COMMISSION REGULATION (EEC) No 1386/91

of 23 May 1991

imposing a provisional anti-dumping duty on imports of gas-fuelled, non-refillable pocket flint lighters originating in Japan, the People's Republic of China, the Republic of Korea and Thailand

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community (1), and in particular Article 11 thereof,

After consultations within the Advisory Committee as provided for under the above Regulation,

WHEREAS:

A. PROCEDURE

(1) In November 1989, the Commission received a complaint lodged by the European Federation of Lighter Manufacturers on behalf of producers representing the major proportion of the Community production of the product in question. The complaint contained evidence of dumping of the product originating in the People's Republic of China, the Republic of Korea and Thailand and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

(2) The Commission accordingly announced by a notice published in the *Official Journal of the European Communities* (2) the initiation of an anti-dumping proceeding concerning imports into the Community of gas-fuelled, non-refillable pocket lighters, falling within CN code 9613 10 00 originating in the People's Republic of China, the Republic of Korea and Thailand and commenced an investigation.

(3) In May 1990 the Commission received a complaint lodged by BIC SA and Swedish Match SA, representing the major proportion of the Community production of the product in question. The complaint contained evidence of dumping of these products originating in Japan and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

(4) The Commission accordingly announced, by a notice published in the *Official Journal of the European Communities* (3), the initiation of an anti-dumping proceeding concerning imports into the Community of gas-fuelled, non-refillable pocket lighters falling within CN code 9613 10 00 originating in Japan and commenced an investigation.

(5) The Commission officially advised the exporters and importers known to be concerned, the representatives of the exporting countries and the complainants and gave the parties directly concerned the opportunity to make their views known in writing and to request a hearing.

(6) All the known importers, the majority of exporters and two Community producers, BIC SA and Swedish Match SA, made their views known in writing. Submissions and representations were also made by the China Association of Enterprises with Foreign investment. However, given the fact that a number of Chinese exporters submitted their views almost five months after the time limit set, no account was taken of their submissions, since to do so would have unduly delayed the conduct of the investigation. Only one Chinese exporter Gao Yao, Hua Fa Industrial Co., Guangdong, submitted a complete reply to the questionnaire within the time limit fixed.

Several producers/exporters requested and were granted hearings.

(7) The Commission sought and verified all information it deemed to be necessary for the purposes of a preliminary determination and carried out investigations at the premises of the following:

(a) Community producers:

— BIC SA, Rennes, France,

— BIC — Violex SA, Athens, Greece,

— BIC — Laforest SA, Tarragona, Spain,

(1) OJ No L 209, 2. 8. 1988, p. 1.
(2) OJ No C 89, 7. 4. 1990, p. 3.
(3) OJ No C 206, 18. 8. 1990, p. 7.

— Swedish Match SA, Rillieux-la-Pape, France,

— Swedish Match NV, Assen, Netherlands;

(b) Community producers' sales offices:

— BIC SA, Clichy, France,

— BIC SA, Ettlingen, Germany,

— Swedish Match SA, Hochheim, Germany,

— Swedish Match NV, Amsterdam, Netherlands;

(c) non-Community producers/exporters:

Japan:

— Tokai Corporation, Yokohama;

People's Republic of China:

— Gao Yao, Hua Fa Industrial Co., Guangdong (not visited);

Republic of Korea:

— Samji Industrial Co., Ltd, Inchon;

Thailand:

— Politop Co., Ltd, Bangkok,

— Thai Merry Co., Ltd, Samutsakorn;

(d) unrelated importers:

— Polyflame International BV, Roelefarentsveen, Netherlands,

— Tröber GmbH, Hamburg, Germany;

(e) related importers to the Japanese producer/exporter:

— Tokai Seiki GmbH, Mönchengladbach, Germany,

— Tokai Vespa Hispanica SA, Madrid, Spain,

— Tokai France SA, Le-Blanc-Mesnil, France.

(8) The Commission requested and received detailed written and oral submissions from the complainant Community producers, the exporters and the importers mentioned above, and verified the information provided to the extent considered necessary.

(9) The investigation of dumping covered the period 1 January to 31 December 1989 in the cases of People's Republic of China, the Republic of Korea and Thailand and the period 1 January 1989 to 30 June 1990 in the case of Japan.

B. PRODUCT UNDER CONSIDERATION, LIKE PRODUCT

(10) The product concerned is gas-fuelled, non-refillable pocket flint lighters (hereinafter referred to as lighters).

(11) While there are other gas-fuelled pocket lighters on the market (piezo lighters) their technical characteristics are quite different from the abovementioned product. Therefore, they are not covered by the product which is the subject of the present procedure.

(12) The Community industry produces the product in question in models presenting certain differences. However, all these models have the same basic technical and physical characteristics, the same basic application, perform the same basic function and are interchangeable. Therefore, the whole range of models has to be considered as forming one single product. It was found that the imports in question offer a similar range of models and their basic technical and physical characteristics are identical with those produced by the Community industry.

(13) A number of exporters and importers of the products in question argued that the imported lighters and Community producers' lighters are not like product because certain of the Community models produce more ignitions.

Commission services examined this argument. It was found during the investigation that the difference in the number of ignitions is by far outweighed by the similarities in the physical characteristics of all lighters concerned.

The Commission considered therefore that the lighters produced and sold by the Community manufacturers form one single category of product and constitute a product alike in all respects to the product imported from Japan, the People's Republic of China, the Republic of Korea and Thailand within the meaning of Article 2 (12) of Regulation (EEC) No 2423/88.

C. DUMPING

(a) Normal value

(i) *Japan*

(14) Normal value was provisionally determined on the basis of the domestic prices of the sole exporter, Tokai Corporation, which exported to the Community during the reference period and whose domestic sales were considered to be representative.

As far as lighters for advertisement are concerned, the Commission found that such lighters had a higher price due to a higher cost of production. These lighters were not exported. Therefore they were excluded from the establishment of normal value. No objection was raised by Tokai Corporation.

(ii) *Republic of Korea*

(15) Normal value was provisionally determined on the basis of the domestic prices of Samji, the sole exporter that cooperated, who exported to the Community during the reference period, provided sufficient evidence and whose sales were considered to be representative of the domestic market concerned.

(iii) *Thailand*

(16) In seeking to determine normal value for the two Thai exporters, Politop Co. Ltd and Thai Merry Co. Ltd, the Commission had to take account of the fact that the sales of the like product on the domestic market do not permit a proper comparison.

All domestic sales for Thai Merry Co. Ltd, were found to have been made at a loss and domestic sales of Politop Co. Ltd accounted for less than 5 % of total exports.

The Commission determined therefore that the normal value of these companies should be established on the basis of its constructed value.

(17) The constructed value was determined by adding cost of production and a reasonable profit margin. The cost of production was computed on the basis of all costs, in the ordinary course of trade, both fixed and variable, in the country of origin, of materials and manufacture, plus a reasonable amount of selling, administrative and other general expenses. A profit margin of 8 % was added to these costs. As regards the profit margin the data could neither be based on the profit realized by the producers on the profitable sales of like products on the domestic market nor on the basis of other producers or exporters in the country of origin or export of profitable sales of the like products. The Commission, therefore, considered a margin of 8 % reasonable in view of the higher profit realized by other exporters from other countries that cooperated in this procedure and in view of the fact that the research and development costs incurred in Thailand were very low.

(iv) *People's Republic of China*

(18) In order to establish normal value for the People's Republic of China, the Commission had to take account of the fact that this country does not have a market economy and the Commission therefore had to base its determinations on the normal value in a market economy country. In this connection, the complainants had suggested the Korean market. The China Association of Enterprises with Foreign Investments and one importer objected to this suggestion because the Korean market is protected by import duties.

(19) The China Association of Enterprises with Foreign Investments proposed that Thailand should be used as the analogue country. The importer concerned proposed that normal value should be established either on the basis of the export prices of Chinese lighters to third countries or on the basis of export prices of Philippines produced lighters to third countries.

(20) The latter proposal was not accepted because the Commission would have no guarantee that these export prices either from the People's Republic of China or from the Philippines were not equally dumped.

(21) Under these circumstances, the Commission provisionally determined that it was appropriate and not unreasonable to use the constructed value in Thailand as the basis for calculating normal value concerning the exports from the People's Republic of China for the following reasons :

— the products originating in Thailand were similar to those originating in the People's Republic of China,

— on the basis of the facts available there are no significant differences in technology and production processes of lighters between the two countries,

— the fact that normal value in Thailand was established on the basis of the cost of production of the two Thai producers eliminates the risk of comparing Chinese prices with prices which might be high because of certain market conditions such as import duties or monopolies.

(b) **Export price**

(22) With regard to exports by Chinese, Korean and Thai producers directly to independent importers in the Community, export prices were determined on the basis of the prices actually paid or payable for the products sold.

(23) With regard to the Japanese producer, exports were made to subsidiary companies which imported the product into the Community. In such cases, it was considered appropriate, in view of the relationship between exporter and importer, that export prices be constructed on the basis of prices at which the imported product was first resold to an independent buyer. Discounts and rebates were deducted from the price to the independent customer. Suitable adjustment was made to take account of all costs incurred between importation and resale, including all duties and taxes.

(24) Where cost allocations were necessary in constructing export prices these were made on the basis of turnover. The costs and turnover used for this purpose were generally those of the related importers' last available financial year and accordingly based on audited accounts. On any occasion that an allocation of sales, administrative and other general expenses was not made on the basis of turnover, the amount to be allocated was calculated on the basis of the exporter's available cost accounting data directly related to the sales in question.

(25) To arrive at a constructed export price, adjustments were also made for Community import duties and for a 9 % profit on sales turnover. The Commission based this 9 % profit margin on data asked for and verified at the premises of an independent importer of the product in question.

(c) **Comparison**

(26) For the purpose of a fair comparison between normal value and export price and in accordance with Article 2 (9) and (10) of Regulation (EEC) No 2423/88, the Commission determined normal values and export prices at the level of the first independent buyer and took account of differences affecting price comparibility, such as differences in physical characteristics and terms of sale, where claims of a direct relationship of these differences to the sales under consideration could be satisfactorily demonstrated. This was the case in respect of differences in credit terms, warranties, commissions, salaries paid to salesmen, packing, transport, insurance, handling and ancillary costs.

D. DUMPING MARGINS

(27) The margin of dumping was calculated for each exporter as the amount by which the normal value as established exceeds the price for export to the Community.

(28) The preliminary examination of the facts showed the existence of dumping in respect of all producers/exporters involved in this investigation.

The margins vary according to the exporter, the weighted average margin on a cif basis for each of the exporter investigation being as follows:

Japan

Tokai Corporation, Yokohama	96,56 %,

People's Republic of China

Gao Yao, Hua Fa Industrial Co., Guangdong Province	17,84 %,

Republic of Korea

Samji Industrial, Inchon	31,58 %,

Thailand

Politop Co. Ltd, Bangkok	5,87 %,
Thai Merry Co. Ltd, Samutsakorn	15,03 %.

(29) For those producers that neither replied to the Commission's questionnaire, or sent an incomplete reply, nor otherwise made themselves known, dumping was determined on the basis of the facts available in accordance with the provision of Article 7 (7) (b) of Regulation (EEC) No 2423/88. In this connection, the Commission considered that the result of its investigation concerning other companies provided the most appropriate basis for determination of the margin of dumping. Since it could create an opportunity for circumvention of the duty, if the dumping margin for those producers was any lower than the highest dumping margin found in their respective countries determined with regard to those producers who had cooperated in the investigation, it is considered appropriate to use the highest dumping margin found in their respective country for these groups of producers.

E. INJURY

(a) **Volume and market shares**

(30) As regards market volume, the consumption of lighters in the Community showed a steady increase from 317,5 million pieces in 1986, 363,7 million pieces in 1987, 383,6 million pieces in 1988 to 439,8 million pieces in 1989, that is a 38,5 % rise.

(31) Imports of lighters from Japan, the People's Republic of China and Thailand using the information received from the companies investigated, increased from 11,3 million pieces in 1986 to 92,4 million pieces in 1989. For each of these countries the evolution is as follows:

People's Republic of China	from 0 million in 1986 to 6,1 million in 1989,
Japan	from 11,3 million in 1986 to 56,6 million in 1989,
Thailand	from 0 million in 1986 to 29,7 million in 1989.

(32) As far as the Republic of Korea is concerned, the figures provided did not show accurately the actual Korean presence in the market since only one

exporter cooperated. Based on Eurostat, Korean sales were 10,6 pieces in 1986, 28,9 million in 1987, 24,3 million in 1988 and 7,8 million pieces in 1989.

Regarding these figures, it has to be borne in mind that the trend of Korean exports has been affected by the suspension of the GSP benefit which the Republic of Korea had until the end of 1988.

Based on Eurostat data (i.e. data which aggregates flint disponsable gas-fuelled lighters with piezo lighters) imports from the countries concerned increased at the same rate from 35,4 million pieces in 1986 to 152,5 million pieces in 1989.

This development represents a rise in market share held by the dumped imports from 11 % in 1986 to 35 % in 1989.

(b) **Prices**

(33) As regards price undercutting, the Commission compared the exporters' and the Community producers' weighted average selling prices free of all rebates and taxes, calculated on the basis of sales to the first unrelated importer or customer duly adjusted to take account of the differences in distribution channels (excluding sales to retailers and sales to the advertising sector) in 1989. The average selling price of the Community producers was weighted in relation to the sales volume of each type of the like products. This Community average selling price was then compared to the corresponding figures for each exporter concerned on the basis of their resale prices in the Community and weighted in respect of sales volume.

(34) A number of exporters raised the question of price comparison at the resale level to the first independent buyer in the Community. It was argued that a number of lighters produced by the Community industry contained more gas, had the capability of more flames and consequently they had a different appeal to the clients and a higher market price.

The Commission, in order to assure a fair comparison, excluded certain types of lighters from the price undercutting exercise, thus taking into consideration only lighters with similar content of gas.

(35) By this comparison, the Commission found that during 1989 all lighters originating in Japan, the People's Republic of China, the Republic of Korea and Thailand undercut the Community producers corresponding lighters by the following margins:

— Tokai Corporation, Japan	11,51 %,
— Samji, Republic of Korea	7,74 %,
— Thai Merry, Thailand	14,76 %,
— Politop, Thailand	11,36 %,
— Gao Yao, People's Republic of China	19,82 %.

(c) **Impact on Community industry**

(i) *Production, capacity, utilization rate and stocks*

(36) In this respect, the Commission found that the production of the Community industry decreased between 1986 and 1989. If an index of 100 was taken in 1986 production was 97 in 1989.

Capacity increased between 1986 and 1989. Using 100 as an index for 1986 capacity was 114 in 1989.

Capacity utilization decreased from the 100 index in 1986 to 85 in 1989. Even if capacity had not increased capacity utilization would have dropped from 100 in 1986 to 97 in 1989.

(37) No major changes of stocks could be observed between 1986 and 1989. All producers kept their stocks at the same level and it was therefore considered appropriate not to take into account the evolution of such stocks.

(ii) *Sales, profitability and employment*

(38) Community producers' sales on the Community market developed as follows:

1986	249,0 million pieces,
1987	256,8 million pieces,
1988	254,0 million pieces,
1989	266,5 million pieces.

This development represents a decrease in market share from 78,4 % in 1986 to 60,5 % in 1989 (70,6 % in 1987, 65,3 % in 1988).

(39) As far as prices are concerned, those of the Community industry showed a steady downward trend between 1986 and 1989. Community producers were unable (unless taking the risk of accumulating irreversible financial losses) to match the prices set in the market by the dumped imports. The Community producers made an effort to match the prices of the imports. Using the index 1986 = 100 as a basis, prices of the Community products in question were 96 in 1987, 88 in 1988 and 86 in 1989. During the same period prices of the imports in question decreased by 28 %.

As regards profits, it was found that the financial results of the Community industry worsened between 1986 and 1989.

(40) Employment has decreased substantially between 1986 and 1989. Taking 1986 as a basis (1986 = 100) the number of people employed in the Community industry in 1987 was 81, in 1988 = 78 and in 1989 = 73.

The Commission noted that in 1986 and 1987 one of the two Community producers carried out a restructuring operation which led to a substantial decrease of its employees.

(d) **Conclusion**

(41) The Commission thus determined that the Community industry's production, capacity utilization, market share, prices, profits and employment had followed a downwards trend.

On the contrary, imports from the countries concerned steadily increased since 1986 to reach a figure of more than four times higher in 1989. Market share of these imports more than tripled while their prices decreased by at least 28 %.

(42) The steady decrease of profits, despite strong efforts to reduce production costs, affects the investment and rationalization programme of the Community industry. This loss of profitability endangers not only the continuation of the flint lighter production of the two Community producers but also the further production of other lighters (i.e. piezo).

(43) As a result, the Commission concluded that the Community industry suffered material injury in the sense of Article 4 (1) of Regulation (EEC) No 2423/88.

F. CAUSATION OF INJURY

(a) **Cumulation**

(44) As regards causation, the Commission considered that the effects of the dumped imports had to be analyzed cumulatively. In reaching its conclusions the Commission considered the volumes imported, the increase in volume since 1986, the pricing policy of the exporters concerned and the general market conditions. The Commission also took into account the fact that importers easily and frequently change sources of supply between these countries.

(45) In the case of the Republic of Korea no importance was attached to the decrease in 1989 for the reasons explained in recital 32.

Although the market share of the People's Republic of China and Thailand varied and in some cases was fairly low, it was found that these market shares were still significant especially in view of the fact that they were increasing rapidily.

The present market share of Korean imports is significant. In addition, it was found that the prices from all countries significantly undercut the prices of the Community products.

(46) Finally, the Commission found that the imported products and the Community products are in direct competition in the Community market.

On the basis of this analysis the Commission concluded that for the purposes of assessing the injury sustained by the Community industry regard should be paid to the effect of the dumped imports aggregated from all countries subject to this investigation.

(b) **Effects of dumped imports**

(47) The Commission found that the decrease of:

— production,

— capacity utilization,

— sales volume and market share,

— prices,

— profits, and

— employment

coincide with the sharp increase of imports from the countries in question. While the market volume of disposable lighters increased by 38,5 %, the market share of the imports tripled from 11 % to 35 % when that of the Community industry decreased by 23 %.

Indeed, in a highly price-competitive market, the considerable price undercutting on lighters has a clearly negative effect on sales and accordingly on the profitability of the Community industry.

This price undercutting was only made possible by the dumping as shown by the fact that in all cases but one the margin of dumping is higher than the undercutting.

(c) **Other possible causes of injury**

(48) As to the possibility that injury to the Community industry has been due to other factors, it appeared that the volume and prices of imports originating in other third countries could not be considered responsible for the injury found. Imports from these countries have, in general, remained stable and in certain cases decreased.

(49) The Japanese exporter argued that the productivity of the Community industry is lower and claimed that this element should be taken into consideration for assessing injury. The Commission disagrees with this opinion. Cost advantages of an exporter, if any, are relevant in an anti-dumping proceeding only in so far as they are reflected without any discrimination in export as well as in domestic prices. Indeed, if they had not pratised dumping, Japanese exporters, whose prices in the Community are now around breakeven point, would have been obliged to charge considerably higher prices which would have sharply limited their sales volume and increased their costs. Besides, no evidence of such difference in productivity appeared in the investigation. In addition, the Commission, on the basis of its experience considers that there is no difference in productivity between the Japanese producer and the Community industry. The only difference is the higher volume produced, which resulted from the vast quantities exported at highly dumped prices to the Community.

(50) In conclusion, the volume of the dumped imports, their market penetration, the prices at which they have been sold in the Community, led the Commission to determine that the injury suffered by the Community industry and caused by the dumped lighters originating in Japan, the People's Republic of China, the Republic of Korea and Thailand has to be qualified as material.

G. **COMMUNITY INTEREST**

(51) The purpose of the imposition of anti-dumping duties is to eliminate dumping practices which cause injury to an industry in the Community and to re-establish a situation of fair competition on the Community market. This is undoubtedly in the general interest of the Community.

(52) If the rapid increase of unfairly priced imports from Japan, the People's Republic of China, the Republic of Korea and Thailand is not halted, the Community gas-fuelled, non-refillable pocket flint lighter industry will have to face a deterioration of its already weakened position with a strong possibility of total shutdown.

Since the structure of the Community industry consists of two sound undertakings, temporary relief of unfair business practices will surely re-establish fair competition among these companies.

(53) The importers alleged that low-priced imports were beneficial to consumers. The Commission notes, however, that even in a short-term analysis this is only partially true and depends very much on the distribution channels. It is usually the importer who benefits from low-priced imports and not the end user.

In certain Member States there was a fall in consumer prices of lighters. This was due to a market share war and constitutes only short-term benefit for the consumer.

The long-term consumers' interest should be the presence in the market of a wide range of products (Community and others) selling at fair market prices and operating under conditions of fair competition.

Finally, the products concerned are inexpensive and the individual additional charge for the consumer (due to the measures) will be very low.

(54) Once fair competition is established, the Community industry would be in a position to regain market share in the Community and thus benefit from the same economies of scale as most of the exporters and consequently become more competitive. As long as the return on investment remains weak it is unlikely that the Community industry would increase its marketing efforts or make the new investments required to reduce their manufacturing cost, unless measures are taken to ensure protection against these unfair commercial practices. The Commission consequently considered it necessary and in the interest of the Community that measures should be taken in order to preserve the viability of the Community lighter industry.

(55) In considering all the foregoing aspects, the Commission found that Community interest calls for granting protection to the Community industry. The Commission has taken account of the rapidly worsening conditions of the Community industry in recent years and particularly during the reference period. The Commission therefore considers it necessary to take steps to prevent further injury being caused by imposing provisional anti-dumping measures on the importation of gas-fuelled, non-refillable pocket flint lighters originating in Japan, the People's Republic of China, the Republic of Korea and Thailand.

H. PROVISIONAL DUTY

(56) In order to eliminate the injury suffered by the Community industry, their selling prices must be substantially increased. Such increase should provide the Community industry with the possibility of covering their productin costs and provide them with an adequate profit.

(57) Consequently the Commission calculated a target price for the most representative and comparable (with those imported) models of lighters of the Community industry. This target price was calculated on the basis of the actual weighted average costs of production of the models in question of each Community producer plus a target profit margin. When determining this margin, the Commission considered the necessity of the Community industry to finance additional investments in manufacturing facilities and research and development, without which the deterioration of the situation of the industry would be bound to continue and the damage caused by dumping would not be completely removed. The Commission also considered that the profit achieved by the major world producers, having state-of-the-art technology, historically ranged between 12 and 20 %. In the light of these, the Commission considered it reasonable to use 15 % as a target profit margin.

(58) Using the same methodology described in recital 34, this price was compared with the weighted average selling price free of all rebates and taxes calculated on the basis of sales to the first unrelated importer or customer duly adjusted to take account of the differences in distribution channels.

(59) On the basis, the Commission services found the following injury thresholds expressed as a percentage of cif, before duty, value :

— Tokai Corporation, Japan	35,76 %,
— Gao Yao, People's Republic of China	45,54 %,
— Samji, Republic of Korea	22,74 %,
— Thai Merry, Thailand	36,18 %,
— Politop, Thailand	31,32 %.

(60) In order to determine the level of the provisional duty the Commission took account of the margin of dumping established for each exporter and the amount of duty needed to eliminate the injury as it was calculated above.

In the cases of the People's Republic of China (firm Gao Yao) and Thailand (firms Thai Merry and Politop) the dumping margin established is lower than the percentage needed to eliminate the injury. The anti-dumping duty to be imposed should therefore correspond to the margin of dumping established for each company.

In the cases of Japan (Tokai Corporation) and the Republic of Korea (Samji) the percentage needed to eliminate the injury was lower than the dumping established. The anti-dumping duty to be imposed should therefore correspond to the injury margin established.

Accordingly, the following rates of duty should apply :

— Tokai Corporation, Japan	35,7 %,
— Samji Industrial, Republic of Korea	22,7 %,
— Gao Yao, People's Republic of China	17,8 %,
— Thai Merry Co. Ltd, Thailand	15,0 %,
— Politop Co. Ltd, Thailand	5,8 %.

The highest duty established for each country should be applied for those companies which did not make themselves known during the investigation. Indeed, it would constitute a bonus for non-cooperation to hold that the duties for these producer/exporters were any lower that the highest anti-dumping duties determined in their country with regard to those which cooperated.

(61) A period should be fixed within which the parties concerned may make their views known and request a hearing. Furthermore, it should be stated that all findings made for the purpose of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive duty which the Commission may propose,

HAS ADOPTED THIS REGULATION :

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of gas-fuelled, non-refillable pocket flint lighters falling within CN code ex 9613 10 00 (Taric code 9613 10 00 * 10) originating in Japan, the People's Republic of China, the Republic of Korea and Thailand.

2. The rate of the duty, applicable to the net free-at-Community-frontier price before duty, is set out as follows :

(a) 35,7 % for the products originating in Japan, (additional code 8540) ;

(b) 17,8 % for the products originating in the People's Republic of China, (additional code 8541) ;

(c) 22,7 % for the products originating in the Republic of Korea, (additional code 8542) :

(d) 15 % for the products originating in Thailand (additional code 8543) with the exception of imports which are produced and sold for export to the Community by Politop Co. Ltd, Bangkok where the rate shall be 5,8 %, (additional code 8544).

3. The provisions in force concerning customs duties shall apply.

4. The release for free circulation in the Community of the products referred to in paragraph 1 shall be subject to the provision of security, equivalent to the amount of the provisional duty.

Article 2

Without prejudice to Article 7 (4) (b) and (c) of Regulation (EEC) No 2423/88, the parties concerned may make known their views in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

Article 3

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

Subject to Articles 11, 12 and 13 of Regulation (EEC) No 2423/88, Article 1 of this Regulation shall apply for a period of four months, unless the Council adopts definitive measures before the expiry of that period.

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

Done at Brussels, 23 May 1991.

For the Commission

António CARDOSO E CUNHA

Member of the Commission