

Notice of initiation of an expiry review of the antidumping measures applicable to imports of gas-fuelled, non-refillable pocket flint lighters originating in the People's Republic of China and consigned from or originating in Taiwan and on imports of certain refillable pocket flint lighters originating in the People's Republic of China and consigned from or originating in Taiwan.

(2006/C 223/05)

Following the publication of a notice of impending expiry ⁽¹⁾ 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, ('country concerned') as extended to the same lighters originating in or consigned from Taiwan, and as extended to certain refillable pocket flint lighters originating in the People's Republic of China or originating in or consigned from Taiwan, the Commission has received a request for review pursuant to Article 11 (2) of Council Regulation (EC) No 384/96 on protection against dumped imports from countries not members of the European Community ('the basic Regulation') ⁽²⁾, as last amended by Council Regulation (EC) No 2117/2005 ⁽³⁾.

1. Request for review

The request was lodged on 16 June 2006 by the Community producer BIC S.A. representing a major proportion, in this case more than 50 %, of the total Community production of gas-fuelled, non-refillable pocket flint lighters.

2. Product

The product under review is gas-fuelled, non-refillable pocket flint lighters. By Council Regulation (EC) No 192/1999, as maintained by Regulation (EC) No 1824/2001, 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 only for information.

3. Existing measures

The measures currently in force are a definitive anti-dumping duty imposed by Council Regulation (EEC) No 3433/91, as extended by Council Regulation (EC) No 192/1999 ⁽⁴⁾ and as maintained by Council Regulation (EC) 1824/2001 ⁽⁵⁾.

⁽¹⁾ OJ C 321, 16.12.2005, p. 4.

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

⁽³⁾ OJ L 340, 23.12.2005, p. 17.

⁽⁴⁾ OJ L 21, 29.1.1999, p. 1.

⁽⁵⁾ OJ L 248, 18.9.2001, p. 1. Regulation as last amended by Regulation (EC) No 155/2003.

4. Grounds for the review

The request is based on the grounds that the expiry of measures would lead to a likelihood of continuation or recurrence of injurious dumping.

In view of the provisions of Article 2(7) of the basic Regulation, the applicant established normal value for the People's Republic of China on the basis of the price in an appropriate market economy country, which is mentioned in point 5.1(c). The allegation of continuation of dumping is based on a comparison of normal value, as set out in the preceding sentence, with the export prices of the product concerned when sold for export to the Community.

On this basis, the dumping margin calculated is significant.

The applicant further alleges the likelihood of further injurious dumping. In this respect the applicant presents evidence that, should measures be allowed to lapse, the current import level of the product concerned is likely to increase due to the potential of the manufacturing facilities of the exporting producers in the country concerned which could easily restart or increase the production of the product concerned.

It is also alleged that the flow of imports of the product concerned is likely to rise due to the attractiveness of the EU market. All this can further lead to a redirection of exports from other third countries to the Community.

In addition, the applicant alleges that any recurrence of substantial imports at dumped prices from the country concerned would likely lead to a recurrence of further injury of the Community industry should measures be allowed to lapse.

Furthermore, the applicant points out that during the period of imposition of measures, the exporters/producers of the product concerned from the People's Republic of China tried to undermine the existing measures by circumvention practices, which were counteracted by Council Regulation (EC) No 192/1999 ⁽⁶⁾.

5. Procedure

Having determined, after consulting the Advisory Committee, that sufficient evidence exists to justify the initiation of an expiry review, the Commission hereby initiates a review in accordance with Article 11 (2) of the basic Regulation.

⁽⁶⁾ OJ L 21, 29.1.1999, p. 1.

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

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

(a) Sampling

In view of the apparent 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 select a sample, all exporting 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) and in the formats indicated in point 7:

- name, address, e-mail address, telephone, and fax, and/or telex numbers and contact person,
- the turnover in local currency and the volume in pieces of the product concerned sold for export to the Community during the period 1 July 2005 to 30 June 2006.
- the precise activities of the company with regard to the production of the product concerned and the production volume in pieces of the product concerned, the production capacity and the investments in production capacity during the period 1 July 2005 to 30 June 2006.
- 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,
- any other relevant information that would assist the Commission in the selection of the sample,
- by providing the above information, the company agrees to its possible inclusion in the sample. If the company is chosen to be part of the sample, this will imply replying to a questionnaire and accepting an on-the-spot investigation of its response. If the company indicates that it does not agree to its possible inclusion in the sample, it will be deemed to not have cooperated in the investigation. The

⁽¹⁾ For guidance on the meaning of related companies, please refer to Article 143 of Commission Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 253, 11.10.1993, p. 1).

consequences of non-cooperation are set out in point 8 below.

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 do so within the time limit set in point 6(b)(ii).

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) and must cooperate within the framework of the investigation.

If sufficient cooperation is not forthcoming, the Commission may base its findings, in accordance with Articles 17(4) and 18 of the basic Regulation, on the facts available. A finding based on facts available may be less advantageous to the party concerned, as explained in point 8.

(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 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 request or which cooperated in the investigation leading to the measures subject to the present review, to any known user or user association, and to the authorities of the exporting country concerned.

(c) Selection of the market economy country

The Commission envisages to use Brazil 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 country within the specific time limit set in point 6(c).

5.2. Procedure for the assessment of Community interest

In accordance with Article 21 of the basic Regulation and in the event that the likelihood of a continuation or recurrence of dumping and injury is confirmed, a determination will be made as to whether to maintain, or repeal the anti-dumping measures would not 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), make themselves known and provide the Commission with information. The parties which have acted in conformity with the previous sentence may request a hearing, setting the particular reasons why they should be heard, within the time limit set in point 6(a)(iii). 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

All interested parties who did not cooperate in the investigation leading to the measures subject to the present review 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 Union*.

- (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 Union*, 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 limit specified in point 6(b)(iii).

- (iii) Hearings

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

(b) Specific time limit in respect of sampling

- (i) The information specified in paragraph 5.1(a)(i), and 5.1(a)(ii) should reach the Commission within 15 days of the date of publication of this notice in the *Official Journal of the European Union*, 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 Union*.
- (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 Union*.
- (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 Brazil which, as mentioned in point 5(c), 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 Union*.

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 numbers of the interested party. All written submissions, including the information requested in this notice, questionnaire replies and correspondence provided by interested parties on a confidential basis shall be labeled as 'Limited (*)' and, in accordance with Article 19(2) of the basic Regulation, shall be accompanied by a non-confidential version, which will be labeled 'FOR INSPECTION BY INTERESTED PARTIES'.

Commission address for correspondence:

European Commission
Directorate General for Trade
Directorate B
Office : J-79 5/16
B-1049 Brussels
Fax (32-2) 295 65 05

(*) This means that the document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of the basic Regulation and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-dumping Agreement).

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, 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, in accordance with Article 18 of the basic Regulation, of the facts available. If an interested party

does not cooperate or cooperates only partially, and use of facts available is made, the result may be less favourable to that party than if it had cooperated.

9. Schedule of the investigation

The investigation will be concluded, according to Article 11(5) of the basic Regulation within 15 months of the date of the publication of this notice in the *Official Journal of the European Union*.
