COMMISSION REGULATION (EEC) No 2957/93

of 26 October 1993

imposing a provisional anti-dumping duty on certain imports of gas-fuelled, non-refillable pocket flint lighters originating in 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 10 (6) thereof,

After consultations within the Advisory Committee as provided for in that Regulation,

Whereas :

A. PROCEDURE

(1) On 7 April 1990 the Commission published in the *Official Journal of the European Communities* (2) a notice of the initiation of an anti-dumping proceeding concerning imports into the Community of gas-fuelled, non-refillable pocket flint lighters, falling within CN code 9613 10 00 originating in Japan, the People's Republic of China, the Republic of Korea and Thailand.

(2) The Commission conducted an examination of dumping and injury. All companies were informed of the essential facts of the results of the investigation and had an opportunity to comment on them. It was established that dumping was taking place, that injury was caused to the Community industry concerned by the dumped imports and that the Community's interests called for the imposition of definitive measures. Consequently, the Council imposed by Regulation (EEC) No 3433/91 (3), a definitive 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. For one Thai producer, Thai Merry Co. Ltd, a dumping margin of 14,1 % was established, and, as the injury threshold for this company exceeded its dumping margin, duties could have been imposed at the level of the dumping margin. However, a price undertaking from this company was accepted by Commission Decision 91/604/EEC (4). The Council accordingly exempted imports of the product concerned produced by Thai Merry Co. Ltd from the definitive anti-dumping duty.

B. WITHDRAWAL OF THE UNDERTAKING

(3) Thai Merry Co. Ltd has, by correspondance dated 18 August 1993, withdrawn its undertaking. Accordingly, the exemption from the said anti-dumping duty of the imports of the product concerned produced by Thai Merry Co. Ltd is no longer justified.

The exporter has, according to Article 10 (6) of Regulation (EEC) No 2423/88, been informed of the Commission's intention to apply provisional anti-dumping duties on the basis of the facts established before the acceptance of the undertaking and has been offered the opportunity to comment. No comments relevant to the imposition of provisional duties were received within the time period allowed.

C. COMMUNITY INTEREST

(4) The Commission has no reason to believe that the findings concerning Community interest expressed in Regulation (EEC) No 3433/91 warrant amendment. In addition, not imposing provisional duties on Thai Merry Co. Ltd would be discriminatory towards those exporters on which measures are still in force. Since no arguments that such measures would not be in the Community interest have been put forward, it is considered that the Community's interests call for the immediate application of provisional measures.

D. PROVISIONAL DUTIES

(5) According to Article 10 (6) of Regulation (EEC) No 2423/88, provisional anti-dumping duties should be applied on the basis of the facts established before the acceptance of the undertaking. The level of the provisional anti-dumping duty should therefore be set at a rate of 14,1 %,

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 Thailand, and produced by Thai Merry Co. Ltd. (Taric additional code : 8740)

(1) OJ No L 209, 2. 8. 1988, p. 1.
(2) OJ No C 89, 7. 4. 1990, p. 3.
(3) OJ No L 326, 28. 11. 1991, p. 1.
(4) OJ No L 326, 28. 11. 1991, p. 31.

2. The rate of the duty shall be 14,1 %, applicable to the net, free-at-Community-frontier price before duty.

3. The entry into free circulation in the Community of the product referred to in paragraph 1 into shall be conditional upon the deposit of security for the amount of the provisional duty.

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

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 bevore the expiry of that period.

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

Done at Brussels, 26 October 1993.

For the Commission

Leon BRITTAN

Vice-President