou 213104 People's Republic of China	59,5	A234
City Bright Lighting (Shenzhen) Ltd Shenzhen People's Republic of China	17,1	A235
Deluxe Well Enterprises Ltd Block 17-18, Hong Qiao Tao Industrial Zone Bao An Yuan Shenzhen People's Republic of China	37,1	A236
Lisheng Electronic & Lighting (Xiamen) Co., Ltd	0,0	A237

Xiamen People's Republic of China		
Philips & Yaming Lighting Co., Ltd 1805 Hu Yi Highway Malu Jia Ding District Shangai 201801 People's Republic of China	32,3	A238
Sanex Electronics Co., Ltd 1 Xiangyang Road, Xiangcheng Town, Xiangcheng District, Suzhou, Jiangsu, People's Republic of China	20,2	A239
Shenzhen Zuoming Electronic Co. Ltd Shenzhen, Guangdong People's Republic of China	8,4	A240
Zhejiang Sunlight Group Co., Ltd 129 Fengshan Road, Zhejiang Shangyu 213104 People's Republic of China	35,3	A241
All other companies	66,1	A999

3. The definitive anti-dumping duty of 66,1 % and applicable to imports originating in China is hereby extended to imports of the same product mentioned in paragraph 1 consigned from the Socialist Republic of Vietnam, the Islamic Republic of Pakistan and the Republic of the Philippines whether declared as originating in the Republic of Vietnam, the Islamic Republic of Pakistan and the Republic of the Philippines or not (TARIC code 8539 31 90 92).
4. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Communities*. It shall be in force for a period of 1 year after its entering into force.

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

Done at Brussels,

*For the Council
The President*

ANNEX

Company A

a) Imported quantities

During the RIP Company A imported between 50 and 60 million CFL-i lamps from the country concerned. In terms of volumes sold on the Community market, Company A imported between 70% and 80% of its sales. In terms of value, the imported products generated less revenue. Whereas the imported volumes represented around three times the volumes manufactured in the Community, in terms for revenues for Company A the imports generated just a little more than 50% of the total revenues from the Community sales.

b) Relation to exporting producers in the country concerned

Company A has two related exporting producers in the country concerned.. Company A sources most of its imports from these two related exporting producers. In the RIP, these two exporting producers exported 47% of their production to the EC.

c) Import sourcing strategy, defensive (temporary) or strategic (long-term)

Company A has taken a strategic, long-term decision to source from the country concerned in view of being able to offer the full product range to its customers.

d) Production in the Community

Company A is the second largest manufacturer of CFL-i in the Community, employing approximately 600 persons for the production and sales of the product under consideration. According to Company A another two production lines will be installed in its factory, adding another 15-20 million units thereby adding about half of its current production capacity. The new production lines are destined for production of the product concerned.

As also for the other manufacturers in the Community, Company A's production in the Community mainly consists of assembling components from several sources. In this case, slightly less than half of these components are sourced from within the Community. Rules of origin are governed by Customs Law, particularly Council Regulation (EEC) No 2913/92¹¹ establishing the Community Customs Code, in particular Articles 22 to 27. The investigation showed that the product concerned has a different customs classification than the imported components. This re-classification results from a substantial transformation of the components. On these grounds, and based on the information gathered in this investigation it can therefore be concluded that the products concerned manufactured by Company A are of Community origin.

e) Location of head-quarters and main share-holders

Company A is a division of a large European company group with headquarters in the Community.

f) Location of Research & Development-departments

¹¹ OJ L 302, 19.10.1992, p.1

The main research & development centre of Company A is located in one Member State. In addition, the majority of the research & development plants especially those linked to the development of the production process are located close to the production plants, i.e. in another Member State and in the country concerned.

Company B

a) Imported quantities

During the RIP, Company B imported between 11 and 18 million CFL-I lamps from the country concerned. In terms of volumes sold on the Community market, Company B imported between 20 % and 30 % of its sales during the RIP.

In terms of value, the imported products generated less revenue. The imported products generated between 15 % and 20 % of the total revenues.

b) Relation to exporting producers in the country concerned

Company B has one related exporting producer in the country concerned. The production capacity of this related exporting producer was approximately 40 million units during the RIP, or slightly less than the capacity of Company B's production capacity at its plants in the Community. However, during the RIP, Company B did not import any CFL-i from this related exporting producer, but from independent exporting producers.

One independent exporting producer in the country concerned, with a significant production capacity and significant sales to the Community, alleged that Company B has showed willingness to acquire it. The exporting producer alleged that Company B should not be included in the definition of the Community production as it had shown interest in acquisitions of independent exporting producers in the country concerned and, therefore, would be further shielded from injurious dumping once this or any other acquisition would take place. The allegation was not substantiated by any documentary evidence and has therefore to be rejected.

c) Import sourcing strategy, defensive (temporary) or strategic (long-term)

Company B considers its imports to be a defensive move. It claims that its imports are of temporary nature and would be replaced by CFL-i manufactured in the Community. Indeed, after the end of the RIP, Company B has been in the process to install new capacity at one of its plants in the Community.

d) Production in the Community

Company B is the largest producer in the Community. It employs approximately 700 persons for the production and sales of the product concerned. As is the case for the other producers in the Community, Company B's production in the Community mainly consists of assembling components from several sources. In this case, almost all components are sourced from within the Community.

e) Location of head-quarters and main share-holders

Company B is a division of a large European company group with headquarters in the Community.

f) Location of Research & Development-departments

The main research & development centre of Company B is located in one Member State. In addition, some of the research & development plants especially those linked to the development of the production process are located close to the production plants, i.e. in two other Member States (including for components) and in the country concerned.

Company C

a) Imported quantities

During the period considered Company C imported between 3 and 7 million CFL-I lamps from the country concerned. In terms of volumes sold on the Community market, Company C imported between 30 % and 40 % of its sales.

In terms of value, the imported products generated less revenue. The imported products generated only between 20 % and 30 % of the total revenues.

b) Relation to exporting producers in the country concerned

Company C has one related exporting producer in the country concerned, from which it sources most of its imports. The capacity of this related exporting producer was approximately five times larger than Company C's production capacity at its plant in the Community.

c) Import sourcing strategy, defensive (temporary) or strategic (long-term)

Company C has stated that it is a strategic, long-term decision to source from the country concerned in view of being able to offer the full product range to its customers. Given the low purchase prices and the low shipping costs, the circumstances according to the company would not entail any economic advantage in producing this kind of products concerned in the EU in such volumes as to satisfy the demand.

d) Production in the Community

Company C employs approximately 450 persons in the production and sales of the product concerned, mainly at its factories in one Member State. Company C's production in the Community mainly consists of assembling components from several sources. Less than half of these components are sourced from within the Community. The investigation showed that the product concerned has a different customs classification than the imported components. This re-classification results from a substantial transformation of the components. On these grounds, and based on the information gathered in this investigation, it has been concluded that the products concerned manufactured by Company C are of Community origin.

e) Location of head-quarters and main share-holders

Company C is a division of a large Company group with headquarters in a third country. However, the headquarters of Company C, which is a separate legal entity, is located in the Community.

Despite being part of a global group with headquarters in a third country, Company C is fully competent to take all business decisions on production, imports and sales strategy concerning CFL-i for the Community market.

f) Location of Research & Development-departments

The main research & development centre of Company C. for the product concerned is located in one Community Member state. In addition, some research & development also takes place in the head quarters in the third state. Moreover, research & development, especially linked to the production process, is also located close to the production plants, i.e. in the Community and in the country concerned.

Company D

a) Imported quantities

During the period considered Company D imported between 2 and 3 million CFL-i lamps from the country concerned. In terms of volumes sold on the Community market, Company D imported between 50 % and 60 % of its sales.

In terms of value, the imported products generated less revenue. The imported products generated less than between 40% and 50% of the total revenues.

b) Relation to exporting producers in the country concerned

Company D has no related exporting producer in the country concerned. Imports from the country concerned are sourced from independent exporting producers.

c) Import sourcing strategy, defensive (temporary) or strategic (long-term)

Company D has stated that it is a strategic, long-term decision to source from the country concerned in view of being able to offer the full product range to its customers. According to the company, it would not be economically advantageous to produce this kind of products concerned in the EU in such volumes as to satisfy the demand.

d) Production in the Community

Company D employs between 35 and 85 persons for the production and sales of the product concerned, mainly at its factory in the Community. Its manufacturing activity mainly consists in assembling components, less than half of them being sourced in the EU. The investigation showed that the product concerned has a different customs classification than the imported components. This re-classification results from a substantial transformation of the components. On these grounds, and based on the information gathered in this investigation, it has been concluded that the products concerned manufactured by Company D are of Community origin.

e) Location of head-quarters and main share-holders

During the RIP, Company D was owned by a private equity-group. However, after the end of the RIP, Company D has been acquired by a manufacturer in a third country. Company D has its corporate headquarters the Community.

f) Location of Research & Development-departments

All Company D's centres of research & development are based in the Community.