

9. Schedule of the investigation

The investigation will be concluded, according to Article 6(9) of the Basic Regulation within 15 months of the date of the publication of this notice in the *Official Journal of the European Communities*. According to Article 7(1) of the Basic Regulation, provisional measures may be imposed no later than nine months from the publication of this notice in the *Official Journal of the European Communities*.

10. Review of existing measures

Council Regulation (EC) No 1824/2001⁽¹⁾ imposed a definitive anti-dumping duty on imports of gas-fuelled, non-refillable pocket flint lighters falling within CN code 9613 10 00 (TARIC code 9613 10 00*19) originating in the People's Republic of China and maintained the anti-dumping duties extended by Council Regulation (EC) No 192/1999⁽²⁾ to imports of certain refillable pocket flint lighters originating in the People's Republic of China or consigned from or originating in Taiwan falling within CN code ex 9613 20 90

⁽¹⁾ OJ L 248, 18.9.2001, p. 1.

⁽²⁾ OJ L 22, 29.1.1999, p. 1.

(TARIC codes 9613 20 90*21 and 9613 20 90*29) and to imports of non-refillable lighters consigned from Taiwan and falling within CN code 9613 10 00 (TARIC code 9613 10 00*19) or originating in Taiwan and falling within CN code 9613 10 00 (TARIC code 9613 10 00*19).

Should it be determined that measures are to be imposed on disposable gas-fuelled pocket lighters, whether flint or piezo, with or without a refill valve originating in the People's Republic of China in the proceeding initiated by the present notice, the continued imposition of the measures imposed by Regulation (EC) No 1824/2001 will be no longer appropriate, and Regulation (EC) No 1824/2001 would have to be amended or repealed accordingly. Therefore, an interim review should be opened as regards Regulation (EC) No 1824/2001 in order to allow any amendment or repeal necessary in the light of the investigation initiated by the present notice.

Therefore, the Commission hereby initiates, pursuant to Article 11(3) of the Basic Regulation, an interim review of Regulation (EC) No 1824/2001. The provisions set out in points 5, 6, 7 and 8 of the notice, apply *mutatis mutandis* to this interim review.

Notice of initiation of an anti-dumping proceeding concerning imports of para-cresol originating in the People's Republic of China

(2002/C 153/04)

The Commission has received a complaint pursuant to Article 5 of Council Regulation (EC) No 384/96⁽¹⁾, as last amended by Regulation (EC) No 2238/2000⁽²⁾ ('the Basic Regulation'), alleging that imports of para-cresol, originating in the People's Republic of China ('countries concerned'), are being dumped and are thereby causing material injury to the Community industry.

1. Complaint

The complaint was lodged on 13 May 2002 by Degussa Knottingly Ltd. ('the complainant') on behalf of the sole producer in the Community representing 100 % of the Community production of para-cresol.

2. Product

The product allegedly being dumped is para-cresol with a minimum para-isomer, purity of 97 %, calculated on a net dry basis, originating in the People's Republic of China ('the

product concerned'), currently classifiable within CN code ex 2907 12 00. This CN code is only given for information.

3. Allegation of dumping

In view of the provisions of Article 2(7) of the Basic Regulation, the complainant established normal value for the People's Republic of China on the basis of a constructed normal value in a market economy country, which is mentioned in point 5(1)(d) of this notice. The allegation of dumping is based on a comparison of normal value, calculated as set out in the preceding sentence, with the export price of the product concerned when sold for export to the Community.

On this basis, the alleged dumping margin calculated is significant.

4. Allegation of injury

The complainant has provided evidence that imports of the product concerned from the People's Republic of China have increased in absolute terms and in terms of market share.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 257, 11.10.2000, p. 2.

It is alleged that the volumes and the prices of the imported product concerned have, among other consequences, had a negative impact on the market share held, the quantities sold and the level of prices charged by the Community industry, this resulting in substantial adverse effects on the overall performance and the financial situation of the Community industry.

5. Procedure

Having determined, after consulting the Advisory Committee, that the complaint has been lodged by or on behalf of the Community industry and that there is sufficient evidence to justify the initiation of a proceeding, the Commission hereby initiates an investigation pursuant to Article 5 of the Basic Regulation.

5.1. Procedure for the determination of dumping and injury

The investigation will determine whether the product concerned originating in the People's Republic of China is being dumped and whether this dumping has caused injury.

(a) Sampling

In view of the apparent large number of parties involved in this proceeding, the Commission may decide to apply sampling in accordance with Article 17 of the Basic Regulation.

(i) Sampling for exporters/producers in the People's Republic of China

In order to enable the Commission to decide whether sampling is necessary and, if so, to assist it in selecting a sample, all exporters/producers, or representatives acting on their behalf, are hereby requested to make themselves known by contacting the Commission and providing the following information on their company or companies within the time limit set in point 6(b)(i) of this notice:

- name, address, e-mail address, telephone, and fax, and/or telex numbers and contact person,
- the turnover in local currency and the volume in tonnes of the product concerned sold for export to the Community during the period 1 April 2001 to 31 March 2002,
- if the company intends to submit a claim for an individual margin or market economy status (indi-

vidual margins and market economy status can only be claimed by producers, see further below 5(e)),

- for companies claiming market economy status, the turnover in local currency and the sales volume in tonnes for the product concerned on the domestic market during the period 1 April 2001 to 31 March 2002,
- the precise activities of the company with regard to the production of the product concerned,
- the names and the precise activities of all related companies ⁽¹⁾ involved in the production and/or selling (export and/or domestic) of the product concerned,
- an indication of whether the company or companies agree to their inclusion in the sample, which implies replying to a questionnaire and accepting an on-the-spot investigation of their response.

In order to obtain the information it deems necessary for the selection of the sample of exporters/producers, the Commission will, in addition, contact the authorities of the exporting country, and any known associations of exporters/producers.

(ii) Final selection of the sample

All interested parties wishing to submit any relevant information regarding the selection of the sample must in any event do so within the time limit set in point 6(b)(ii) of this notice.

The Commission intends to make the final selection of the sample after having consulted the parties concerned that have expressed their willingness to be included in the sample.

Companies included in the sample must reply to a questionnaire within the time limit set in point 6(b)(iii) of this notice and must cooperate within the framework of the investigation.

If sufficient cooperation is not forthcoming, the Commission will base its findings, in accordance with Articles 17(4) and 18 of the Basic Regulation, on the facts available.

⁽¹⁾ For guidance on the meaning of related companies, please refer to Article 143(1) of Commission Regulation (EEC) 2454/93 concerning the implementation of the Community Customs Code (OJ L 253, 11.10.1993, p. 1).

(b) *Questionnaires*

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the Community industry and to any association of producers in the Community, to the sampled exporters/producers in the People's Republic of China to any association of exporters/producers, to the importers, to any association of importers named in the complaint, and to the authorities of the exporting countries concerned.

Exporters/producers in the People's Republic of China claiming an individual margin, with a view to the application of Articles 17(3) and 9(6) of the Basic Regulation, must submit a completed questionnaire within the time limit set in point 6(a)(ii) of this notice. They therefore have to request a questionnaire within the time limit set in point 6(a)(i) of this notice. However, such parties should be aware that if sampling is applied to exporters/producers, the Commission may nonetheless decide not to calculate an individual margin for them, if the number of exporters/producers is so large that individual examination would be unduly burdensome and would prevent the timely completion of the investigation.

(c) *Collection of information and holding of hearings*

All interested parties are hereby invited to make their views known, submit information other than questionnaire replies and to provide supporting evidence. This information and supporting evidence has to reach the Commission within the time limit set in point 6(a)(ii) of this notice.

Furthermore, the Commission may hear interested parties, provided that they make a request showing that there are particular reasons why they should be heard. This request must be made within the time limit set in point 6(a)(iii) of this notice.

(d) *Selection of the market economy country*

In accordance with Article 2(7)(a) of the Basic Regulation, it is envisaged to choose Japan as an appropriate market economy country for the purpose of establishing normal value in respect of the People's Republic of China. Interested parties are hereby invited to comment on the appropriateness of this choice within the specific time limit set in point 6(c) of this notice.

(e) *Market economy status*

For those exporters/producers in the People's Republic of China which claim and provide sufficient evidence that they operate under market economy conditions, i.e. that they meet the criteria laid down in Article 2(7)(c) of the Basic Regulation, normal value will be determined in

accordance with Article 2(7)(b) of the Basic Regulation. Exporters/producers intending to submit duly substantiated claims must do so within the specific time limit set in point 6(d) of this notice. The Commission will send claim forms to all exporters/producers in the People's Republic of China who have either been included in the sample or named in the complaint and to any association of exporters/producers named in the complaint, as well as to the authorities of the People's Republic of China.

5.2. *Procedure for assessment of Community interest*

In accordance with Article 21 of the Basic Regulation and in the event that the allegations of dumping and injury caused thereby are substantiated, a decision will be reached as to whether the adoption of anti-dumping measures would be against the Community interest. For this reason the Community industry, importers, their representative associations, representative users and representative consumer organisations, provided that they prove that there is an objective link between their activity and the product concerned, may, within the general time limits set in point 6(a)(ii) of this notice, make themselves known and provide the Commission with information. The parties which have acted in conformity with the precedent sentence may request a hearing setting the particular reasons why they should be heard within the time limit set in point 6(a)(iii) of this notice. It should be noted that any information submitted pursuant to Article 21 will only be taken into account if supported by factual evidence at the time of submission.

6. **Time limits**(a) *General time limits*(i) For parties to request a questionnaire or other claim forms

All interested parties should request a questionnaire as soon as possible, but not later than 15 days after the publication of this notice in the *Official Journal of the European Communities*.

(ii) For parties to make themselves known, to submit questionnaire replies and any other information

All interested parties, if their representations are to be taken into account during the investigation, must make themselves known by contacting the Commission, present their views and submit questionnaire replies or any other information within 40 days of the date of publication of this notice in the *Official Journal of the European Communities*, unless otherwise specified. Attention is drawn to the fact that the exercise of most procedural rights set out in the Basic Regulation depends on the party's making itself known within the aforementioned period.

Companies selected in a sample must submit questionnaire replies within the time limits specified in point 6(b)(iii) of this notice.

(iii) Hearings

All interested parties may also apply to be heard by the Commission within the 40-day time limit specified in point 6(a)(ii).

(b) *Specific time limit in respect of sampling*

(i) The information specified in point 5(1)(a)(i) should reach the Commission within 15 days of the date of publication of this notice in the *Official Journal of the European Communities*, given that the Commission intends to consult parties concerned that have expressed their willingness to be included in the sample on its final selection within a period of 21 days of the publication of this notice in the *Official Journal of the European Communities*.

(ii) All other information relevant for the selection of the sample as referred to in 5(1)(a)(ii) must reach the Commission within a period of 21 days of the publication of this notice in the *Official Journal of the European Communities*.

(iii) The questionnaire replies from sampled parties must reach the Commission within 37 days from the date of the notification of their inclusion in the sample.

(c) *Specific time limit for the selection of the market economy country*

Parties to the investigation may wish to comment on the appropriateness of Japan which, as mentioned in point 5(1)(d) of this notice, is envisaged as a market-economy country for the purpose of establishing normal value in respect of the People's Republic of China. These comments must reach the Commission within 10 days of the date of publication of this notice in the *Official Journal of the European Communities*.

(d) *Specific time limit for submission of claims for market economy status*

Duly substantiated claims for market economy status, as mentioned in point 5(1)(e) of this notice, must reach the Commission within 21 days of the date of the selection of any sample or as determined by the Commission.

7. Written submissions, questionnaire replies and correspondence

All submissions and requests made by interested parties must be made in writing (not in electronic format, unless otherwise specified), and must indicate the name, address, e-mail address, telephone and fax, and/or telex numbers of the interested party.

Commission address for correspondence:

European Commission
Office: TERV 0/13
B-1049 Brussels
Fax (32-2) 295 65 05
Telex: COMEU B 21877.

8. Non-cooperation

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

Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of the facts available.

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