

Council Regulation (EC) No 2605/2000 of 27 November 2000 imposing definitive anti-dumping duties on imports of certain electronic weighing scales (REWS) originating in the People's Republic of China, the Republic of Korea and Taiwan

COUNCIL REGULATION (EC) No 2605/2000

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imposing definitive anti-dumping duties on imports of certain electronic weighing scales (REWS) originating in the People's Republic of China, the Republic of Korea and Taiwan

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾, and in particular Article 9 thereof,

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

Whereas:

A. PROCEDURE

1. Initiation

(1) On 16 September 1999, the Commission announced by a notice ('Notice of initiation') published in the Official Journal of the European Communities⁽²⁾, the initiation of an anti-dumping proceeding with regard to imports into the Community of certain electronic weighing scales ('REWS') originating in the People's Republic of China ('PRC'), the Republic of Korea ('Korea') and Taiwan.

(2) The proceeding was initiated as a result of a complaint lodged on 30 July 1999 on behalf of the Community producers representing a major proportion of the Community REWS industry, as defined in Article 5(4) of Regulation (EC) No 384/96 ('basic Regulation'). The complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

2. Investigation

(3) The Commission officially advised the complainant Community producers, the exporting producers, the importers, the users (as well as representative associations) known to be concerned and the representatives of the exporting countries concerned of the initiation of the proceeding. Interested parties were

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given the opportunity to make their views known in writing and to request a hearing within the time limits set out in the Notice of initiation.

- (4) The Commission sent questionnaires to parties known to be concerned and to other parties that made themselves known within the deadlines set out in the Notice of initiation. Replies were received from two Community producers, eight exporting producers in the countries concerned, as well as certain known related importers in the Community and the cooperating producer in the analogue country. Replies were also received from two users of the product concerned in the Community.
- (5) The Commission sought and verified all the information it deemed necessary for the purpose of a determination of dumping, injury and Community interest. Verification visits were carried out at the premises of the following companies:
- (a) *Community producers*
- Avery Berkel Ltd, Birmingham, United Kingdom
 - Bizerba GmbH., Balingen, Germany
 - Bizerba Belgium SA, Brussels, (a subsidiary of Bizerba GmbH)
- (b) *Exporting producers*
- KOREA
- A & D Korea Co. Ltd, Seoul
 - CAS Corporation, Seoul
 - Descom Scales Mfg. Co. Ltd, Kyungki-Do
- TAIWAN
- Snowrex International Co. Ltd, Taipei
 - UWE-Universal Weight Enterprise Co. Ltd, Taipei
- PEOPLE'S REPUBLIC OF CHINA
- Mettler-Toledo Changzhou Scale Ltd, Changzhou
 - Shanghai Teraoka Electronic Co. Ltd, Shanghai
 - Shanghai Yamato Scale Co. Ltd, Shanghai
- (c) *Analogue country*
- INDONESIA
- PT TEC Indonesia Co. Ltd, Batam
- (d) *Related importers*
- Ishida Europe AB, Gustavsberg, Sweden
 - Mettler-Toledo GmbH, Gießen, Germany
 - Mettler-Toledo (Albstadt) GmbH, Albstadt, Germany
 - Mettler-Toledo GmbH, Wien, Austria.
- (6) The investigation of dumping and injury covered the period from 1 September 1998 to 31 August 1999 ('investigation period' or 'IP'). The examination

of trends relevant for the determination of injury covered the period from 1 January 1995 up to the end of the investigation period ('analysis period').

(7) All parties concerned were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of the existing measures. Representations were received from interested parties following these disclosures. The comments of these parties were considered and, where appropriate, the findings have been modified accordingly.

3. Previous proceedings involving the product concerned

(8) In October 1993, by Regulation (EEC) No 2887/93⁽³⁾, the Council imposed definitive anti-dumping measures on imports on REWS originating in Singapore and Korea. The measures applicable to Singapore are subject to an ongoing review which was opened in October 1998⁽⁴⁾ whereas the measures applicable to Korea lapsed in October 1998.

(9) In April 1993, by Regulation (EEC) No 993/93⁽⁵⁾, the Council imposed definitive anti-dumping measures on imports of REWS originating in Japan. These measures are also subject to an ongoing review which was opened in April 1998⁽⁶⁾.

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

1. Product under consideration

(10) The product under consideration is electronic weighing scales for use in the retail trade which incorporate a digital display of the weight, unit price and price to be paid (whether or not including a means of printing this data) falling within CN code ex 8423 81 50. REWS have different models or levels of performance and technology. In this respect, the industry defines three segments of REWS; low, mid and high. These vary from stand-alone REWS, without built-in printers, to more sophisticated models with pre-set key systems and the possibility of integration into computer-related control and management systems.

(11) Although the potential use of REWS can vary because of additional functionality in the mid and high range segments, there is no significant difference in the basic physical and technical characteristics of the various models of REWS. In addition, the investigation has shown that between the three segments there are no clear dividing lines, models in neighbouring segments often being interchangeable. They have, therefore, to be considered as one single product for the purposes of this investigation.

2. Like product

(12) The investigation has shown that the various REWS produced in the PRC, Korea, Taiwan and Indonesia (which served as an analogue country for the PRC) and sold on these markets are, despite differences in size, life span, voltage or design, identical to or closely resemble the REWS exported from

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the PRC, Korea and Taiwan to the Community and accordingly have to be considered as like products.

- (13) Likewise, the REWS produced by the Community industry and sold on the Community market, are alike in all respects to the REWS produced and exported from the PRC, Korea and Taiwan to the Community.
- (14) Therefore these products are alike within the meaning of Article 1(4) of the basic Regulation.

C. DUMPING

1. Market economy countries

General methodology

Normal value

- (15) As far as the determination of normal value is concerned, it was first established, for each exporting producer, whether its total domestic sales of REWS were representative in comparison with its total export sales to the Community. In accordance with Article 2(2) of the basic Regulation, domestic sales were considered representative when the total domestic sales volume of each exporting producer was at least 5 % of its total export sales volume to the Community.
- (16) Subsequently those types of REWS sold domestically by the companies, that were identical or directly comparable to the types sold for export to the Community, were identified.
- (17) For each of the types sold by the exporting producers on their domestic markets and found to be directly comparable to types 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 type were considered sufficiently representative when the total domestic sales volume of REWS of that type during the investigation period represented 5 % or more of the total sales volume of REWS of the comparable type exported to the Community.
- (18) An examination was also made as to whether the domestic sales of each type could be regarded as having been made in the ordinary course of trade, by establishing the proportion of profitable sales to independent customers of the type in question. In cases where the sales volume of REWS sold at a net sales price equal to or above the calculated cost of production represented 80 % or more of the total sales volume, normal value was based on the actual domestic price, calculated as a weighted average of the prices of all domestic sales made during the investigation period, irrespective of whether these sales were profitable or not. In cases where the volume of profitable sales of REWS represented less than 80 % but 10 % or more of the total domestic sales volume, normal value was based on the actual domestic price, calculated as a weighted average of profitable sales only. In cases where the

volume of profitable sales of any type of REWS represented less than 10 % of the total sales volume, 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.

- (19) Wherever domestic prices of a particular type sold by an exporting producer could not be used, normal value was constructed. Consequently, in accordance with Article 2(3) of the basic Regulation, normal value was constructed by adding to the manufacturing costs of the exported types, adjusted where necessary, a reasonable percentage for selling, general and administrative expenses ('SG & A') and a reasonable margin of profit. To this end, it was examined whether the SG & A incurred and the profit realised by each of the producing exporters concerned on the domestic market constituted reliable data.
- (20) Actual domestic SG & A expenses were considered reliable when the domestic sales volume of the company concerned could be regarded as representative. The domestic profit margin was determined on the basis of domestic sales made in the ordinary course of trade, i.e. when these sales to independent customers at prices equal to or above the cost of production represented at least 10 % of the total of domestic sales volume of the company concerned. Where this criterion was not met, a weighted average profit margin of the other companies in the country concerned with sufficient sales made in the ordinary course of trade was used.

Export price

- (21) In all cases where REWS were 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.
- (22) Where the export sale was made to a related importer, the export price was constructed pursuant to Article 2(9) of the basic Regulation, namely on the basis of the price at which the imported products were first resold to an independent buyer. In such cases, adjustments were made for all costs incurred between importation and resale and for profits accruing, in order to establish a reliable export price. On the basis of the information available, this profit was set at around 10 %. The information available was that obtained from unrelated importers in a recent investigation concerning the same product. This was also considered to be reasonable for the functions performed by the parties concerned.

Comparison

- (23) The comparison was made on an ex-factory basis and at the same level of trade. For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for

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differences affecting price comparability in accordance with Article 2(10) of the basic Regulation.

Dumping margin for the companies investigated

- (24) According to Article 2(11) of the basic Regulation, the weighted average normal value by type was compared with the weighted average export price for each producer. However, the normal value established on a weighted average basis was compared to prices of all individual export transactions to the Community where there was a pattern of export prices which differed significantly among different regions, purchasers or time periods, and if the weighted average to weighted average comparison would not reflect the full degree of dumping being practised.

Dumping margin for non-cooperating companies

- (25) For non-cooperating companies, a 'residual' dumping margin was determined in accordance with Article 18 of the basic Regulation, on the basis of the facts available.
- (26) For those countries with a high level of cooperation, it was decided to set the residual dumping margin at the level of the cooperating company with the highest dumping margin.
- (27) For those countries where the level of cooperation was low, information from the cooperating company with the highest dumping margin was used. The residual dumping margin was determined on the basis of the weighted average margin of the dumped types with the highest dumping margins exported in representative quantities. This approach was also considered necessary in order to avoid giving a bonus for non-cooperation and in view of the fact that there were no indications that a non-cooperating party had dumped at a lower level.

2. Korea

- (28) Three companies replied to the questionnaire for exporting producers. Two importers in the Community which were related to two exporting producers also replied to the questionnaire.

Normal value

- (29) For one exporting producer, normal value was entirely based on domestic prices and for another exporting producer entirely on constructed normal value. For the third company, both constructed normal values and normal values based on domestic prices were used.
- (30) Where normal values were constructed, the manufacturing cost and the SG&A of each exporting producer in question could be used. For one producer, where sales of certain models were made at a loss, the average profit of the remaining profitable models on the domestic market was used. For the remaining producer, where all domestic sales were made at a loss, the average profit of the two other producers was used.

Export price

- (31) In cases of sales for export to the Community of the product concerned by the producing exporters to independent importers in the Community the export price was established in accordance with Article 2(8) of the basic Regulation by reference to the prices actually paid or payable.
- (32) In cases of sales for export to the Community by the exporting producers through related importers in the Community the export price was reconstructed on the basis of the price at which the imported products were first resold to an independent buyer pursuant to Article 2(9) of the basic Regulation. Adjustments were then made for all costs incurred between importation and resale and for profits accruing, in order to establish a reliable export price.

Comparison

- (33) The comparison was made on an ex-factory basis and at the same level of trade. For the purpose of ensuring a fair comparison, account was taken, in accordance with Article 2(10) of the basic Regulation, of differences in factors which were claimed and demonstrated to affect prices and price comparability; all allowances for differences in transport, insurance, handling, loading and ancillary costs, credit, commissions, import charges and after sales costs (warranty/guarantee etc.) have been granted when applicable and justified. This included, in the case of two companies, adjustments for costs incurred by a related party in Japan.
- (34) The same adjustments made to the normal value based on domestic sales were also made on the normal value calculated in accordance with Article 2(3) of the basic Regulation.

Dumping margin

- (35) As provided by Article 2(11) of the basic Regulation, the weighted average normal values of each type of the product concerned exported to the Community were compared to the weighted average export price of each corresponding type of the product concerned. However, for two exporting producers, this method did not reflect the full degree of dumping being practised and there was a pattern of export prices which differed significantly among different purchasers and regions. Therefore the normal value established on a weighted average basis was compared to prices of all individual transactions to the Community.
- (36) The comparison showed the existence of dumping in respect of two cooperating producers. The dumping margin expressed as a percentage of the cif import price at the Community border is:

CAS Corporation, Seoul	0 %
A & D Korea Co. Ltd, Seoul	4,7 %

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Descom Scales Mfg. Co. Ltd, Kyungki-Do	4,9 %
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Since the level of cooperation was high the residual dumping margin was set at the same level as for the cooperating company i.e. 4,9 %.

3. Taiwan

(37) Two companies replied to the questionnaire for exporting producers.

Normal value

(38) For one producer all domestic sales of REWS (all of the low-range segment) had been made at a loss. For the other producer, the comparable exported REWS (all of the low-range segment) had not been sold on the domestic market.

(39) Therefore, for all product models sold for export to the Community, normal value was constructed in accordance with Article 2(3) of the basic Regulation. For each exporting producer its manufacturing costs of the exported models and its own domestic SG&A expenses were used. The profit margin used for both exporting producers was the one established for the profitable company on domestic sales of REWS models which were made in the ordinary course of trade but which were not comparable to the models exported.

Export prices

(40) All sales for export to the Community of the product concerned by the two exporting producers were to independent importers in the Community. Consequently, the export price was established pursuant to Article 2(8) of the basic Regulation by reference to the prices actually paid or payable.

Comparison

(41) The comparison was made on an ex-factory basis and at the same level of trade. For the purpose of ensuring a fair comparison, account was taken, in accordance with Article 2(10) of the basic Regulation, of differences in factors which were claimed and demonstrated to affect prices and price comparability; all allowances for differences in transport, import charges, credit and commissions, handling, loading and ancillary costs have been granted where applicable and justified, in accordance with Article 2(10) of the basic Regulation.

(42) The same adjustments were also made to the normal values calculated in accordance with Article 2(3) of the basic Regulation, where applicable and justified.

Dumping margin

(43) As provided by Article 2(11) of the basic Regulation, the weighted average normal values of each type of the product concerned exported to the Community were compared to the weighted average export price

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 2605/2000. (See end of Document for details)

of each corresponding type of the product concerned. However, for one exporting producer, this method did not reflect the full degree of dumping being practised and there was a pattern of export prices which differed significantly among different purchasers and regions. Therefore, the normal value established on a weighted average basis was compared to prices of all individual transactions to the Community.

- (44) The comparison showed the existence of dumping in respect of two cooperating producers. The dumping margin expressed as a percentage of the cif import price at the Community border is:

Universal Weight Enterprise (UWE)	5,5 %
Snowrex International	5,9 %

Since the level of cooperation was low, the residual dumping margin was set at the level of the model with the highest individual dumping margin sold in representative quantities.

4. The People's Republic of China Analysis of market economy status

- (45) Three Chinese companies requested market economy status ('MES'), pursuant to Article 2(7) of the basic Regulation. The claim made by one company had to be rejected on the grounds that the information submitted reached the Commission considerably outside the deadlines and was furthermore incomplete in the essential parts of the response with regard to the information requested. The Commission sought all information deemed necessary and verified all information submitted in the MES applications, on-the-spot, at the premises of the remaining two companies.

- (46) The Commission found that both companies were selling at more or less uniform, loss making prices in the PRC for several years. Furthermore, both companies were not fully free to decide whether and to what extent they should sell their production on the domestic market. It has been the Commission's practice to reject MES claims when domestic sales are restricted and where there is no price variations between customers as such similar pricing may result from centrally imposed price controls. Moreover, the evidence indicated that these prices were at loss-making levels for several years which also indicates that the producers did not operate under market economy conditions.

- (47) Consequently, the conditions set out in Article 2(7)(c) of the basic Regulation were not met by the other two companies investigated. After consultation of the Advisory Committee, the companies concerned were therefore informed that their MES applications had to be rejected.

Choice of analogue country

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 2605/2000. (See end of Document for details)

- (48) In the absence of any companies fulfilling the requirements of MES, it was necessary to compare the export prices of the Chinese exporting producers with a normal value established for an appropriate market economy country, pursuant to Article 2(7) of the basic Regulation.
- (49) Indonesia was suggested by the complainant and proposed by the Commission in the Notice of initiation. No objections were raised by any interested party with regard to this choice. One Indonesian producer did subsequently cooperate and submitted a reply to the questionnaire. This response was found to be acceptable. Consequently, it was considered feasible to use Indonesia as an analogue country in this investigation.
- (50) It was decided that Indonesia was the most appropriate market economy third country for the purpose of establishing normal value, in view of the significant volume of domestic and export sales made by the Indonesian producer as compared to imports into the Community from the PRC and the level of competition on the Indonesian and export markets which allowed for reasonable, but not excessive profits. In addition, sales in Korea and Taiwan were not considered as an appropriate basis for establishing normal value, as the REWS sold in these markets were at the lower end of the low range segment and, were not therefore, comparable to the exported models originating in the PRC.

Individual treatment

- (51) Each of the cooperating Chinese exporting producers requested individual treatment. They replied to comprehensive questions included in the MES claim form which was sent to the parties concerned upon initiation of the proceeding. It was examined these claims focusing mainly on those areas having a direct impact on the companies' export activities. It was found that with regard to the export activities the level of State interference was not such as to allow for any substantial influence nor to permit circumvention of measures if exporters were given individual rates of duty.
- (52) For all three companies, an examination of the information provided appeared to indicate that the companies fulfilled the conditions for obtaining individual treatment.

Consequently, it has been decided to grant individual treatment to the three companies.

Normal value

- (53) Normal value for the Chinese exporting producers — which exported only low-range segment types to the EU — was calculated, in accordance to Articles 2(2) and 2(3) of the basic Regulation, on the basis of the normal values established for the cooperating Indonesian company by using the most competitive low-range segment model sold both on the Indonesian and on the export markets in significant quantities, and which was found to be comparable to the Chinese types exported to the Community.

Export prices

- (54) In cases of sales for export to the Community of the product concerned by the producing exporters to independent importers in the Community the export price was established according to Article 2(8) of the basic Regulation by reference to the prices actually paid or payable.
- (55) In cases of sales for export to the Community by the exporting producers through related importers in the Community the export price was reconstructed on the basis of the price at which the imported products were first resold to an independent buyer pursuant to Article 2(9) of the basic Regulation.

Comparison

- (56) The comparison was made on an ex-factory basis and at the same level of trade. For the purpose of ensuring a fair comparison, account was taken, in accordance with Article 2(10) of the basic Regulation, of differences in factors which were claimed and demonstrated to affect prices and price comparability; all allowances for differences in transport, insurance, handling, loading and ancillary costs, credit, commissions, import charges and after sales costs (warranty/guarantee, etc.) have been granted when applicable and justified.

Dumping margin

- (57) As provided by Article 2(11) of the basic Regulation, the weighted average normal values of the low-range segment type of the product concerned exported to the Community were compared to the weighted average export price of the corresponding type of the product concerned. However, for one exporting producer the normal value established on a weighted average basis was compared to prices of all individual transactions to the Community, as there was a pattern of export prices which differed significantly among different purchasers, regions or time periods and as the weighted average method did not reflect the full degree of dumping being practised.
- (58) The comparison showed the existence of dumping in respect of the three cooperating producers accepted for individual treatment. The dumping margin expressed as a percentage of the cif import price at the Community border is:

Shanghai Teraoka Electronic Co. Ltd, Shanghai	12,8 %
Shanghai Yamato Scale Co. Ltd, Shanghai	9,0 %
Mettler-Toledo Changzhou Scale Ltd, Changzhou	12,2 %

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Since the level of cooperation was low, the residual dumping margin was set at the level of the model with the highest individual dumping sold in representative quantities as for the cooperating companies, i.e. 30,7 %.

D. INJURY

1. Structure of the Community industry

(59) The structure of the Community industry has changed substantially over the analysis period. Since October 1993 (i.e. when definitive anti-dumping measures were imposed on imports of REWS originating in Singapore and Korea) a restructuring and consolidation programme has meant that of the nine companies which cooperated in that investigation only four remained active in the investigation period for the current investigation. It has become evident during the investigation that other Community producers have restructured and consolidated along similar lines.

(60) Although four Community producers supported the complaint (representing over 50 % of Community production) only two of these companies cooperated with the investigation by responding to questionnaires. These two companies represented 39 % of total Community production in the investigation period.

(61) It should be noted that for the purposes of the calculation of total Community REWS production, in accordance with Article 4(1)(a) and (2) of the basic Regulation, any company operating in the Community related to exporting producers in the countries concerned was excluded from the definition of total Community production. In the case of Mettler-Toledo, it was clear that the producer in the Community directly controlled its subsidiary in the PRC.

(62) It was claimed by one of the other operators in the Community (which has been excluded from the definition of a Community producer because it is also one of the exporting producers in the PRC) that the level of cooperation mentioned above (39 %) was not sufficient to justify the continuation of the investigation. This claim was rejected because the two cooperating Community producers represented substantially more than 25 % of the total production in the Community and, thus, qualify as a major proportion of the Community production pursuant to Article 4(1) of the basic Regulation. These two producers, therefore, constitute the Community industry.

2. Apparent Community consumption

General

(63) Consumption in the Community has been calculated using verified sales data provided by the Community industry and, figures provided in the complaint (for other operators in the Community), and import volumes obtained via Eurostat.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 2605/2000. (See end of Document for details)

REWS in units	1995	1996	1997	1998	IP
Consumption in the Community	161 682	172 314	177 391	201 123	218 655
Index — 1995 = 100	100	107	110	124	135
Low range REWS	59 952	77 100	74 614	79 502	79 754
Index — 1995 = 100	100	129	124	133	133

Over the analysis period consumption of all REWS increased by 35 % and consumption of low range REWS increased by 33 %. The increase in consumption in the low range segment is shown separately because it is in this segment that 97 % of the imports from the countries concerned in the investigation period were concentrated. The increase in consumption in 1996 was caused by a large increase in imports from the countries concerned. The volume of imports then fell in 1997.

The euro-effect

- (64) The increase in consumption from 1997 to the investigation period was mainly due to a one-off increase in demand from retailers arising from the introduction of the euro. Indeed, in anticipation of the introduction of the euro retailers needed to be able to show prices to customers in euros as well as in national currencies and were, thus, bringing forward their replacement of old REWS. This created an increase in demand within the Community market and the volume of sales increased in all segments. This improved situation will be of short-term duration and consumption is forecast to fall, because many retailers who would have replaced their REWS in the period from 2001 to 2004, will already have done so from 1997 to 2000. Therefore, the overall impact of the euro-effect will not be to increase consumption but simply to bring forward some sales from one period (2001 to 2004) to another (1997 to 2000).
- (65) Although the final date for the implementation of retail metrication in the UK will also have increased consumption, this impact was not as important in increasing sales and affected that Member State only.
- (66) The table below shows the actual development/expected development in consumption from 1995 to 2005. The table also shows that the euro-effect provides a temporary boost to sales over the period 1997 to 2000 and that from 2000 to 2002 consumption is forecast to be lower. From 2004 onwards consumption is forecast to return to its normal level (i.e. that of 1995/96).

(Consumption in '000 units)

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 2605/2000. (See end of Document for details)

1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
162	172	178	201	219	177	144	126	144	172	172

(67) The existence and/or importance of the euro-effect was contested by some of the exporting producers. However, no alternative explanation for the increase in consumption was provided. Their claim was, therefore, rejected.

(68) It was pointed out by an exporting producer that consumption had increased since the previous investigations into the product concerned, mentioned at recitals 8 and 9. Indeed, it was found that consumption of the product concerned had increased and continued to do so throughout the analysis period. However, as explained above, this increase can in large part be attributed to the euro-effect.

3. Imports into the Community from the countries concerned Cumulative assessment of the effects of the imports concerned

(69) It was first examined whether imports from the countries concerned should be assessed cumulatively, taking into account the findings on dumping as established above. It was found that:

- the dumping margins established were more than *de minimis* for all countries concerned;
- the volume of imports from each country and corresponding market shares were not negligible when compared to Community consumption;
- the product concerned imported from the countries concerned was largely interchangeable;
- the prices of the imports followed largely the same trend;
- an analysis of the conditions of competition between imported REWS and the like products indicates that all REWS are sold with a similar pricing policy to the same level of customers.

Certain exporting producers alleged that their imports should not be cumulated with those from other countries, because the level of price and trends in volume of their sales were not the same. It was concluded, however, that all of the conditions justifying the cumulation of the imports from the countries concerned were met for the reasons given above. These arguments were therefore rejected.

Volume of the imports concerned

(70) Based on information from Eurostat, the volume of REWS imported from the countries concerned into the Community during the analysis period increased from 14 533 units in 1995 to 33 063 units in the investigation period (i.e. by 123 %). The investigation showed that more than 97 % of REWS imported from the countries concerned during the investigation period were in the low range segment as explained in recital 73.

Market share of imports

- (71) The market share of the exporting producers increased from 9,2 % to 15,0 % over the analysis period. This contrasts with the loss in the Community industry market share over this period of – 4,6 % for all REWS (i.e. from 26,1 % to 24,9 %) and – 22 % for REWS in the low range segment (i.e. from 21,8 % to 17,1 %).

Price undercutting

- (72) A comparison of sales prices on the Community market during the investigation period was made between prices of the Community industry and those of the cooperating exporting producers. In accordance with previous investigations of this product, the comparisons were made on the basis of sales on the Community market of comparable models at the same level of trade (prices to independent dealers/importers). Also in accordance with previous investigations, prices were compared by Member State of sale on a weighted average basis per exporting producer. All prices were net of rebates. Prices of the Community industry were adjusted to ex-works prices. Prices of the dumped imports were cif Community frontier and included import duties where applicable.

- (73) The vast majority of models sold in the Community by the cooperating exporting producers were for low range models (over 97 % by volume). The calculations made have not, therefore, included the smaller quantities of mid and high range models as they were considered unrepresentative.

- (74) Within the low range sector three types of models were sold by the Community industry:

- I. standard counter scales or ‘mono’ scales (hereinafter referred to as ‘mono’);
- II. counter scales with a tower or customer display (hereinafter referred to as ‘tower’); and
- III. other types of low range scales such as hanging scales.

The comparisons were made taking into account ‘mono’ and ‘tower’ scales. Other low range scales (category III above) were not taken into account because they were sold in marginal volumes by both the Community industry and the exporting producers and were, therefore, considered unrepresentative.

Results of the price comparisons

- (75) The results of the price comparisons showed margins of undercutting ranging from 0 % to 52 % for PRC, 60 % to 65 % for Taiwan and 30 % to 50 % for Korea.

4. Situation of the Community industry

Preliminary remarks

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 2605/2000. (See end of Document for details)

- (76) As the Community industry data relates to only two Community producers, some information shown below has been indexed for reasons of confidentiality.
- (77) In accordance with 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 economic factors and indices having a bearing on the state of the industry. However, certain factors are not dealt with in detail below because they were found to be not relevant for the situation of the Community industry in the course of this investigation. It should finally be noted that none of these factors necessarily gives decisive guidance.

Production, utilisation of capacity and inventories

- (78) Production of all REWS over the analysis period increased by 22 %. In contrast, however, the production of low range REWS increased by only 5 % over the analysis period. The capacity utilisation rate of the Community industry increased from 55 % to 65 % during the analysis period.

Community industry production and capacity Index — 1995 = 100	1995	1996	1997	1998	IP
Volume all REWS produced	100	102	105	107	122
Volume low range REWS produced	100	123	114	100	105
Capacity (all REWS)	100	100	100	100	105
Capacity utilisation rate (all REWS)	55 %	56 %	58 %	60 %	65 %

It was considered that the level of inventories could not be considered to have any significant effect on the situation of the Community industry because the Community industry used a production to order system whereby stocks were almost non-existent.

Sales volume

- (79) Sales of total REWS units made by the Community industry on the Community market during the analysis period increased in volume by 29 %. In contrast, sales of low range REWS increased in volume by only 10 %.

Sales turnover

- (80) The evolution of sales turnover is shown in indexed form in the table below. The sales turnover of total REWS of the Community industry on the Community market increased by 27 % during the analysis period. In contrast, sales turnover of low range REWS fell by 11 % during the analysis period.

Sales turnover Index — 1995 = 100	1995	1996	1997	1998	IP
All REWS	100	96	97	111	127
Low range	100	95	94	90	89

Market share and growth

- (81) The Community industry's share of the Community market fell for all REWS from 26,1 % in 1995 to 24,9 % in the investigation period; i.e. a fall of 4,6 %. In contrast the Community industry's share of the low range market fell from 21,8 % in 1995 to 17,1 % in the investigation period; i.e. a fall of 22 %.
- (82) Therefore, the Community industry could not benefit fully from the growth of the market.

Market share of the Community industry	1995	1996	1997	1998	IP
All REWS	26,1 %	25,1 %	26,0 %	23,6 %	24,9 %
Index	100	96	100	91	96
Low range REWS	21,8 %	17,9 %	19,8 %	16,1 %	17,1 %
Index	100	82	91	74	78

Sales prices

- (83) The average sales prices of all ranges of REWS to unrelated customers decreased in value over the analysis period:
 high range (– 11 %);
 mid range (– 18 %); and
 low range (– 17 %).

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It was pointed out by an exporting producer that average sales prices of all REWS increased over the analysis period which, it was alleged, indicated that the Community industry had not suffered injury. However, this apparent increase was entirely due to changes in the product mix (i.e. substantial changes in the volume of sales of the product ranges from 1995 to the investigation period) and this claim was, therefore, rejected. This is clearly shown from the above price trends for each range segment.

Profitability

- (84) The return on turnover of REWS as a whole rose from low positive levels in 1995 to around 10 % in the investigation period. In contrast the low range segment suffered a fall from low positive profitability in 1995 to substantial losses in the investigation period (around 20 %).
- (85) The trend for REWS as a whole can be explained by an increased sales volume and turnover resulting from the 'euro effect' as explained at recital 64. It should be noted that the Community industry could not achieve an acceptable profit level in the years prior to the existence of the 'euro-effect' and profitability was only at levels sufficient to maintain the Community industry's viability in the investigation period because the 'euro-effect' had increased sales volume.
- (86) An evaluation of the impact of the 'euro-effect' on profitability was carried out, in order to show how profitability is expected to deteriorate as the euro-effect recedes. It is forecast that Community industry turnover will fall by at least 27 % (i.e. the same amount that turnover rose under the euro-effect as shown at recital 80).
- (87) Further evidence of the impact of the euro-effect is apparent from the profitability rate of the Community industry in 1996 (i.e. before the euro-effect had an impact). At this time the profitability rate was below 3 %.
- (88) It is important to point out that the Community industry was not able to fully benefit from the euro-effect because the return on sales of low range REWS was well below the break even point during the investigation period. This is significant because it is the segment in which the imports from the countries concerned are concentrated. The losses in this segment have reduced the overall profitability of the Community industry and prevented it from fully benefiting from the euro-effect and the anti-dumping measures against imports originating in Japan and Singapore. In addition, it is considered that the price depressive effects of the dumped imports have also been felt within the mid and high range segments because prices in one range inevitably have a knock-on effect on the other segments.
- (89) In conclusion, the overall profitability of the Community industry was not at the level it could reasonably have expected during the investigation period, due to the price depressive effects of the dumped imports.

Other performance related factors

- (90) No detailed analysis was carried out on cash flow, ability to raise capital (or investments) and return on investments because such an analysis would relate to the situation of the company as a whole. The companies other business lines represent more than 50 % of total company turnover and, therefore, an overall analysis would not necessarily be representative for the product under consideration.

As concerns the impact on the Community industry 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.

Productivity, employment and wages

- (91) The table below shows that during the analysis period employment in the Community industry decreased by 11 %.

Productivity per employeeIndex — 1995 = 100	1995	1996	1997	1998	IP
Number of units produced	100	102	105	107	122
Number of employees	100	91	82	90	89
Productivity per employee	100	107	123	123	140

- (92) Productivity per employee increased by 40 % over the analysis period.
- (93) No detailed analysis was carried out on wages given the importance of other business lines in the overall companies' activities. Such an analysis would relate to the situation of the company as a whole and not necessarily be representative for the product under consideration.

5. Conclusion on injury

- (94) The above findings show that in the investigation period, taking into account the developments over the period considered, the Community industry suffered a reduction in average prices (in all three ranges) and a loss in market share. The findings concerning the low range REWS (in terms of sales volumes, average prices, production, market share and profitability) show a substantially worse situation to that of REWS as a whole. In particular, the poor economic situation of the low range segment has prevented the Community industry from achieving the overall profitability level that it

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could have expected under the circumstances of the euro-effect and the anti-dumping measures in place, particularly bearing in mind the restructuring efforts which it has implemented.

- (95) It was, therefore, considered that the Community industry has suffered material injury in the investigation period.
- (96) It should be noted that the low range segment is important to the Community industry as it needs to offer all three range segments to its customers and any price pressure in the low range segment inevitably depresses prices in the other segments which are largely sold to the same customers.
- (97) The euro-effect is temporary in nature, whereas there is no indication that competition from dumped imports will cease. It is, therefore, only a matter of time before the overall situation of the Community industry deteriorates further. This is likely because a fall in demand is expected to reduce production, sales, market share and prices. It also should be recalled that average prices in the euro currency zone were much higher than outside this area, giving an additional indication for future developments.

E. CAUSATION

1. Introduction

- (98) The effect of the dumped imports on the Community industry was examined.
- (99) Furthermore, an assessment of the impact of all other known factors on the Community industry was made. Such analysis ensures that any injury caused by factors other than the dumped imports concerned is not wrongly attributed to those dumped imports.

2. Effect of the dumped imports

Effect on the volume of sales and market share

- (100) During the period considered consumption on the Community market increased by 35 %. However, Community industry sales only increased by 29 % and the imports from the countries concerned increased by 123 %.
- (101) As explained at recital 81, the Community industry's market share fell by 4.6 % over the period considered. In contrast, the market share of imports from the countries concerned increased from 9,2 % to 15,1 % over the same period.
- (102) As explained at recital 82, the Community industry's sales prices decreased over the period considered. Over the same period, these prices were significantly undercut by imports originating in the countries concerned as shown by recital 75. All this had adverse consequences for the profitability of the Community industry.

(103) The above analysis shows that there is a clear coincidence in time between the decline of the Community industry in terms of key financial and economic indicators and the rise in dumped imports from the countries concerned.

Impact of the dumped imports on the low range segment

(104) The negative impact of the dumped imports on the overall situation of the Community industry can be traced back by making a refined causal link analysis based on the various market segments of REWS.

(105) It should be recalled that during the investigation period, 97 % of the imports from the cooperating exporting producers, amounting to almost 15 000 units, were in the low range segment. Total imports from the countries concerned amounted to 33 063 units in the investigation period. It was, therefore, assumed that 97 % of total imports were in the low range. This assumption was based on the facts available, there being no reason to believe that the pattern of the rest of the imports would be any different from those of the cooperating exporting producers. Therefore, whereas the sales of the Community industry in the low range segment were only slightly lower than imports from the countries concerned at the beginning of the period considered, they amounted to considerably less than half of the imports from the countries concerned in the investigation period. The table below shows the growth of the sales volume of the Community industry low range segment compared to an estimate of sales in the same segment by the exporting producers in the countries concerned. This shows that over the period considered, the exporting producers increased their sales volume by 123 % in this segment whereas the Community industry only managed to increase its sales volume by 10 %.

Sales volume on the Community market of low range REWSIndex — 1995 = 100	1995	1996	1997	1998	IP
Community industry	100	106	109	104	110
Countries concerned — based on 97 % of total exports	14 407	31 849	25 629	33 430	32 071

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 2605/2000. (See end of Document for details)

Index of countries concerned	100	221	178	232	223
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- (106) The corresponding development in market share also shows that imports from the countries concerned had increased over the period considered at the expense of the Community industry. The market share of low range imports from the countries concerned increased from 9,2 % to 15,1 % (i.e. an overall increase of 65 %), whereas the Community industry low range market share fell from 21,8 % to 17,1 % (i.e. a decrease of 22 %).
- (107) Recital 82 records the development of average prices of the Community industry. Although the Community industry's average prices fell in all 3 model ranges, the fall in the low range segment was significantly greater than the fall in overall average prices.
- (108) It should also be recalled that the profits of the Community industry were not evenly spread across the model range segments. The anti-dumping duties, relating to imports from Japan and Singapore (described at recitals 8 and 9) relate mainly to the high and medium range segments and contributed to this profitability situation. In contrast, the Community industry's sales in the low range segment were made at a substantial loss. It is precisely this segment which was targeted by the exporting producers in the countries concerned.

3. Imports from other third countries

- (109) During the investigation period, other imports into the Community originated in several countries including Japan and Singapore as shown in the table below.

Volume of imports of REWS (excluding the countries concerned)	1995	1996	1997	1998	IP
Japan	474	954	1 606	2 794	2 332
Japan — market share	0,3 %	0,6 %	1,0 %	1,6 %	1,2 %
Singapore	3 776	863	987	1 332	427
Singapore — market share	2,5 %	0,6 %	0,6 %	0,8 %	0,2 %

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 2605/2000. (See end of Document for details)

Others	7 079	6 663	8 357	9 514	7 897
Others — market share	4,4 %	3,9 %	4,7 %	4,7 %	3,6 %
Total imports (excluding the countries concerned)	11 329	8 480	10 950	13 640	10 656

- (110) Imports from Japan and Singapore have been subject to anti-dumping measures ranging from 15 % to 32 % throughout the period considered and were small in volume. Prices to end customers can be considered to be non-injurious. It is clear therefore, that imports from these countries did not contribute to the depression of prices and are unlikely to have contributed significantly to the injury suffered by the Community industry.
- (111) Imports from other third countries (mainly Switzerland, USA and Indonesia) were made at low volumes. The only price information available to the Commission was from Eurostat, which did not indicate the range involved, and it was, therefore, difficult to draw conclusions concerning the level of these prices. According to the Community industry their only concerns relating to imports from these countries related to Indonesian exports. However, bearing in mind the *de minimis* (1 451 units) volume of imports from Indonesia in the investigation period, it is clear that they are unlikely to have contributed significantly to the injury suffered by the Community industry.
4. Effect of internal competition within the Community
- (112) It was submitted by exporting producers that internal competition on the Community market for REWS, arising from changes in the structure in the Community retail sector, had a downward effect on prices. It was, therefore, investigated whether these changes were of such a nature that they could break the causal link between the dumped imports and the injury suffered by the Community industry.
- (113) Throughout the Community, the market share of the multiple users (i.e. large supermarket chains) has increased significantly, whereas the number of smaller users has declined. This change of structure has increased the buying power of the user industry in general, and it is likely that this change has had some downward effect on average prices.
- (114) As mentioned at recital 59, the structure of the Community industry has also changed substantially over the period considered. The reduction in the number of companies and improvements in productivity, shown in recital 90 were

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 2605/2000. (See end of Document for details)

designed to deal with these market changes. It was concluded that internal market competition arising from changes in the structure of the Community retail sector did not break the causal link between the dumped imports and the injury suffered by the Community industry.

5. Conclusion on causation

(115) In view of the coincidence in time between, on the one hand, the price undercutting established, the significant market share gained by the dumped imports from the countries concerned and, on the other hand, the corresponding loss of market share suffered by the Community industry, as well as the reduction of its sales prices, it is concluded that the dumped imports originating in the countries concerned have caused material injury to the Community industry.

(116) It was, therefore, concluded that the dumped imports originating in the countries concerned have caused material injury to the Community industry. While other factors may have contributed, they are not such as to break the causal link between the dumped imports and the injury suffered by the Community industry.

F. COMMUNITY INTEREST

1. General considerations

(117) In accordance with Article 21 of the basic Regulation, it was examined whether the imposition of anti-dumping measures would be against the interest of the Community as a whole. The determination of the Community interest was based on an appreciation of all the various interests involved, i.e. those of the Community industry, the importers and the users of the product concerned to the extent that the relevant interested parties submitted the information requested in this respect.

(118) In order to assess the likely impact of the imposition or non-imposition of measures, information was requested from all interested parties. Questionnaires were sent to the Community industry, importers/traders and two associations of users of the product concerned.

(119) On this basis it was examined whether, despite the conclusions on dumping, injury and causation, compelling reasons exist which would lead to the conclusion that it is not in the Community interest to impose measures in this particular case.

2. Interests of Community industry

(120) In the absence of measures against injurious dumping, the situation of the Community industry is certain to deteriorate in terms of market share, profitability and employment. This is particularly true in view of the fact that the euro-effect, which to a certain degree compensates for the effects of the dumped imports, will soon come to an end. The dumped imports have

had an immediate impact in the low range segment which the Community industry cannot sustain in the long term. The importance of this segment to the Community industry is that it must continue to offer all 3 segments for sale in order to supply major users on the market.

- (121) There has been a large scale consolidation of Community production over the analysis period. This has continued a process which has taken place throughout the 1990's involving various mergers and acquisitions. This consolidation has helped ensure the survival of the production of REWS in the Community and thereby maintain weighing technology generally. This is important because there would inevitably be knock-on effects (in terms of reduced profitability and employment), both on the industry's suppliers and on the related sectors of production within the Community industry should measures be allowed to lapse. This is because the technologies of REWS and a whole range of other products are related. Any loss of technological know-how in the REWS sector will mean a global loss of competitiveness in the related sectors too. The Community industry also produces other electronic scales such as those used in the industrial sector and provides servicing of such scales. In addition the Community industry manufactures a range of other retail equipment such as slicers which are also sold through the same sales channels. It is clear that employment in these areas would also be jeopardised should injurious dumping be allowed to continue.
- (122) In addition, the Community industry has made every effort to meet the competition from the PRC, Korea and Taiwan. Examples of such steps are:
- a progression towards greater consolidation (fewer companies),
 - the closure of excess capacity,
 - greater use of modern production techniques (e.g. production to order, increased mechanisation and computerisation),
 - improvements in productivity,
 - reducing costs by increasing the contracting-out of the supply of components and making changes in the use of its distribution channels, and
 - investing in new model ranges and improved weighing technology.

Community producers have, therefore, shown a willingness to maintain a competitive presence on the Community market and are capable of benefiting from anti-dumping measures should they be imposed. All this would be put in jeopardy if the anti-dumping measures were not imposed.

3. Interests of other parties

- (123) The cooperation of representatives of the interests of retail outlets was sought, including multiple users of the product concerned (supermarkets), in order to identify if there was any significant impact on users.
- (124) Only two users cooperated with the investigation. One user expressed its support of the complainant Community industry stating that the long-term

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 2605/2000. (See end of Document for details)

benefits from the overall quality of provision and service obtained from the Community industry would outweigh any temporary benefits which could be achieved by purchasing REWS from the exporting countries concerned at dumped prices.

In contrast the other user pointed out that if measures were imposed it would suffer from increased costs and reduced competitiveness.

- (125) The lack of cooperation from users is no doubt due to the very small proportion of users' total costs represented by REWS. The impact of imposing measures, in what is a highly competitive market, can be assumed to be negligible.
- (126) The views of importers in the Community were also sought. Only one incomplete questionnaire response was received. It was concluded that, if measures were imposed, there would be an impact on importers turnover and profits. However, it is likely that this impact would be small given that the importers also trade in other products.

4. Conclusion

- (127) The low level of cooperation by users and importers clearly makes it difficult to draw conclusions on the effect anti-dumping measures would have in these sectors. It was concluded, however, that the impact would be negligible, particularly for the retail sector where the proportion of costs represented by REWS is very small.
- (128) It should be recalled, however, that the dumped imports from the countries concerned have caused material injury to the Community industry, which has made great efforts to remain competitive. The full extent of this injury is concealed by temporary benefits caused by the introduction of the euro. However, in the absence of measures, and in view of the diminishing effect of the euro, it is likely that the Community industry will deteriorate further and may cease production of low range REWS and, thus, the viability of the entire Community industry would be threatened.
- (129) On the basis of the above the Commission finds that there are no compelling reasons of Community interest not to impose anti-dumping measures.

G. PROPOSED DUTIES

1. Injury elimination level

- (130) In order to prevent further injury being caused by the dumped imports, it is proposed to adopt anti-dumping measures in the form of definitive duties. For the purpose of determining the level of these duties, account was taken of the dumping margins found, the amount of duty necessary to eliminate the injury sustained by the Community industry and the market situation of the Community industry.

- (131) To this end, the representative production costs of the two basic low range models (i.e. mono and tower) of the Community industry were used, together with a profit margin of 10 %. The resulting non-injurious prices based on these costs and profit represent the level of sales prices the Community industry is expected to be able to achieve in the absence of dumped imports. The two non injurious prices were compared with the prices of the dumped imports used to establish undercutting, as outlined at recitals 72 to 75. The differences between these prices (on a weighted average basis and expressed as a percentage at cif level) showed the underselling margins applicable to each company.
- (132) These margins including those for non cooperating exporters are above the dumping margins established (with the exception of Mettler-Toledo where the injury margin was 0 %). In accordance with the lesser duty rule in accordance with Article 9(4) of the basic Regulation, it is proposed that the duty should be set at the level of the lowest margins.
2. Form and level of the definitive measures
- (133) In the light of the foregoing, it is considered that, in accordance with Article 9(4) of the basic Regulation, definitive anti-dumping duties should be imposed. An *ad valorem* duty is considered the most appropriate measure in this proceeding.
- (134) The residual duty rate has been set at a level which does not reward non cooperation in each of the countries concerned. As cooperation was high in Korea the residual duty level has been set at the level of the highest dumping margin for cooperating companies. As cooperation was low in the PRC and Taiwan, the residual duty level has been set at the level of the model with the highest individual dumping margin sold in representative quantities.
- (135) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, it reflects the situation found during that investigation with respect to these companies. These duty rates (as opposed to the country-wide duty applicable to ‘all other companies’) are thus exclusively applicable to imports of products originating in the country concerned and produced by the company and thus by the specific legal entity mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from this rate and shall be subject to the duty rate applicable to ‘all other companies’.
- (136) Any claim requesting the application of this individual company anti-dumping duty rate (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission forthwith with all relevant information, in particular any

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 2605/2000. (See end of Document for details)

modification in the company's activities linked to production, domestic and export sales associated with e.g. that name change or that change in the production and sales entities. The Commission, if appropriate, will, after consultation of the Advisory Committee, amend the Regulation accordingly by updating the list of companies benefiting from individual duty rates,

HAS ADOPTED THIS REGULATION:

Article 1

1 A definitive anti-dumping duty is hereby imposed on imports of electronic weighing scales having a maximum weighing capacity not exceeding 30 kg, for use in the retail trade which incorporate a digital display of the weight, unit price and price to be paid (whether or not including a means of printing this data) currently classifiable within CN code ex 8423 81 50 (TARIC code 8423 81 50 10) and originating in the People's Republic of China, Korea and Taiwan.

2 The duty, calculated on the basis of the net free-at-Community-frontier price of the product, before duty, shall be:

[^{F1}Country	Company	Rate of duty	TARIC additional code
The People's Republic of China	Shanghai Adeptech Precision Co., Ltd No 3217 Hong Mei Road, Shanghai 201103, People's Republic of China	52,6 %	A561
	Shanghai Excell M&E Enterprise Co., Ltd No 1688 Huateng Road, Huaxin Town, Qingpu District, Shanghai, People's Republic of China	52,6 %	A561]

3 Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Textual Amendments

F1 Substituted by [Council Regulation \(EC\) No 692/2005 of 28 April 2005 amending Regulation \(EC\) No 2605/2000 imposing definitive anti-dumping duties on imports of certain electronic weighing scales \(REWS\) originating, inter alia, in the People's Republic of China.](#)

Article 2

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

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 2605/2000. (See end of Document for details)

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

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 2605/2000. (See end of Document for details)

- (1) [OJ L 56, 6.3.1996, p. 1](#). Regulation as last amended by Regulation (EC) No 2238/2000 ([OJ L 257, 11.10.2000, p. 2](#)).
- (2) [OJ C 262, 16.9.1999, p. 8](#).
- (3) [OJ L 263, 22.10.1993, p. 1](#).
- (4) [OJ C 324, 22.10.1998, p. 4](#).
- (5) [OJ L 104, 29.4.1993, p. 4](#).
- (6) [OJ C 128, 25.4.1998, p. 11](#).

Changes to legislation:

There are currently no known outstanding effects for the Council Regulation (EC) No 2605/2000.