II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 25 February 1997

accepting undertakings offered in connection with the review of Council Regulation (EEC) No 3433/91 and the proceeding concerning imports of gas-fuelled, non-refillable pocket flint lighters, originating respectively in Thailand and in the Philippines and Mexico

(97/167/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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], as amended by Regulation (EC) No 2331/96 [2], and in particular Articles 8 and 23 thereof,

After consulting the Advisory Committee,

Whereas:

(1) On 18 March 1995, the Commission announced, by a notice published in the *Official Journal of the European Communities* [3], the initiation of a review of Regulation (EEC) No 3433/91 [4], as last amended by Regulation (EC) No 1006/95 [5], in respect of imports of gas-fuelled, non-refillable pocket flint lighters originating in Thailand and commenced an investigation under Article 11 (3) of Council Regulation (EC) No 3283/94 [6] which was replaced during the investigation by Regulation (EC) No 384/96, hereinafter referred to as 'the Basic Regulation'. This interim review was initiated as a result of a request lodged in March 1994 by the European Federation of Lighter Manufacturers (EFLM), on behalf of its members representing almost the totality of Community production of the like product. This request contained sufficient evidence to justify the initiation of a review.

(2) On 18 March 1995, the Commission announced, by a notice published in the *Official Journal of the European Communities* [7], the initiation of an anti-dumping proceeding concerning imports of gas-fuelled, non-refillable pocket flint lighters originating in the Philippines and Mexico and commenced an investigation. This proceeding was initiated as a result of two complaints both lodged in August 1994 by producers representing a major proportion of total Community production of the like product. As regards the Philippines and Mexico, it was considered that the relevant complaints contained sufficient evidence of dumping by the imports concerned and of material injury resulting therefrom to justify the initiation of anti-dumping proceedings. The relevant investigations were carried out in the framework of a single proceeding.

(3) A number of considerations led the Commission to the conclusion that a cumulative assessment of the effect of the dumped imports from both the country subject to a review (Thailand) and the two

[1] OJ No L 56, 6. 3. 1996, p. 1.
[2] OJ No L 317, 6. 12. 1996, p. 1.
[3] OJ No C 67, 18. 3. 1995, p. 4.
[4] OJ No L 326, 28. 11. 1991, p. 1.
[5] OJ No L 101, 4. 5. 1995, p. 38.
[6] OJ No L 349, 31. 12. 1994, p. 1.
[7] OJ No C 67, 18. 3. 1995, p. 3.

countries subject to a new proceeding (the Philippines and Mexico), was warranted. As a result, from a procedural point of view, it was considered that definitive measures, if any, should be directly adopted, without resorting to the intermediate step of provisional duties.

(4) The Commission accordingly continued to seek and verify all information it deemed necessary for its definitive findings. In the course of this examination, it was established that definitive anti-dumping measures in respect of imports originating in the three countries concerned should be taken in order to eliminate the injurious effects of dumping (and accordingly that the existing measures concerning Thai imports should be repealed). The findings and conclusions on all aspects of the investigations are set out in Council Regulation (EC) No 423/97 (1).

(5) Having been informed of these conclusions, one Thai producer, two related Filipino producers and one Mexican producer have offered undertakings with regard to the import or resale prices to first unrelated customers in the Community pursuant to Article 8 of the Basic Regulation.

(6) According to these undertakings, prices would be set at levels sufficient to eliminate the injurious dumping as established in the framework of the present review and anti-dumping proceeding. On this basis and in the light of the findings of the investigations (in particular those relating to the causal link as set out in recitals 70 and 71 of Regulation (EC) No 423/97), the Commission is of the opinion that the undertakings offered should be considered as a particularly appropriate remedy in the present cases.

(7) In addition, given the type of sales channels of the exports concerned (which are made either to related parties or sole importers in the Community) and the fact that the Thai producer concerned, which is also responsible for exporting the goods in question, the Japanese related company usually responsible for exporting the goods manufactured by the two Filipino producers, as well as the American related company usually responsible for exporting the goods manufactured by the Mexican producer (together with related importers in the Community), have undertaken to submit detailed and regular sales information to the Commission, it has been concluded that the correct observance of the undertakings can be effectively monitored by the Commission.

(8) Under these circumstances, the undertakings offered by the Thai producer/exporter, the two related Filipino producers in conjunction with their Japanese parent company and the Mexican producer in conjunction with its American parent company (and related importers in the Community) are considered acceptable and the investigations can, therefore, be terminated with respect to the Thai, Filipino and Mexican producers concerned.

(9) The producers and exporters (as well as related importers) concerned were informed of the essential facts and considerations on the basis of which the imposition of definitve anti-dumping measures was recommended and have had the opportunity to comment on all aspects of the investigation. Accordingly, should an undertaking be withdrawn or should the Commission have reasons to believe that an undertaking is being violated, a provisional duty may be imposed pursuant to Article 7 and Article 8 (10) of the Basic Anti-dumping Regulation and, should the conditions of Article 8 (9) of the said Regualtion be met, a definitive anti-dumping duty will be imposed.

(10) No objections were raised when the Advisory Committee was consulted on the acceptance of the undertakings offered.

(11) Having been informed of the main facts and considerations on the basis of which the Commission intended to accept the undertakings, the Community industry concerned did not object,

HAS ADOPTED THIS DECISION:

Article 1

The undertakings offered by:

(a) Thai Merry Co., Ltd, Samutsakorn, Thailand;

in connection with the review of Regulation (EEC) No 3433/91, and

(b) Iwax Philippine, Inc., Rosario, Cavite, Philippines,

Iwahori Philippines, Inc., Mariveles, Bataan, Philippines, and

Iwax Inc., Shizuoka, Japan (in respect of its exports of goods produced by the abovementioned companies),

JMP Mexico, S.A. de C.V., Tijuana, Mexico, and

Scripto Tokai Corp., Fontana, USA (in respect of its exports of goods produced by the abovementioned company), as well as all its related importers in the Community;

in connection with the proceeding,

concerning imports of gas-fuelled, non-refillable pocket flint lighters, falling within CN code ex 9613 10 00, are hereby accepted.

This acceptance shall take effect on the date of entry into force of Regulation (EC) No 423/97.

(1) See page 1 of this Official Journal.

Article 2

The investigations in connection with the review and the anti-dumping proceeding referred to in Article 1 are hereby terminated with regard to the companies named in that Article.

Done at Brussels, 25 February 1997.

For the Commission

Leon BRITTAN

Vice-President