I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1824/2001

of 12 September 2001

imposing a definitive anti-dumping duty on 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

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 11(2) and (6) thereof,

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

Whereas:

A. PREVIOUS PROCEDURES AND EXISTING MEASURES

(1) In 1991, the Council, by Regulation (EEC) No 3433/91 [2], imposed, *inter alia*, a definitive anti-dumping duty of 16,9 % on imports of gas-fuelled, non-refillable pocket flint lighters ('non-refillable lighters') originating in the People's Republic of China ('China').

(2) In 1995, by Council Regulation (EC) No 1006/95 [3], the original *ad valorem* duty was replaced by a specific duty of ECU 0,065 per lighter.

(3) By Regulation (EC) No 192/1999 [4] the Council, further to an anti-circumvention investigation, extended the above measures to (a) imports of gas-fuelled non-refillable pocket flint lighters consigned from or originating in Taiwan and (b) imports of certain refillable lighters originating in China or consigned from or originating in Taiwan with a free-at-Community frontier, duty unpaid value per piece lower than EUR 0,15.

[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 L 326, 28.11.1991, p. 1.
[3] OJ L 101, 4.5.1995, p. 38.
[4] OJ L 22, 29.1.1999, p. 1.

B. PRESENT INVESTIGATION

1. Request for a review

(4) Following the publication of a notice of impending expiry [5] of the anti-dumping duties imposed by Council Regulation (EC) No 1006/95 as extended by Council Regulation (EC) No 192/1999 ('existing measures'), the Commission received a request to review the existing measures pursuant to Article 11(2) of Council Regulation (EC) No 384/96 ('the basic Regulation').

(5) The request was lodged on 3 February 2000 by the European Lighters Manufacturers Federation ('ELMF' or 'the applicant'), on behalf of Community producers representing a major proportion of the Community production of non-refillable lighters ('the applicant Community producers').

2. Notice of initiation

(6) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review, the Commission initiated an investigation [6] pursuant to Article 11(2) of the basic Regulation.

3. Period of investigation

(7) The investigation into the continuation and/or recurrence of dumping and injury covered the period from 1 January 1999 to 31 March 2000 (the 'investigation period' or 'IP'). The examination of the trends relevant for the assessment of the likelihood of a continuation and/or recurrence of injury covered the period from 1 January 1996 to the end of the IP (the 'period under review').

[5] OJ C 318, 5.11.1999, p. 3.
[6] OJ C 127, 5.5.2000, p. 15.

4. **Parties concerned by the investigation**

(8) The Commission officially advised the Community industry, the exporters and producers in China and their representatives, the Chinese authorities and the importers and users known to be concerned, of the initiation of the review. The Commission sent questionnaires to all these parties and to those who made themselves known within the time limit set in the notice of initiation. In addition, the producer in the analogue country was contacted and received a questionnaire. The parties directly concerned were given the opportunity of making their views known in writing and of requesting a hearing.

(9) The applicant Community producers replied to the questionnaires. Further information was received from one non-applicant Community producer who did not oppose the proceeding.

(10) The exporting producers in China did not reply to the Commission's questionnaire and did not cooperate in the investigation.

(11) Out of the 72 unrelated importers and users contacted, only 13 replied and claimed not to have imported or to have discontinued imports of the product concerned originating in China. Of those 13, two importers replied fully to the questionnaire.

5. **Verification of information received**

(12) The Commission sought and verified all information deemed necessary to determine whether or not there is a likelihood of a continuation or recurrence of dumping and injury and whether or not the continued imposition of the measures would be against the Community interest. Verification visits were carried out at the premises of the following companies:

(a) Community producers:

BIC SA, Clichy Cedex, France

Flamagas SA, Barcelona, Spain

Tokai Europe GmbH, Mönchengladbach, Germany

Swedish Match Lighter BV, Assen, the Netherlands.

(b) Producers in the analogue country

Swedisch Match Philippines INC., Manila, Philippines.

(c) Unrelated importers in the Community

Daalgo, SL, Valencia, Spain.

C. **PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT**

(13) The product under consideration is the same as in the original investigations, i.e. gas-fuelled, non-refillable lighters falling under CN code 9613 10 00 (TARIC code 9613 10 00*19) [1].

(14) As shown in the previous investigations, it has been established that non-refillable lighters produced and sold by the applicant Community producers and those imported from China are in all respects identical or share at least the same basic physical and technical characteristics and that no differences in usage exist among them. The same is true for those produced and sold in the Philippines which served as an analogue country. Therefore, they are considered to be like products within the meaning of Article 1(4) of the basic Regulation.

D. **LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF DUMPING**

1. **Preliminary remarks**

(15) The findings on dumping set out below should be viewed in the light of the fact that the Chinese exporting producers did not cooperate in the investigation and that findings therefore had to be based on facts available, i.e. Eurostat and Chinese export trade data, pursuant to Article 18 of the basic Regulation. The market share represented by the imports concerned was significant at the time of the original investigation, when it represented around 11 % of the total Community consumption. In the period following the imposition of the anti-dumping measures, this market share decreased to 9 % in 1995, and went down substantially thereafter to around 1,3 % during the IP.

2. **Likelihood of a continuation of dumping**

(a) *Analogue country*

(16) The existing measures provide for a single countrywide duty on all imports into the Community of non-refillable lighters originating in China. In accordance with Article 11(9) of the basic Regulation, the Commission employed the same methodology as in the original investigation. Accordingly, normal value was determined on the basis of information obtained in a market economy third country ('the analogue country').

(17) Thailand had served as an analogue country in the original investigation. In the subsequent review the Philippines had been used as an analogue country as the Thai producers refused to cooperate and since it was found that, taking into account the size of its domestic market, the openness of its market and its degree of access to parts and components, the Philippines was an appropriate and not unreasonable choice of analogue country. In the notice of initiation of this expiry review it was therefore envisaged to choose the Philippines again as analogue country for the purpose of establishing normal

[1] This TARIC code was added to the original code 9613 10 00*11 as of 1 July 2000. It is recalled — see recital 3 — that the measures were extended to non-refillable lighters originating in or consigned from Taiwan (TARIC codes 9613 10 00*19 and *11) and to certain refillable lighters originating in China and Taiwan, or consigned from Taiwan, falling under CN code ex 9613 20 90 (TARIC code 9613 20 90*21).

value. Since it was found that the findings of the previous review investigation were still valid, as no interested party commented on this choice of analogue country and since the Filipino producer which was contacted agreed to fully cooperate, the Philippines was, therefore, in accordance with Article 2(7) of the basic Regulation, considered to be an appropriate and not unreasonable choice of analogue country for establishing normal value in respect of China for the product concerned.

(b) *Normal value*

(18) Firstly, it was established that the domestic sales of the Filipino producer were made in sufficient quantities and thus considered representative within the meaning of Article 2(2) of the basic Regulation.

(19) It was subsequently examined whether the domestic sales of the cooperating Filipino producer to independent customers could be considered to have been made in the ordinary course of trade, in accordance with Article 2(4) of the basic Regulation. It was found that the weighted average selling price of all domestic sales during the investigation period was above the weighted average unit cost of production, and that the volume of individual sales transactions below unit cost of production was less than 20 % of the sales being used to determine normal value; therefore all domestic sales were regarded as having been made in the ordinary course of trade.

(20) Normal value was therefore determined, as set out in Article 2(1) of the basic Regulation, on the basis of the price paid or payable, in the ordinary course of trade, by independent domestic customers of the cooperating Filipino producer during the investigation period, i.e. the weighted average of prices of all domestic sales per model made during the IP irrespective of whether these sales were profitable or not.

(c) *Export price*

(21) As regards the exports to the Community, given that exporting producers in China did not cooperate, findings had to be based on the facts available, in accordance with Article 18(1) of the basic Regulation. The export price was thus determined on the basis of documented offers since the level of prices found in them was confirmed by Chinese export trade data.

(d) *Comparison*

(22) For the purpose of a fair comparison, and in accordance with Article 2(10) of the basic Regulation, due allowance in the form of adjustments was made for differences in respect of transport and credit costs, which were demonstrated to affect prices and price comparability.

(e) *Dumping margin*

(23) In accordance with Article 2(11) of the basic Regulation, the weighted average normal value, on an ex-works Philippines basis, was compared to the weighted average export price on an ex-works China basis, at the same level of trade. The above comparison showed the existence of very significant dumping. The dumping margin found was substantially higher than the 80,3 % found in the previous investigations.

(24) The investigation did not reveal any reason why the level of dumping would disappear or decrease if the measures were to be repealed. It was therefore concluded that there is a likelihood of continuation of dumping. However, given the low level of imports originating in China during the IP, it was considered appropriate to also examine whether there would be a recurrence of dumping in increased export volumes should the existing measures be repealed.

3. **Likelihood of recurrence of dumping**

(25) For the purposes of the examination of a likelihood of recurrence of dumping in significant quantities the following factors were assessed: existence of dumping and the background of circumvention, the evolution of production and capacity utilisation in China, and the evolution of world-wide Chinese lighter exports.

(a) *Existence of dumping and background of circumvention*

(26) The dumping margin established in the previous investigations was high. The investigation carried out under the present review indicates that dumping has not been eliminated and was even substantially higher than during the previous investigations.

(27) Furthermore, there is a record of circumvention of the anti-dumping measures imposed. This took place by way of transshipment through Taiwan and modification of the product whose only purpose was to avoid the payment of the anti-dumping duty. Consequently, as stated in recital 3, the measures were extended in 1999 to Taiwanese imports and to imports of certain refillable lighters from China.

(28) The results of the anti-circumvention investigation as well as the current relatively low level of imports into the Community from China of the product concerned appear to demonstrate that while Chinese exporting producers continued to have a strong interest in selling to the Community, they could not compete on the Community market with their products at a non-dumped level.

(b) *Evolution of production and capacity utilisation in China*

(29) The only data on domestic production and consumption of lighters in China were made available to the Commission by the applicant in its request for this review and during the investigation, as Chinese exporting producers did not cooperate. While the available data could not be confirmed by independent sources, no reason was found to dismiss them.

(30) Chinese production of flint lighters alone has been estimated at 2,5 billion, more than twice the Chinese domestic consumption of the product concerned, estimated at 1,1 billion to 1,4 billion units including piezo lighters, which are not the product concerned. However, these figures are clearly underestimated if compared to the Chinese export statistics (see recital 33).

(31) According to the website www.globalsources.com there are 786 suppliers of cigarette lighters in China, of which 140 for non-refillable and 161 for refillable lighters. The self-proclaimed biggest lighter manufacturer lists a monthly capacity of 45 million lighters. Also, three random companies, among the 20 biggest known, claim to produce or to have the capacity of producing 1 billion lighters a year; slightly less than the total Community consumption of refillable and non-refillable lighters.

(32) Consequently, the enormous production capacity available in China combined with the size of the Chinese domestic market gives Chinese exporting producers considerable flexibility to switch both between markets and product types. These producers are therefore able to quickly increase production and direct it to any export market, including, were the measures to be repealed, the Community market.

(c) *Evolution of Chinese exports to third countries*

1. General trend of increasing exports

(33) On the basis of Chinese export trade data, it was established that Chinese worldwide exports increased from 1,9 billion units of non-refillable lighters and 0,2 billion units of refillable lighters in 1996 to 2,7 billion and 0,7 billion units in 2000.

(34) Furthermore, a significant fall in prices was observed, from USD 0,06 in 1996 to USD 0,03 in 2000 for non-refillable lighters and from USD 0,31 in 1996 to USD 0,14 in 2000 for refillable lighters.

2. Possible deflection of Chinese exports due to the introduction of restrictions in third countries

(35) According to the available information, Canada and the United States of America have imposed import restrictions on Chinese lighters because of safety concerns. The American market is closed for non-child-resistant lighters and at the end of 1999 Canada forbade the entrance of Asian lighters for safety reasons. This shows that there is pressure on Chinese exporting producers to find alternative export markets.

3. Chinese exports to other representative export markets

(36) It is important to note that, after the Council imposed anti-dumping duties in 1995, exporting producers from China easily penetrated other large export markets such as, for instance, Indonesia and, to a lesser extent, Russia and Japan, by charging export prices at similarly low levels as those to the Community.

4. **Conclusion**

(37) The investigation has clearly shown that while the volume of non-refillable lighters imported into the Community from China during the investigation period was relatively small, the level of dumping found for these imports was even higher than in previous investigations.

(38) The investigation has also shown that the volume of Chinese non-refillable lighter exports to the Community would in all probability reach substantial levels if the existing measures were to be repealed. This conclusion was reached in view of the substantial spare capacity available in China and the degree of circumvention found. This illustrates the strong continued interest of Chinese exporting producers in selling to the Community.

(39) It was also concluded that such substantially increased exports to the Community would most likely be made at dumped prices. This is demonstrated by the low prices found for Chinese exports to other main third country markets. It is unlikely that Chinese exporting producers could resume significant exports to the Community without charging similarly low export prices, in particular since the current exports to the Community, even if not significant in terms of volume, are already dumped.

(40) In summary, it is highly probable that imports to the Community from China will resume in significant quantities and at significant dumped prices, should measures be repealed.

E. **DEFINITION OF THE COMMUNITY INDUSTRY**

(41) The applicant Community producers represent about 95 % of the Community production of non-refillable lighters and therefore constitute the Community industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation. The other Community producer was not considered to form part of the Community industry since it did not fully cooperate but only gave certain information necessary to establish the consumption of non-refillable lighters in the Community.

F. **ANALYSIS OF THE SITUATION OF THE COMMUNITY MARKET**

1. **General remark**

(42) To ensure comparability of annual trends, all parameters examined in the 15-month IP were annualised by multiplying the verified data by 12/15.

2. **Consumption on the Community market**

(43) The apparent consumption in the Community of the product under consideration was established on the basis of:

— the units sold by the Community industry of its own-produced, non-refillable lighters,

— the units sold by the non-applicant Community producer,

— the imports of non-refillable lighters into the Community from China based on Eurostat data,

— the imports of non-refillable lighters into the Community from all other third countries based on Eurostat data.

(44) On this basis, the consumption of non-refillable lighters on the Community market decreased from about 873 million units in 1996 to about 770 million in the IP. Consumption decreased between 1996 and 1998 by 14,3 %, and subsequently increased in 1999 and during the IP. The overall contraction of the Community consumption during the period under review was 11,8 %.

Community consumption

	1996	1997	1998	1999	IP	Δ 1996 to IP (%)
Volume (million units)	872,881	785,833	747,784	761,478	769,551	
1996 = 100	100,0	90,0	85,7	87,2	88,2	– 11,8

Sources: Questionnaire replies from the Community industry and the other Community producer, extrapolations from Eurostat.

(45) These figures are however underestimated since they do not include certain refillable lighters which amounted to around 153 million in 1997 and 104 million in the IP.

3. **Evolution of imports originating in China**

(a) *Import volumes and market shares*

(46) Given that the specific duty of ECU 0,065 per unit was established in 1995, import figures are also given for that year and the trend is calculated accordingly. Imports went down from almost 80 million units in 1995 to fewer than 10 million in the IP. Their market share dropped accordingly. Consumption in 1995, estimated at 882 million, was marginally different from that in 1996.

Imports from China

	1995	1996	1997	1998	1999	IP
Volume (million units)	79,569	12,244	7,721	18,956	10,345	9,789
Market share in %	9,0 [1]	1,4	1,0	2,5	1,4	1,3

[1] Calculated on the 1996 consumption (1995 not available).
Source: Eurostat.

(b) *Price evolution of the imports*

(47) After the imposition of an anti-dumping duty against non-refillable lighters originating in China, prices, according to the best evidence available gathered from Eurostat, Chinese statistics and documented offers by Chinese operators still remained lower than the Community industry's prices. On the basis of the findings for the IP, the price difference, at the same level of trade, was around 48 %, even including the anti-dumping duty.

4. **Economic situation of the Community industry**

(a) *General comment*

(48) At first sight, the measures seem successful with respect to the developments of certain economic indicators. However, the situation of the Community industry must also be judged in the light of the circumvention that was found to take place and which led to the extension of the anti-dumping duty in 1999.

(b) *Production*

(49) As shown in the table below, the Community industry's production of non–refillable lighters decreased from 1 038 million to 912 million, i.e. by about 12 %, during the period under review. The Community industry undertook important restructuring during the same period to face the competition of low-priced imports. Production was adapted to obtain economies of scale and competitiveness was improved to respond to the evolution of demand, such as the increasing consumption and imports of piezo lighters. It should be pointed out that two manufacturing plants, in Greece and France, were closed down during the period under review.

Production

	1996	1997	1998	1999	IP	Δ 1996 to IP
Million units	1 038,3	1 015,8	943,9	890,3	911,7	
1996 = 100	100,0	97,8	90,9	85,8	87,8	– 12,2 %

Source: Questionnaire replies from Community industry.

(c) *Capacity and capacity utilisation rates*

(50) Production capacity of the Community industry decreased from 1 221 million units in 1996 to 1 195 million units in the IP, or 2,1 %. Capacity utilisation decreased from 85 % to 76 %.

Capacity

	1996	1997	1998	1999	IP	Δ 1996 to IP
Million units	1 220,6	1 249,0	1 277,9	1 186,5	1 195,4	
1996 = 100	100,0	102,3	104,7	97,2	97,9	– 2,1
Capacity utilisation rate in %	85,1	81,3	73,9	75,0	76,3	– 10,3

Source: Questionnaire replies from the Community industry.

(d) *Sales in the Community*

(51) The sales volume of the Community industry in the Community during the period under review increased by 4,9 %: from around 555 million units in 1996 to around 582 million units in the IP.

Total Community sales

	1996	1997	1998	1999	IP	Δ 1996 to IP (%)
Units (million)	555,070	585,924	587,301	583,180	582,292	
1996 = 100	100,0	105,6	105,8	105,2	104,9	4,9

Source: Questionnaire replies from the Community industry.

(e) *Market share*

(52) The Community industry's market share increased from around 64 % to around 76 %.

Community industries market share

	1996	1997	1998	1999	IP	Δ 1996 to IP (%)
In per cent	63,6	74,6	78,5	76,6	75,7	
1996 = 100	100	117,3	123,4	120,4	119,0	19,0

Source: Questionnaire replies from the Community industry and Eurostat.

(f) *Sales prices in the Community*

(53) The investigation showed that the Community industry's average sales price of the product concerned dropped by 8 % during the period under review, from 0,237 ECU/unit in 1996 to 0,217 EUR/unit in the IP. These average prices, after falling in 1997 and in 1998, slightly increased and stabilised in 1999 and the IP.

Average sales price

	1996	1997	1998	1999	IP	Δ 1996 to IP (%)
Community industry (ECU/EUR/unit)	0,237	0,228	0,216	0,218	0,217	
1996 = 100	100	96,2	91,1	92,0	91,6	– 8,4

Source: Questionnaire replies from the Community industry.

(g) *Profitability*

(54) Weighted average profit of the Community industry, expressed as a percentage of net sales, for non-refillable lighters, decreased from 11,1 % in 1996 to 6,9 % in the IP. It should be noted that the profitability varies considerably among the members of the Community industry. In addition, one major company maintained that profitability between its flint and electronic lighters could not be separated and that the latter were more profitable. With this background, the profitability figures listed below could be overstated. Another member of the Community industry attributed the marked deterioration of its profitability during 1998 and 1999 to important setbacks of its exports to third countries; hence reduced production and higher overall production costs. In conclusion, the Community industry did not achieve the 15 % profit deemed appropriate in the original Regulation (EEC) No 3433/91 (recital 16) and in Regulation (EC) No 1006/95 (recital 63) or the 10 % profit deemed appropriate in Regulation No 423/97 [1] on imports of non-refillable lighters originating in Thailand, the Philippines and Mexico (recital 81).

[1] OJ L 65, 6.3.1997, p. 1.

(55) The profitability of the Community industry on the Community market for the product under consideration developed as follows:

Profit rate

	1996	1997	1998	1999	IP	Δ 1996 to IP (%)
In per cent	11,1	10,3	7,5	6,2	6,9	
1996 = 100	100,0	92,8	67,6	55,9	62,2	– 37,8

Source: Questionnaire replies of the Community industry.

(h) *Employment*

(56) Employment for the product under consideration in the Community industry declined from 1 716 employees in 1996 to 1 496 employees in the IP, i.e. by 13 %. The reduction is due in essence to the Community industry's effort to increase competitiveness. It entailed closing two production sites as already mentioned, heightened automatisation in the manufacturing and assembling process and centralisation of sales activities.

The employment situation of the Community industry developed as follows:

Personnel (Non-refillable lighters)

	1996	1997	1998	1999	IP	Δ 1996 to IP (%)
Manufacturing	1 467	1 428	1 395	1 287	1 270	
Other	249	243	241	230	226	
Total number	1 716	1 671	1 636	1 517	1 496	
1996 = 100	100,0	97,4	95,3	88,4	87,2	– 12,8

Source: Questionnaire replies from the Community industry.

(i) *Productivity*

(57) Measured on the yearly number of lighters produced by the manufacturing personnel, productivity increased slightly from about 707 000 units in 1996 to around 718 000 in the IP, i.e. by around 2 %.

(j) *Stocks*

(58) The closing stocks of the Community industry for non-refillable lighters decreased from 166 million units in 1996 to 160 million units in the IP, i.e. by around 4 %.

Stocks developed as follows:

Closing stocks

	1996	1997	1998	1999	IP	Δ 1996 to IP (%)
Units (millions)	166,4	178,9	168,3	162,8	159,3	
1996 = 100	100,0	107,5	101,1	97,8	95,7	– 4,3

Source: Questionnaire replies from the Community industry.

(k) *Investments*

(59) Total investments of the Community industry for non-refillable lighters decreased from around ECU 15 million in 1996 to around EUR 12 million in the IP. The level of investment by the Community industry reflects its efforts to streamline its production. These investments developed as follows:

Investments

	1996	1997	1998	1999	IP	Δ 1996 to IP (%)
Million ECU/EUR	15,158	15,494	9,066	13,893	12,016	
1996 = 100	100,0	102,2	59,8	91,6	79,3	– 20,7

Source: Questionnaire replies from the Community industry.

(l) *Return on investments*

(60) Return on investments of the Community industry decreased from 41 % in 1996 to 14 % in the IP. It developed as follows:

Return on investments

	1996	1997	1998	1999	IP	Δ 1996 to IP (%)
In per cent	41	34	17	16	14	
1996 = 100	100,0	82,9	41,5	39,0	34,2	– 65,8

Source: Questionnaire replies from the Community industry.

(m) *Cash flow*

(61) Cash flow of the Community industry progressed favourably during the period under review, although it started to decrease during the IP. It developed as follows:

Cash flow

	1996	1997	1998	1999	IP	Δ 1996 to IP (%)
Million ECU/EUR	15,575	24,116	17,217	22,397	21,102	
1996 = 100	100,0	154,8	110,5	143,8	135,5	35,5

Source: Questionnaire replies from the Community industry.

(n) *Wages*

(62) Wages paid by the Community industry increased per year on a pro-capita basis from ECU 33 069 in 1996 to EUR 34 828 in the IP, an increase of about 5 %.

Wages

	1996	1997	1998	1999	IP	Δ 1996 to IP (%)
ECU/EUR/person/year	33 069	33 553	33 649	34 597	34 828	
1996 = 100	100,0	101,5	101,8	104,6	105,3	5,3

Source: Questionnaire replies from the Community industry.

(o) *Ability to raise capital*

(63) During the period under review the Community industry did not experience problems in raising funds, either through the groups some of the members belong to or through short-term bank credits.

(p) *Magnitude of dumping*

(64) As concerns the impact on the situation of the Community industry of the magnitude of the actual margin of dumping found during the investigation period, it should be noted that the margin found for China is significantly higher than that found in the original investigation. The situation of the Community industry improved to a certain extent after the imposition of measures, but it has not completely recovered. Therefore, should measures be repealed, the impact of the dumping margin found in the current investigation would be significant.

5. **Export activity of the Community industry**

(65) The Community industry's exports of non-refillable lighters to third countries amounted to 359 million units in the IP compared to 495 million in 1996. The overall decrease, about 27 % during the period under review, is to be seen in the context of the exports from China to markets other than the Community after the anti-dumping measures in 1995 came into force, as well as serious economic downturns suffered by certain importing third countries.

(66) In detail, the development during the period under review was as follows:

Export volumes of the Community industry

	1996	1997	1998	1999	IP	Δ 1996 to IP (%)
In million units	494,775	477,459	432,232	376,281	359,031	
1996 = 100	100,0	96,5	87,4	76,1	72,6	– 27,4

Source: Questionnaire replies from the Community industry.

6. **Import volumes and prices from other third countries**

(67) The total import volumes of non-refillable lighters from all third countries other than China decreased during the period under review from about 292 million units in 1996 to 165 million in the IP, corresponding to market shares of 33,5 % and 21,4 % respectively. Taiwan, a major exporter in 1997, exported only minor quantities in the IP, following the adoption of Regulation (EC) No 192/1999. Since then the major exporters into the Community have been Indonesia, Malaysia and Vietnam. Indeed imports from these three countries increased from about 17 million units in 1996 to 109 million in the IP; and their corresponding market shares went from 2,0 % to 14,2 %. Average import prices from these three countries decreased over the period under review and were on average as low as 0,067 EUR/unit in the IP. Thus, they were significantly lower than those of the Community industry, but higher than the available prices of the Chinese imports.

7. **Conclusion**

(68) Since the measures originally imposed were amended in 1995 and extended in 1999, the situation of the Community industry has improved in respect of a number of economic indicators.

(69) Certain economic factors in the Community, such as sales volumes and market share, as well as stocks, have shown positive developments for the Community industry during the period under review. Sales volumes rose by 4,9 % and the corresponding market share by 19 %; during the same period stock volumes decreased by about 4 %. Meanwhile, the Community industry's profitability decreased from 11 % in 1996 to about 7 % in the IP, far below the profit margins of 15 % and 10 % deemed appropriate in the earlier investigations. This investigation established that the generally positive factors except profitability were made possible because of the introduction of more effective anti-dumping measures during the previous years and as a result of the restructuring of the Community industry's facilities. However, it also made clear that competition from imported non-refillable lighters, especially resulting from circumvention activities, forced the Community industry to lower its selling prices by more than 8 %, thus negatively affecting profitability.

(70) It has appeared that the market share once held by the Chinese exporters was replaced by low-priced imports from other third countries not subject to anti-dumping duties and by increased sales by the Community industry. The Chinese market share was reduced from about 9 % in 1996 to slightly above 1 % in the IP. At the same time the Community industry improved its own market share to around 76 % in the IP compared with less than 64 % in 1996. Together with the anti-dumping measures, the in-depth restructuring prompted these favourable effects: two factories were closed down and the remaining facilities streamlined; notably at the expense of personnel, which was reduced by almost 13 % during the period under review. Capacity was reduced by 2 %; but at the same time production was reduced by 12 % and capacity utilisation went down by 10 %.

(71) In conclusion the investigation established that, although the situation of the Community industry has improved, it is likely to deteriorate if the measures were to be repealed.

G. **LIKELIHOOD OF RECURRENCE OF INJURY**

(72) In order to assess the likely effect of the expiry of the measures in force, a number of factors were examined, in particular the availability of unused capacity in China, the exporters' behaviour on the Community market and on other third markets, the prices the exporters might charge if the duty were allowed to expire and the likely impact of these factors on the Community industry.

(73) The information available, already reviewed in recitals 30 to 34, as well as the history of the past years demonstrate that there is a huge disproportion in China between consumption on the one hand and capacity and production on the other hand. Considering the attractiveness of the Community market, together with the safety rules limiting access to certain third country markets, the export potential of China at low prices towards the Community is very high. Chinese export prices to third countries in the year 2000 were, on average, even lower than those to the Community. Moreover, the lapsing of measures against Chinese imports would entail the lapsing of the circumvention measures with regard to certain refillable lighters from China and Taiwan. The imports of lighters covered by these measures, even if declining in volume (from almost 200 million units in 1998 at ECU 0,065 per unit according to Eurostat) were still high in 2000 with almost 52 million units.

(74) In conclusion, in the absence of measures, there is likelihood of recurrence of injury and, having also regard to the situation on dumping, there is likelihood of recurrence of injurious dumping.

H. **COMMUNITY INTEREST**

1. **Introduction**

(75) According to Article 21 of the basic Regulation, the Commission examined whether a prolongation of the existing anti-dumping measures would be against the interest of the Community as a whole. The determination of the Community interest must be based on an appreciation of all the various interests, such as the Community industry, the importers and users of the product concerned.

(76) In the preceding investigations the adoption, amendment and extension of the measures against dumped non-refillable lighters were considered not to be against the interests of the Community. Furthermore, in the context of an expiry review, the scrutiny of a situation in which anti-dumping measures have been in place allows assessment of any negative, undue impact of the anti-dumping measures in force on the parties concerned.

(77) In order to assess the likely impact of a continuation of the measures, the Commission requested information from all interested parties mentioned above. In addition to the Community industry, questionnaires were sent to 72 importers. Together with the two meaningful replies mentioned, few other comments were received. All of them were taken into account to examine whether, despite the findings of the likelihood of recurrence of injurious dumping, there were compelling reasons which would lead to the conclusion that it is not in the Community interest to maintain the existing measures.

2. **Interest of the Community industry**

(78) If the anti-dumping measures were repealed, dumped and low-priced imports on the Community market would massively increase and the situation of the Community industry would start deteriorating again.

(79) The Community industry is structurally viable; it has undergone in-depth restructuring of its operations and has invested heavily in recent years to enhance its competitiveness. However, it can be concluded that, without the continuation of anti-dumping measures, its situation will most likely deteriorate.

3. **Interests of importers and traders**

(80) The few replies obtained from the importers/traders seem to indicate only a small interest for this review investigation, notably because of the availability of alternative sources abroad.

(81) The importers who made themselves known consider that the existing measures should not be prolonged. Their main concern is that imports of non-refillable lighters could be completely excluded from the Community market, thus reducing free competition in the Community and triggering excessive prices and the switch to cheaper advertising gadgets, other than lighters, on the part of the users, who distribute such gadgets to final consumers buying their main products or services. One importer stated that the imposition of anti-dumping duties prompted him to stop trading in imported lighters. Considering the flow of imports during the period under review, his decision appears to be the result of other considerations than any shortage of available lighters not subject to duties.

(82) It is true that imports of flint lighters from China and Taiwan have diminished, however the imports originating in other exporting countries, together with the existence of five known Community producers, have guaranteed competition on the Community market. It is therefore confirmed that importers and traders have enjoyed easy access to the product under consideration from third sources other than the Community industry and the imports concerned. Finally, these operators have also increasingly been relying on piezo lighters. In other terms, the impact of a prolongation of the existing measures on these imports is likely to be minimal.

(83) The available data indicate that profitability of the cooperating importers has not been negatively influenced by the imposition of the anti-dumping measures and is likely not to suffer future, adverse effects if the existing measures are maintained.

4. **Interests of consumers**

(84) Given the above, it is concluded that there are no compelling reasons on the grounds of Community interest against the continuation of the measures.

5. **Consequences for competition on the Community market**

(85) Considering that competition has remained strong on the Community market amongst Community producers, the imports concerned and imports originating in third countries, it can be concluded that the continuation of the existing measures will not adversely affect the future competitive environment for the product under consideration on the Community market.

6. **Conclusion on Community interest**

(86) Given the above, it is concluded that there are no compelling reasons on the grounds of Community interest against the continuation of the measures.

I. **ANTI-DUMPING MEASURES**

(87) All parties were informed of the essential facts and considerations on the basis of which it is intended to recommend the maintenance of the existing measures. They were also granted a period to make representations subsequent to this disclosure. No comments which were of a nature to change the above conclusions were received.

It follows from the above that, as provided for by Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of gas-fuelled, non-refillable pocket flint lighters ,and to certain refillable lighters, originating in China or consigned from or originating in Taiwan, imposed by Regulation (EEC) No 3433/91 as amended by Regulation (EC) No 1006/95 and as extended by Regulation (EC) No 192/1999, should be maintained,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed 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.

2. The rate of the duty, applicable to the net, free-at-the Community frontier price, before duty, shall be set at EUR 0,065.

Article 2

The anti-dumping duties extended by Regulation (EC) No 192/1999 on 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 (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*11) or originating in Taiwan and falling within CN code 9613 10 00 (TARIC code 9613 10 00*19) are maintained.

Article 3

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

Article 4

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

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

Done at Brussels, 12 September 2001.

For the Council

The President

L. MICHEL