

## Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of gas-fuelled, non-refillable pocket flint lighters originating in the People's Republic of China

(2000/C 127/05)

Following the publication of a notice of impending expiry <sup>(1)</sup> of the anti-dumping measures in force on imports of gas-fuelled, non-refillable pocket flint lighters originating in the People's Republic of China, the Commission has received a request for review pursuant to Article 11(2) of Council Regulation (EC) No 384/96 <sup>(2)</sup>, as last amended by Council Regulation (EC) No 905/98 <sup>(3)</sup> (hereinafter referred to as 'the Basic Regulation').

### 1. REQUEST FOR REVIEW

The request was lodged on 3 February 2000 by the European Lighters Manufacturers Federation (hereinafter referred to as 'the applicant') on behalf of producers representing a major proportion of Community production of gas-fuelled, non-refillable pocket flint lighters.

### 2. PRODUCT

The product under review is gas-fuelled, non-refillable pocket flint lighters, also known as disposable flint lighters. By Council Regulation (EC) No 192/1999, the product scope has been extended to gas-fuelled, refillable pocket flint lighters incorporating a plastic tank body. The product concerned is currently classifiable within CN code ex 9613 10 00 and ex 9613 20 90. These CN codes are given for information only.

### 3. EXISTING MEASURES

The measure currently in force is a definitive anti-dumping duty imposed by Council Regulation (EC) No 3433/91 <sup>(4)</sup>, as last amended by Council Regulation (EC) No 1006/95 <sup>(5)</sup>, and as extended by Council Regulation (EC) No 192/1999 <sup>(6)</sup>.

### 4. GROUNDS FOR EXPIRY REVIEW

The request is based on the grounds that the expiry of the measures would be likely to result in the continuation or recurrence of dumping and injury to the Community industry.

In view of the fact that normal value for the People's Republic of China will be determined on the basis of the rules set out in Article 2(7) of the Basic Regulation, the applicant has proposed that normal value be established on the basis of the price in a market economy country.

The allegation of continuation of dumping is based on a comparison of normal value, as set out above, with the

export prices of the product concerned when sold for export to the Community.

The applicant also alleges that should measures be allowed to lapse, the current import volume of the product concerned would likely increase due in particular to the existence of large unused production capacity in the country concerned which could easily restart or increase the production of the product concerned.

The applicant further alleges that the Community industry is still in a fragile situation. This is illustrated by its low profitability and decreasing production capacity. It should also be noted that substantial circumvention has been found which was only remedied in January 1999. Taking into account the abovementioned large unused production capacity, any further increase in substantial imports from the country concerned at dumped prices will further depress prices in the Community and would worsen the situation of the Community industry, in the form of a further loss of market share for the Community industry and a worsening of its financial situation.

### 5. PROCEDURE

Having determined, after consulting the Advisory Committee, that sufficient evidence exists for the initiation of an expiry review, the Commission hereby initiates an investigation pursuant to Article 11(2) of the Basic Regulation.

#### 5.1. Procedure for the determination of likelihood of dumping and injury

The investigation will determine whether the expiry of measures would be likely, or unlikely, to lead to the continuation or recurrence of dumping and injury.

##### (a) Sampling

In view of the apparent size and complexity of this proceeding, the Commission may apply sampling in accordance with Article 17 of the Basic Regulation.

##### (i) Sampling for exporters/producers

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

— name, address, e-mail address, telephone, and fax, and/or telex numbers and contact person,

<sup>(1)</sup> OJ C 318, 5.11.1999, p. 3.

<sup>(2)</sup> OJ L 56, 6.3.1996, p. 1.

<sup>(3)</sup> OJ L 128, 30.4.1999, p. 18.

<sup>(4)</sup> OJ L 326, 28.5.1991, p. 1.

<sup>(5)</sup> OJ L 101, 4.5.1995, p. 38.

<sup>(6)</sup> OJ L 22, 29.1.1999, p. 1.

- the turnover in local currency and the volume in units of the product concerned sold for export to the Community during the period 1 April 1999 to 31 March 2000,
- the precise activities of the company with regard to the product concerned,
- the names and the precise activities of all related companies <sup>(1)</sup> involved in the production and/or selling (export and/or domestic) of the product concerned,
- any other relevant information that would assist the Commission in the selection of the sample,
- an indication of whether the company(s) 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 concerned, the known exporters and any known associations of exporters.

#### (ii) *Sampling for importers*

In order to enable the Commission to decide whether sampling is necessary and, if so to select a sample, all importers, or representatives acting on their behalf, are hereby requested to make themselves known to the Commission and to provide the following information on their company or companies within the time limits set in paragraph 6(b) of this notice.

- the total turnover in euros of the company during the period 1 April 1999 to 31 March 2000,
- the value in euros of resales made in the Community market during the period 1 April 1999 to 31 March 2000 of the imported product concerned originating in the People's Republic of China.
- the volume in units of resales made in the Community market during the 1 April 1999 to 31 March 2000 of the imported product concerned originating in the People's Republic of China,
- the names and the precise activities of all related companies <sup>(1)</sup> involved in the production and/or selling of the product concerned.

<sup>(1)</sup> For a definition of related companies please refer to Article 143(1) of Commission Regulation (EEC) No 2454/93 concerning the implementation of the Community Customs Code (OJ L 253, 11.10.1993, p. 1).

- any other relevant information that would assist the Commission in the selection of the sample,
- an indication of whether the company(s) 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 importers, the Commission will in addition contact any known associations of importers.

#### (iii) *Final selection of samples*

All interested parties wishing to submit any relevant information regarding the selection of the sample must do so within the time limit set in paragraph 6(b) 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 paragraph 6(b) and cooperate within the framework of the verification visit.

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.

#### (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, to any associations of exporters, and to the sampled importers and to traders and to any association of traders and importers named in the request and to the authorities of the exporting country.

All Community producers should contact the Commission forthwith, but not later than the time limit set out in paragraph 6(a)(i) in order to find out whether they are listed in the request, and, if necessary, request a questionnaire, given that the time limit set in paragraph 6(a)(ii) of this notice applies to their questionnaire replies.

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

All interested parties are hereby invited to make their views known in writing and to provide supporting evidence. This information and supporting evidence has to reach the Commission within the time limit set in paragraph 6(a)(ii) of this notice.

Furthermore, the Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

**(d) Selection of the market economy third country**

In accordance with Article 2(7) of the Basic Regulation, it is envisaged to choose the Philippines as an appropriate market economy third 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 out in paragraph 6(c) of this notice.

**5.2. Procedure for the assessment of the Community interest**

In accordance with Article 21 of the Basic Regulation and in order that a decision may be reached as to whether it would not be against the Community interest to maintain the anti-dumping measures currently in force, the applicant, Community producers, importers, their representative associations, representative users and representative consumer organisations, provided that they prove that there is an objective link between the activity and the product concerned, may, within the general time limit set in paragraph 6(a)(ii) of this notice, make themselves known and provide the Commission with information. 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 Community producers to request a questionnaire**

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

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

All interested parties, if their representations are to be taken into account during the investigation, must make themselves known, 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. Companies selected in a sample must submit questionnaire replies within the time limits specified in paragraph 6(b).

**(iii) Hearings**

All interested parties may also apply to be heard by the Commission within the same 40 days time limit.

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

All information relevant for the selection of the samples should reach the Commission within 15 days of the date of publication of this notice, given that the Commission intends to consult parties concerned that have expressed their willingness to be included therein on the final selection of the samples within a period of 21 days of the publication of this notice.

The questionnaire replies from sampled parties must reach the Commission within 30 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 wishing to comment on the appropriateness of the Philippines which, as mentioned in paragraph 5.1(d) of this notice, is envisaged as a market-economy third country for the purpose of establishing normal value in respect of the People's Republic of China, should file their comments within 10 days from the publication of this notice.

**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  
Directorate-General for Trade  
Directorates C and E  
DM 24 — 8/3  
Rue de la Loi/Wetstraat 200  
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 otherwise does not provide the necessary information within the time limits, or significantly impedes the investigation, 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.