COMMISSION REGULATION (EC) No 1092/97

of 16 June 1997

imposing provisional anti-dumping duties on imports into the Community of advertising matches originating in Japan

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) 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 Article 23 thereof,

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 Community [3], as last amended by Regulation (EC) No 592/94 [4], and in particular Article 11 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Initiation

(1) In August 1994, the Commission announced by notice published in the *Official Journal of the European Communities* [5] the initiation of an anti-dumping proceeding concerning imports of advertising matches originating in Japan, and commenced an investigation.

(2) The proceeding was initiated as a result of a complaint lodged by the Fédération Européenne des Fabricants d'Allumettes (FEFA) acting on behalf of the most important producers of advertising matches in the Community whose collective output constitutes a major proportion of the total Community production of the product concerned. The complaint contained evidence of dumping and of material injury resulting therefrom which was considered sufficient to justify the initiation of an anti-dumping investigation.

2. Investigation

(3) The Commission officially advised the producers/exporters and importers known to be concerned, representatives of the exporting country and the complainants, of the initiation of an investigation and gave the parties directly concerned the opportunity to make known their views in writing and to request a hearing.

A number of producers/exporters in the country concerned, the complaining Community producers and several importers in the Community, made their views known in writing. Hearings were granted when requested.

(4) The Commission sent questionnaires to all parties known to be concerned by the investigation and received replies from the complaining Community producers, from four Japanese producers/exporters, and from five independent importes located in the Community.

(5) The Commission sought and verified all information it deemed necessary for the purpose of preliminary determination of dumping and injury and carried out investigations at the premises of the following companies:

(a) *complainant Community producers*

— Swedish Match Belgium SA, Geraardsbergen, Belgium,

— Fosforera Española SA, Madrid, Spain [6],

— Fosforeira Portuguesa, Lisbon, Portugal;

(b) *producers/exporters in the exporting country*

— Kobe Match Co. Ltd, Ibo-gun,

— Yaka Chemical Industry Co. Ltd, Himeji,

— Daiwa Trading & Industrial Co. Ltd, Himeji,

— Harima Match Company Co. Ltd, Himeji.

(6) The following independent importers located in the Community participated in the current proceeding by answering a specific questionnaire:

— JNB & Klug, Naerum, Denmark,

— Gadget Print PVBA, Brussels, Belgium,

— Ecodeux NV, Gent, Belgium,

— Werbeträger Vertriebs GmbH, Grande, Germany,

— Zündholz International, Meckesheim, Germany.

(7) The investigation of dumping covered the period 1 July 1993 to 30 June 1994 (hereinafter referred to as the 'investigation period').

[1] OJ No L 56, 6. 3. 1996, p. 1.
[2] OJ No L 317, 6. 12. 1996, p. 1.
[3] OJ No L 209, 2. 8. 1988, p. 1.
[4] OJ No L 66, 10. 3. 1994, p. 10.
[5] OJ No C 214, 4. 8. 1994, p. 6.

[6] 100 % owned by Swedish Match.

The examination of injury covered the period 1 January 1990 to 30 June 1994.

The length of the investigation overran the period specified in Article 7 (9) (a) of Regulation (EEC) No 2423/88 (hereinafter referred to as 'the Basic Regulation') owing to its complexity, particularly the detailed checking of the many figures and arguments put forward during the course of the investigation. These had to be carefully analysed for the Japanese operators as well as for Community operators and the whole injury analysis had to be assessed in accordance with renewed submissions.

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

(8) The product under consideration is advertising matches sold in the form of book or box matches (hereinafter referred to as 'advertising matches') falling within CN code 3605 00 00. Advertising matches are sold in a great variety of shapes, sizes and finishes. They can be distinguished from household matches, which fall under the same CN code, by means of an advertising logo or an advertising message printed on the outside of the cover or box, depending on the product.

(9) During the investigation, it was found that advertising matches sold on the Japanese market and exported from Japan to the Community and advertising matches produced and sold by the Community industry can be considered identical or closely comparable in their physical characteristics, their function and uses. Therefore, all these advertising matches are to be considered as one 'like product' within the meaning of Article 2 (12) of the Basic Regulation.

C. DUMPING

1. Normal value

(10) In order to decide whether normal value for the Japanese producers/exporters could be established in accordance with Article 2 (3) (a) of the Basic Regulation, on the basis of the prices for the relevant models of the like product, actually paid or payable in the ordinary course of trade by independent customers on the domestic market, the Commission carried out the following tests.

(11) Consideration was first given to whether the types of advertising matches sold by the four cooperating producers/exporters on the domestic market could be regarded as identical or directly comparable to the types of advertising matches sold for export to the Community. This was found to be the case.

(12) The Commission subsequently established, for each producer/exporter, whether its total domestic sales were representative in comparison with its total export sales of advertising matches to the Community. For each producer it was found that total domestic sales volume was in excess of 5 % of the volume of total export sales to the Community and it was consequently considered to be representative.

(13) For each of the individual types of advertising matches sold by the producers/exporters on their domestic market and found to be comparable to the types sold for export to the Community, the Commission also investigated whether domestic sales were taking place in sufficient quantities. Domestic sales, on a type basis, were considered to be sufficiently representative when the volume of each type sold domestically during the investigation period represented 5 % or more of the volume of the same type sold for export to the Community.

(14) The Commission further assessed for each type sold on the domestic market in representative quantities whether or not there were sufficient sales made in the ordinary course of trade by verifying what proportion of domestic sales was profitable.

(15) For a considerable number of types, the above conditions were met. In those circumstances, the normal value for each of these types was based on the prices paid or payable in the ordinary course of trade by independent buyers on the domestic market as set out in Article 2 (3) (a) of the Basic Regulation.

(16) In the remaining cases in which it was found that a type of product was not sold in representative quantities or when these sales were not made in the ordinary course of trade on the domestic market to permit a proper comparison in accordance with Article 2 (3) (a) of the Basic Regulation, normal value was constructed on the basis of Article 2 (3) (b) (ii) of the Basic Regulation. In that case, the Commission used the verified cost of manufacturing plus a reasonable amount for sales, general and administrative (SG&A) expenses and profit. The SG&A and profit were established, as a rule, with reference to other types of advertising matches sold by the same producer/exporter concerned.

In the case of one producer/exporter it was considered that its data on SG&A and profit could not be used as it did not have sufficient domestic sales in the ordinary course of trade of certain types of products, and because its own SG&A expenses and profits could not be used in the view of the signi-

ficant differences in SG&A and profit as between the various product types; SG&A and profit were therefore calculated for the company by reference to the sales made on the domestic market for the same types of product of other cooperating companies. This was considered to be a reasonable and reliable approach since other companies' data relating to the domestic sales of the corresponding product types were used only if those sales were found to be representative and made in the ordinary course of trade.

(17) In the course of the investigation it was also found that one company did not itself produce certain categories of advertising matches (book-matches) which it exported to the Community during the investigation period. The products in question were purchased from an unrelated producer in Japan which did not cooperate with the Commission in this proceeding. Since this producer/exporter did not have representative domestic sales of the traded product, normal value was provisionally based on the prices for comparable types of advertising matches manufactured and sold by another cooperating producer, in accordance with Article 2 (3) (c) of the Basic Regulation, as it was established that this other producer sold during the investigation period a substantial volume of identical models on the domestic market.

2. Export price

(18) All export sales of advertising matches to the Community have been made to independent customers in the Community. Consequently, the export price for all exporters/producers in Japan was established in accordance with Article 2 (8) (a) of the Basic Regulation, on the basis of the export prices actually paid or payable net of all taxes, discounts (including deferred discounts) and rebates.

3. Comparison

(19) For the purpose of a fair comparison, due allowance in the form of adjustments was made for differences which were claimed within the time limits specified and demonstrated to affect price comparability. Those adjustments were made when the company concerned was in a position to demonstrate the effect of alleged differences on prices and price comparability, in accordance with Article 2 (10) of the Basic Regulation, in respect of different levels of trade, guarantee costs, cost of transport and handling, credit cost and salesmen's salaries.

(20) Three companies claimed that normal value should be established only on the basis of the sales to unrelated distributors. The Commission found in the investigation that exports to the Community were exclusively made to distributors, whereas, as far as domestic sales were concerned, sales were made not only to unrelated distributors, but, also in a considerable number of transactions, to independent wholesalers or direct to end-users. In the circumstances, the Commission investigated whether any of these categories of doemstic customers, for the product concerned, had functions which were clearly distinct from those of distributors in the Community and whether any differences in function were reflected in the market concerned, in terms of the quantities sold, pricing policy and the pattern of prices charged.

The investigation demonstrated that for sales on the domestic market to the different categories of unrelated customers no discernible differences could be established, either in the quantities sold or in the pattern of prices charged. In most cases, it also has not been demonstrated to the satisfaction of the Commission that the different categories of customer on the domestic market would *de facto* have had different functions in the distribution channel between producers and end users.

In the absence of evidence of any discernible effect on prices, quantities sold or functions performed in the distribution chain, this claim has therefore been rejected.

Consequently, for the establishment of the normal value all domestic sales to first independent customers, whether to wholesalers or to distributors or to end users, have been taken into account.

(21) One company claimed an allowance for guarantee costs incurred. However, it was found during the verification that the goods delivered to Community customers, for which the claims were made, were not delivered in accordance with the order-confirmation and that this order had therefore to be manufactured again and delivered a second time. It was therefore considered not to be an issue of 'guarantees' for a delivered product but much more an issue of a product that was delivered but did not conform with the agreed and confirmed order-specification by the Japanese producer. The deliveries were for that reason not accepted by the customers.

The claim for guarantee allowance was therefore not considered to be justified and consequently rejected.

4. Dumping margins

(22) The comparison at an ex-factory level and at the same level of trade shows the existence of dumping for all cooperating companies, the dumping margin being equal to the amount by which the normal value exceeds the price for export to the Community.

(23) The weighted average dumping margins provisionally established for each producer/exporter, expressed as a percentage of the free-at-Community frontier price are as follows:

— Daiwa Trading & Industrial Co. Ltd	35,0 %
— Harima Match Company Co. Ltd	63,5 %
— Kobe Match Co. Ltd	12,2 %
— Yaka Chemical Industry Co. Ltd	23,3 %.

(24) In the case of companies which did not reply to the Commission's questionnaire or did not make themselves known, the Commission considers that for those companies the dumping margin should be determined on the basis of the facts available in accordance with Article 7 (7) (b) of the Basic Regulation.

These facts were considered to be those established and verified by the Commission during the investigation. Since the Commission has no reason to believe that non-cooperating companies would have practised dumping at levels lower than the highest dumping found and in order not to reward their non-cooperation, it was considered appropriate to apply the highest dumping margin found for a cooperating exporter/producer, namely 63,5 %.

D. DEFINITION OF COMMUNITY INDUSTRY

(25) In accordance with Article 4 (5) of the Basic Regulation and on the basis of the available information on the total production of advertising matches in the Community, the term 'Community industry' in the current proceeding is interpreted as referring to the Community producers of the like product whose collective output constitutes a major proportion of the total Community production who supported the complaint and who actively cooperated in the proceeding. The Community industry, as defined above, represents approximately 78 % of the total Community production of advertising matches.

(26) The investigation has shown that one of the Community producers supporting the complaint was also importing the dumped product subject to the proceeding. In these circumstances, the Commission had to examine whether, in the light of the provisions of Article 4 (5) of the Basic Regulation, this company should be excluded from the definition of 'Community industry'.

(27) In this respect it should be recalled that Article 4 (5) of the Basic Regulation does not provide for the automatic exclusion of producers who are themselves importing the dumped products, but requires the Commission to determine on a case-by-case basis whether the exclusion of any producer in this situation is warranted. For the purposes of carrying out this examination in the present case, it appeared appropriate to determine whether the company was primarily a producer with an additional activity based on imports, merely supplementing its Community production in order to be able to offer a complete range of products or whether it was an importer with relatively limited additional production in the Community.

In the present investigation, it was established that the product types imported represented less than 4 % of the producer's own production. This alone shows that the company's core interests remained in the Community. Therefore it was decided that this producer should not be excluded from the assessment of the Community industry.

The impact of the above imports was, however, disregarded when the injury factors pertinent to the Community industry were established. In addition, none of the complaining Community producers was found to be related to Japanese exporters for the product concerned.

E. INJURY

1. Consumption on the Community market

(28) For the purpose of this investigation, consumption has been established on the basis of the sales of the main market participants, taking into account total sales of advertising matches made by the Community industry, minus their declared exports, plus the imports originating in Japan, since no exhaustive information on the other non-complaining producers in the Community was available, nor were there any indications of other third country imports during the period of the injury investigation.

(29) Accordingly, consumption of advertising matches decreased from 441,2 million units to 383,6 million — that is, by 13 % in volume from 1990 to the investigation period, whereas the value of the market increased by 3 %.

2. Dumped imports

(a) *Volume and value*

(30) Even though household matches, which are not subject to the current investigation, also fall within the same CN code as the product concerned, all imports from Japan falling within CN 3605 00 00 were considered imported advertising matches, as no evidence was supplied to demonstrate that household matches originating in Japan were imported into the Community.

(31) The volume of imports of advertising matches from Japan from 1990 to the investigation period decreased from 161,2 million units to 139,8 million units — a decline of 13 %.

(32) These imports increased by 31 % when measured in value (ecu). It should be noted, however, that most of these imports were invoiced in Yen to Community-based customers. Therefore this development must be seen in the light of the appreciation of the yen against the ECU in the period 1992 and 1993.

(b) *Market share*

(33) During the whole period under examination, the share of the Community market, measured in volume, held by the Japanese exporters was stable at around 36 %. When measured in value, it increased by 24 %, reaching a level of 35,7 % during the investigation period from 29 % in 1990.

(c) *Prices of the dumped imports*

(34) For the purpose of the price analysis, four basic models, identified in the business as BX1, BX2, BX3 and BX3A, were taken into account. These models represent over 50 % of the total import of advertising matches made by the cooperating Japanese exporters in the Community.

(35) As mentioned in recital 32, Japanese export sales to the Community market were mainly drawn up in Japanese yen. On this basis, the average price increase of dumped imports was limited to 3 % from 1991 up to the investigation period.

A decrease of about 2 % occurred between 1993 and the investigation period.

On the basis of prices of exports by Japanese exporters converted into ecu, it appeared that Japanese prices increased by 40 %, reflecting the strong appreciation of the yen against the ecu.

(d) *Price undercutting*

(36) The investigation has shown that advertising matches were sold in the Community market to three categories of customers, depending on the size of their orders:

— the first category includes those customers whose orders do not exceed 5 000 units,

— the second includes those purchasing from 5 001 to 55 000 units,

— the third covers all larger orders.

The various categories are reflected in the price lists of the various sellers of advertising matches in the Community.

(37) It was also found that whilst Japanese sales are concentrated on orders of not more than 10 000 units, that is, on small and on some of the medium-sized orders, the Community industry sold to all the above categories of customers.

This is demonstrated by the fact that 46 % of the volume of the Japanese products are sold to the first category of customers, 44 % to the second category and only 10 % to customers belonging to the third category.

The Community industry sold 16 % to the first category, 30 % to the second and 54 % to customers ordering over 55 000 units.

(38) According to this breakdown, the prices charged to independent customers by Japanese exporters were compared with the prices charged for identical models of advertising matches by the Community industry in the Community market, separately for the above three categories of customers.

(39) As Japanese products were imported through unrelated importers which re-sold them to users, whereas most of the Community industry sales were directly made to such users, the average Japanese sales prices charged to the first independent importers in the Community, on a model-by-model basis, had to be duly adjusted to a level of trade comparable to that of the Community industry in order to ensure a fair comparison.

In order to arrive at the same level of trade as the Community industry, the Commission examined the data provided by the cooperating, unrelated importers of the like product.

One importer submitted sufficient, representative and reliable data for this purpose; import prices, as determined at a cif Community-frontier level, were thus adjusted upwards by a margin of 33 %.

(40) Furthermore, it was found that six identical types of advertising matches, namely 5L-BX3/BX3A, BX1, 5H-BX5/BX5A, BM20-BK2, BMJ18-BK3 and BMJ20, were representative of both the Community industry and Japanese export sales in the Community market and were thus used for the price comparison.

In this way about 84 % of the Community industry's sales volume and approximately 65 % of that of the cooperative Japanese exporters were covered in this exercise.

As a result, this comparison showed undercutting with respect to all Japanese exporters, the average undercutting margins expressed as a percentage of the Community industry sales price being 6,2 %. For the various sales segments the average undercutting margins were established at 5,5 % for small orders, 6,5 % for medium orders and 7,2 % for large orders.

(41) Those relatively limited price undercutting margins should be considered in the light of profitability and price movements of the Community industry, analysed in detail below, and should also be set against the price movements of Japanese imports. Indeed, it was established that the Community industry's profitability deteriorated steadily, and that losses were mainly incurred in the sales segments where Japanese products were particularly present.

As regards sales-price movements, it was found that from 1991 to the investigation period, Community industry sales prices increased only by 4 %, while Japanese prices, expressed in ecu, increased by 40 %, but were still undercutting those of the Community industry.

3. Situation of the Community industry

(a) *Sales volume and value*

(42) The sales volume of advertising matches made by the Community industry — purchases of Japanese products being disregarded — declined between 1990 and the investigation period by 36 million units, a decrease of 12,8 %. Two hundred and eighty million units had been sold in 1990, whereas 244 million units were sold during the investigation period. The decrease in the value of sales was about 3 % during the same period.

(b) *Market share*

(43) On the basis of the above data, the development in market share showed that the share of the Community market measured in volume held by the Community industry was stable (63,4 % in 1990 and 63,5 % during the investigation period). With respect to the market as measured in value terms, its share decreased from 70,9 to 64,2 % — that is to say, by about 10 %.

(c) *Production, capacity and capacity utilization*

(44) Production of the Community industry was stable during the period under examination at around 306 million units. It decreased by 8,2 % from 1990 to 1992, but increased by 13 % from 1992 to 1993.

As far as production capacity and its utilization are concerned, the Commission found during the investigation that no meaningful basis existed for its measurement. This was essentially due to the highly versatile use of the production equipment concerned as well as the variable production runs resulting from orders of varying sizes and relative set-up times required.

(d) *Price development of the Community industry*

(45) The movement of the prices of the Community industry was assessed on the basis of prices charged in the Community market for the types of advertising matches produced by the Community industry comparable to those exported by the Japanese exporting producers.

Most of the types of advertising matches used for this price analysis (80 %) are comparable with the Japanese ones analysed in recital 34 which ensures that there is a considerable overlap in the various types investigated.

(46) From 1991 up to the investigation period, even though the average sales prices charged by the Community producers increased by 4,3 %, the level of prices was not sufficient to allow this industry to cover its costs during the investigation period. Furthermore, it should be added that for the period 1992 to 1993 prices of the Community industry could not be increased and were 4 % lower than the 1991 level.

(e) *Profitability*

(47) The Commission has examined the internal cost allocation and the related profitability assessment presented by the Community industry. Some allocation of costs pertinent to previous years, such as restructuring costs, the allocation of other costs related to 1993 and other expenses which could not be justified were disregarded in assessing profitability during the investigation period.

(48) It was established that the Community industry's overall profitability for the product concerned deteriorated from a profit of 2,6 % in 1992 to losses of 0,9 % during the investigation period. However, to be meaningful, facts and figures relating to profitability have been analysed in the light of the particular market situation for these products, namely per sales segment as defined in recital 36.

(49) Japanese sales are concentrated on orders of no more than 55 000 units, i.e. small and medium orders (see recital 37) where they represented over 90 % of the total Japanese sales volume to the Community or more than 32 % of the total market. The Commission therefore reached the conclusion that the sales of adversiting matches by Japanese producers are targeted at particular segments of the Community market.

(50) In parallel, it was found that the Community industry's profitability developed differently according to the different categories of customers. The average profitability for sales on small and medium orders, representing about 46 % of the sales volume of the Community industry, declined from a profit of 3,36 % on turnover in 1991 to losses of 8,9 % during the investigation period.

Meanwhile, in the segment of large orders, where Japanese products are not so much in evidence as in the other two segments, sales remained profitable at a level of around 6 % of turnover throughout the same period.

However, even in this category, the Commission industry incurred losses on the sales of one of the main types of advertising matches used for the undercutting exercise and reported under recital 40; another was sold at a considerably lower profit margin. It can therefore be concluded that this segment was less affected by dumped Japanese imports but still suffered a loss of profitability.

(f) *Cash flow*

(51) Cash flow was established at company-wide level as the figures for the products concerned were not available. The activities of the Community industry, other than those related to the product concerned (namely sales of household matches and trading activities), represented over 20 % of the total.

The overall cash flow generated declined by over 22 % from 1992 to 1993. This in itself suggests that the capacity for self-financing in the Community industry was significantly reduced. As the operating profit for the products concerned decreased, the reduction of the cash flow cannot be attributed to any other activities performed by the industry concerned, which remained profitable.

(g) *Investments*

(52) Despite the deterioration of its overall financial situation, from 1990 up to 1993 the Community industry has mainly invested in equipment used for printing. For the following years, further investments were planned; however, they will depend on improvement of the cash flow and of the generally negative financial situation of the Community industry.

(h) *Employment*

(53) Employment in the sector of advertising matches between 1990 and the investigation period decreased by 13 % and the poor financial situation of the Community industry in the investigation period puts the future of several hundred more jobs in jeopardy.

4. Conclusions on injury

(54) From 1990 up to the investigation period, the Community industry, confronted with dumped imports of low-priced advertising matches originating in Japan, has lost an important share of the market as measured in value (about − 10 %) while Japanese imports increased theirs by 24 %. Those imports maintained a high market share throughout the whole period under examination.

Despite the fact that the volume of production could be maintained and prices slightly increased, it was found that sales prices of the Community industry during the investigation period were below the cost of production and that these sales prices were being undercut by those of imports originating in Japan. The analysis of profitability has shown that the results are highly negative in certain segments of the market.

(55) In addition, cash flow decreased considerably and the necessary investments, for instance in printing technologies, could not be made without compromising the whole financial situation of the Community industry. Furthermore, employment had to be significantly reduced and the remaining jobs are still in jeopardy owing to the precarious financial situation in this sector.

(56) In these circumstances, the Commission concluded that the Community industry has been suffering material injury in accordance with Article 4 (1) of the Basic Regulation.

F. CAUSATION OF INJURY

(57) The Commission examined the extent to which the material injury suffered by the Community industry was caused by the impact of dumped Japanese imports, and whether other factors had caused or contributed to that injury in order to ensure that injury caused by these other factors was not attributed to the dumped imports concerned.

Such other factors considered were the changes in consumption, competition from other producers in the Community, other imports, the export performances of the Community industry and the behaviour of the main economic operators during the period under examination.

1. Impact of dumped imports from Japan

(58) It has been established that advertising matches produced by the Community industry and those imported from Japan are in direct competition with each other and that there are no differences in quality between them. The products are aimed at the same users, through comparable sales channels. Given the transparency of the market, the presence of low-priced dumped imports had a direct negative impact on the situation of the Community industry.

(59) To fully appraise the impact of imports from Japan it should be noted that, firstly, even though their volume had not increased since 1990, such imports have always represented a significant share of the Community market (over one-third).

Secondly, during the above period the Japanese share of the market increased in value by 24 % while the Community industry's share decreased by 10 %.

(60) Furthermore, it was found that throughout the whole period under examination Japanese prices were lower and undercut those of the Community industry. Although the former prices significantly increased during the investigation period, they were still lower and undercut the latter by an average of 6,2 %. At the same time, despite a slight increase in the average Community industry sales prices, its profitability for the product concerned was negative, and particularly so in the sales segments where Japanese products were strongly represented.

Consequently, this situation indicates that during the whole period under examination Community industry prices have been considerably suppressed in the face of low prices of dumped imports.

(61) Indeed, as regards sales to customers ordering small and medium quantities of advertising matches, where sales of the Japanese products are concentrated, the Community industry's profitability was highly negative (– 8,9 %). An average profit of 6 % was achieved for sales to large customers where sales of Japanese products were negligible.

This demonstrates that its difficulties are linked to, and directly commensurate with, the presence of dumped Japanse imports in the market.

(62) The examination of the impact of dumped imports on the Community industry concerned should also be seen in the light of the magnitude of the actual dumping margin for the exporters concerned, which was found to be 28 % on average.

2. Impact of other factors

(a) *Changes in consumption*

(63) Between 1990 and the investigation period the volume of consumption in the Community decreased by about 13 %; but its value increased by 7 %. The decrease in volume is due to several factors, such as the decrease in the number of smokers, the outlawing of advertising for tobacco products in certain Member States, competition from other advertising products (such as advertising lighters) and a general recessive situation in the Community market (1992 to 1993).

However, it should be pointed out again that during this period, the Community industry lost 10 % of its market share in value, while Japanese exporters increased theirs by 24 %.

Furthermore, Japanese advertising matches are concentrated on particular sales segments and since 1990 their position in certain segments strengthened to the extent that they were better represented than the Community industry after the recessive period.

The overall market share of the Japanese exporting producers in volume terms still being higher than the share measured in value terms points to the fact that on average Japanese sales prices are lower than those of the Community industry, and indicates that low-priced, dumped Japanese imports had a negative, ongoing impact on the Community industry over the years during the injury examination, running counter to the changes in consumption.

(b) *Other Community producers of advertising matches*

(64) The other producers of advertising matches in the Community are mainly located in Italy, Spain and France and represented 22 % of total Community production during the investigation period. No information was available; nor was any evidence submitted or found to demonstrate that those other producers might have had an injurious material impact on the complaining industry, and that their economic situation developed in a different way from that of the Community industry.

On the contrary, the available data concerning the largest non-complaining Community producer shows that its sales and production decreased significantly over the period under examination. It can therefore be concluded that the other producers in the Community faced the same difficulties as the complainant producers, and that their impact on the injurious situation of the latter, if any, was very limited.

(c) *Other imports to the Community*

(65) On the basis of the available statistics it was found that other imports to the Community under the same CN code as advertising matches had taken place. These imports were limited to shipments originating in Poland and Croatia. However, they were regarded as imports of household matches since according to the information available, no production of such products takes place in these countries.

Consequently, imports of the products concerned from other third countries were considered negligible and therefore could not have contributed to the deterioration of the situation of the Community industry.

(d) *Export performances and other activities of the Community industry*

(66) The export activity of the Community industry has always represented a limited part of its overall sales. From 1990 up to the investigation period exports outside the Community represented about 14 % of total sales by the Community industry of the products concerned and remained stable during the whole period. Therefore the deteriorating situation of the Community industry cannot be attributed to a fall in export sales.

(67) The Community industry's other business activities represented about 20 % of its total sales during the investigation period. It was established that these other activities (namely trading of advertising matches and production and sales of household matches) were profitable and that the difficulties of the Community industry could not be attributed to those activities.

(e) *Changes in the general economic situation*

(68) In order to evaluate fully the development of the behaviour of the main economic operators a chronological, detailed analysis of the period under investigation has been carried out.

(69) In this respect, the general negative tendency in the Community market has also caused a certain market downturn in the advertising-matches sector during the period under investigation. Given its general nature, the effects of a downturn would thus affect all economic operators in a comparable way. An analysis of the results of the current investigaiton has, however, shown that this was not the case.

(70) Indeed, in 1992 compared to 1990, the volume of consumption decreased by about 9 % in the Community as a whole. During this same time period, the Community industry reduced its prices by 4 % on average; sales volume decreased by 14 % and the relative market share by 5 %; production also decreased by 8 %.

During the same period, Japanese export prices, while remaining significantly lower than the Community industry prices, increased by 7 % on average, without any negative consequences on the volume of imports which remained stable. On the contrary, the result was that in a shrinking market the volume of the share of the market held by Japanese exporters increased by 8 %.

(71) During the above same period, when consumption in the Community market measured in value also decreased by 3 %, Community industry sales decreased by 11 % with a relative loss of 8 % in market share. In contrast, Japanese import value increased by 16 % and the relative market share by 21 %.

(72) In 1993, compared to 1992, despite signs of recovery in the Community industry (increase of production, volume and value of the market share and a slight increase in sales prices), any improvement was heavily hampered by the large market share held by the dumped imports (over 34 %) combined with the low level of prices applied by the exporters under investigation which still decreased by 2 % when analysed using the invoice currency, namely the yen.

Owing to the low price level imposed by Japanese imports, Community prices in 1993 were 4 % lower than the 1991 price level; consequently the financial situation of the Community industry had deteriorated.

(73) From 1993 to the investigation period, consumption in volume again decreased by 9 % and the Community industry, after two years of depressed prices, increased its average sales prices, although still without reaching a profitable level. This was due to a decrease in the sales volume of 11 %, a loss of 2,5 % in market share and a decrease of 4 % in production.

(74) During the same period, while consumption in value decreasd by 5 %, the value of Community industry sales decreased by 4 % and market share by 3 %. In the meantime, the market share of Japanese imports increased by over 2 % in volume and 10 % in value.

(75) The above chronological analysis from 1990 up to the investigation period is indicative of the size of the gap that has always existed between Japanese prices and those of the Community industry. Indeed, it is clear that before the yen appreciated Japanese prices were significantly undercutting those of the Community industry. During the investigation period, even after the strong appreciation of the yen and the consequent increases in ecu, Japanese prices were still undercutting those of the Community industry. Thus, throughout all the years examined the Community industry suffered an injurious situation.

3. Conclusion on causality

(76) The imports under investigation had a material impact on the Community industry due to the combined effects of high market share, especially in certain sales segments, the low level of their prices and the resulting negative return on sales of the Community industry, especially in the segments where the presence of dumped low priced imports was strongest.

(77) Given that advertising matches are technically a simple product, offered through similar sales channels to the same users in the Community, the Commission considers that the low-priced imports had a substantial negative impact on the deteriorating situation of the Community industry. The market being transparent, the low prices of these imports were well-known by the Community industry's present and potential customers.

(78) For all the reasons above, although the negative situation of the Community industry has not been caused solely by imports of the product concerned from Japan, it must be concluded that the impact of low import prices and the high maket share of dumped imports, taken in isolation, has caused material injury to the Community industry.

G. COMMUNITY INTEREST

1. General

(79) On the basis of all the available information, the Commission examined whether it could be clearly concluded that it would not be in the Community interst to apply measures.

For this purpose, the Commission has considered the impact of possible measures and the consequences of not taking any.

2. Consequences for the Community industry

(80) When assessing the Community interest, special consideration has to be given to the need to eliminate the trade-distorting effects of injurious dumping and restore effective competition. Indeed, the Commission found that during the period under investigation the Community industry has made efforts to rationalize production, and has invested in order to remain competitive and maintain its market share. This demonstrates that the industry is not ready to abandon this segment of production.

(81) As a matter of fact, the investigation has shown that the Community industry is still competitive and globally viable. However, owing to the high quantities of low-priced imports, its economic situation has been considerably weakened since 1990, as the poor return on sales to small customers, price depression and price suppression on the Community market clearly indicate. This negative situation cannot be sustained in the longer term.

(82) When examining the Community interest in relation to the Community industry, the Commission has to take into consideration the future development of its situation if dumped imports from Japan are allowed to continue. The facts available suggest that this would lead to further negative effects on profitability, investments and employment.

3. Impact on importers and traders

(83) Only a limited number of importers made their views known to the Commission. Some of them fully cooperated in the preliminary determination of dumping and injury; others preferred not to do so. All the submissions received were examined as explained below.

(84) One company lcoated in the United Kingdom producing and importing the product concerned was opposed to the imposition of anti-dumping measures on Japanese imports. It claimed that this would have adverse effects not only on Japanese exports, but also on its subsidiary activities developed in the United Kingdom and would cause supply shortages for small customers.

It further claimed that the main Community producer, part of the complaining industry, was not interested in customers whose orders were below 10 000 units and that, therefore, the only reliable source of supply for small orders was through Japanese exporters.

(85) Aside from the fact that this particular company did not cooperate with the Commission in the current investigation and that therefore the allegations were not substantiated nor could they be verified, it was established on the basis of the facts made available by the Community industry during the investigaiton period that its sales volume to customers whose orders were below 10 000 units represented about 28 % of the total sales volume during the investigation period. In value those sales represented over 37 % of its total sales in the Community. Contrary to the abovementioned allegation, this underlines the fact that the Community industry is fully present in this market segment.

(86) Another importer claimed that there are agreements between some Community producers and some eastern European countries to switch production to those countries. Under those circumstances, the measures could not have any positive impact on future employment in the Community. On the contrary, any measures would further increase unemployment in the Community at the level of importers. Community producers would thus gain such an advantage as to eliminate Japanese competition definitively and all unrelated importers in the Community.

(87) The Commission did not receive any evidence supporting this claim. Given its highly speculative nature it is considered appropriate not to take this submission into account.

(88) Other unrelated importers who made themselves known and who cooperated with the Commission put forward the following main reasons and concluded that imposing measures would be against the Community interest.

Any measures would have direct negative consequences on the importers of advertising matches from Japan due to an increase in their costs and reduction of their profits. Negative effects would consequently also be felt by the users, obliged to pay higher prices for the product concerned. Any action to protect the Community industry would therefore lead to adverse effects on prices, costs and employment.

(89) The Commission considers that the advantages that the absence of measures would entail for a very limited number of importers have to be seen against the overall disadvantages for the Community industry as a whole and its economic situation. Indeed, without the imposition of measures, plant closures in the Community are probable with all the attendant negative consequences for the economy.

4. Impact on users

(90) To assess the impact of whether or not do apply measures on the users, the Commission has determined who are the potential users of advertising matches in the Community market. These are restaurants, hotels and bars (47 %), various other sectors (finance, industry, services, etc.) (35 %) and the tobacco producers (18 %).

(91) The impact on the users would mainly be in the form of an increase in the sales prices of advertising matches. Taking into account the fact that advertising matches only cover a minute portion of the advertising budget of the above users, the Commission is of the opinion that the effects of any such price increase would be limited.

Furthermore, competition among the various other advertising supports, such as advertising lighters, ball-point pens, etc., should keep any price increases of advertising matches to a negligible level.

(92) On the basis of the above elements, and in view of the fact that taking measures would not lead to a foreclosure of the Community market, it can be concluded that a possible price increase would not put the Community users, among themselves, at a disadvantage.

5. Impact on the competititve environment in the Community market

(93) Importers of the dumped products have claimed that imposition of anti-dumping measures would strengthen the position of the complaining industry which already represents 78 % of the whole Community production and whose market share is over 50 % of the Community's market overall. They claimed in particular that following the imposition of measures, the Community industry would set prices in the Community market at such low levels that the importers would simply be eliminated from it.

(94) While the Commission recognizes that the Community industry holds an important position on the Community market, it cannot be concluded, on the basis of the available facts, that anti-dumping measures would result in an abuse of such a position by the complainants.

As far as the alleged price strategy of the Community industry is concerned, for such a low price policy to achieve its aim it would need to be applied in the long term. Given the poor financial situation of the Community industry, the Commission considers that such a policy would be self-defeating and therefore highly unlikely.

Furthermore, the Community market is by far the biggest market and source of revenue for the Community industry, whereas for Japanese exporters it is only secondary; and they could therefore resist much longer an unprofitable low-price policy than the Community industry.

(95) As regards the unrelated importers in the Community for which the Community market it also very important, it should be pointed out that despite the fact that their price policy largely depends on the relative behaviour of their Japanese suppliers, they still benefit from dumped Japanese imports and therefore from unfair trade practices compared with other operators in the Community market.

In addition it has been established that the resale prices of Japanese advertising matches adjusted on the basis of the financial data submitted by the cooperative unrelated importers, are still below and undercut the prices of the Community industry.

On the basis of the abovementioned facts, the Commission cannot conclude that restoring fair-trade practices will have negative effects on competition nor on the importers themselves.

(96) Indeed, it should be noted that the measures proposed are not such as to foreclose the Community market to Japanse products. The presence of these products on the market is expected to continue. Secondly, once fair competitive conditions are restored in the Community market, new competitors might enter it, attracted by remunerative prices.

In any event, the benefit of a market governed by at least two main competitive forces would still be available for importers and users of the products concerned.

6. Conclusion on Community interest

(97) On the basis of the above facts and considerations, in particular, and having examined the arguments submitted by the importers of the product concerned, special consideration being given to the need to eliminate the trade distorting effects of injurious dumping and to restore effective competition, the Commission, on balance, found no compelling reasons for not taking provisional anti-dumping measures on the imports in question.

H. PROVISIONAL DUTY

1. Injury elimination level

(98) In establishing the level of the measures necessary to remove the injury caused by the dumped imports, the Commission compared export prices of the imports on a type basis with a price level which would allow the Community industry to cover its costs and achieve a reasonable profit.

(99) Accordingly, the export price of a given type of advertising matches imported from Japan, duly adjusted to the level of trade of the Community industry as mentioned in recital 39, was compared to the average actual cost of production of the Community industry for a comparable type, increased by a profit margin of 5 % on turnover. This profit could be regarded as a reasonable minimum, taking into account the need for investment and the amount which the Community industry could be expected to obtain in the absence of injurious dumping.

(100) The individual injury elimination level for each of the cooperative Japanese exporters was determined by expressing the necessary price increase to obtain non-injurious export prices as a percentage of the weighted average value of the imported advertising matches free-at-Community frontier.

2. Provisional measures

(101) According to Article 13 (3) of the Basic Regulation, the level of the provisional duties should be equal either to the margin of dumping or the amount necessary to remove injury, whichever is the lower.

(102) Individual injury margins for the cooperating Japanese producers were found to vary between 9,4 and 42,1 %.

Since the dumping margins provisionally found for three Japanese exporters were higher than their respective injury elimination levels, the rate of provisonal anti-dumping duty for those exporters should be based on the injury margins found.

(103) Since the dumping margin provisionally found for one particular Japanese exporter was lower than its individual injury elimination level, the rate of the provisional duty should be at the level of the dumping marging found.

(104) For producers in the country concerned who neither replied to the questionnaire nor otherwise made themselves known, the Commission considers that the appropriate anti-dumping duty should be at the level of either the highest dumping margin found or the highest margin required to eliminate injury, whichever is the lower.

Since the highest injury margin, namely 42,1 %, is lower that the highest dumping margin found, the residual duty for non-cooperating producers/exporters should be the highest injury margin found.

I. FINAL PROVISION

(105) In the interests of sound administration, a period should be fixed in which the parties concerned may make their views known in writing and request a hearing. Furthermore, it should be emphasised 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 advertising matches falling within CN code ex 3605 00 00 (Taric code: 3605 00 00*10) originating in Japan.

For the purposes of this Regulation, advertising matches are matches incorporating advertising matter other than or in addition to the logo or details of the match manufacturer.

2. For the purposes of this Regulation, the rate of the provisional anti-dumping duty applicable to the net free-at-Community-frontier price before duty shall be 42,1 %, with the exception of imports manufactured and exported by the following companies, which shall be subject to the following rate of duty:

(a) 23,7 % for products manufactured and exported by Daiwa Trading & Industrial Co. Ltd (Taric code 8022);

(b) 12,2 % for products manufactured and exported by Kobe Match Co. Ltd (Taric code 8023);

(c) 9,4 % for products manufactured and exported by Yaka Chemical Industrial Co. Ltd (Taric code 8024).

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

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

Article 2

Without prejudice to Article 7 (4) of Regulation (EC) 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, 16 June 1997.

For the Commission

Leon BRITTAN

Vice-President