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COUNCIL REGULATION (EC) No 2025/97

of 15 October 1997

imposing a definitive anti-dumping duty on imports into the Community of advertising matches originating in Japan and collecting definitively the provisional duty imposed

(OJ L 284, 16.10.1997, p. 57)

Corrected by:

►**C1** Corrigendum, OJ L 63, 10.3.2000, p. 42 (2025/97)

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COUNCIL REGULATION (EC) No 2025/97

of 15 October 1997

imposing a definitive anti-dumping duty on imports into the Community of advertising matches originating in Japan and collecting definitively the provisional duty imposed

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1], and in particular Article 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 Economic Community [2], and in particular Article 12 thereof,

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

Whereas:

A. PROVISIONAL MEASURES

(1) By Commission Regulation (EC) No 1092/97 [3] (hereinafter referred to as the provisional duty Regulation) provisional duties were imposed on imports into the Community of advertising matches falling within CN 3605 00 00 and originating in Japan.

B. SUBSEQUENT PROCEDURE

1. Duration of provisional measures

(2) In July 1997 exporters representing a significant percentage of the trade involved objected to the Commission's proposal to extend the four months validity of the provisional anti-dumping duties for two more months as allowed by Regulation (EEC) No 2423/88 (hereinafter referred to as the basic Regulation). In support of this position, they argued that the investigation had already taken an excessive length of time, thus prolonging uncertainty and damaging their business.

(3) This objection seems to be in contradiction with the request made by the exporters concerned that the Commission should analyse in more depth several key issues in the investigation: it should be recalled that the Commission has already stated in recital 7 of the provisional duty Regulation that the present investigation has been particularly complex. In these circumstances, further in-depth analysis of arguments put forward by these parties, as well as extensions granted to them for submissions and replies, had to be restricted to a minimum.

(4) Following the imposition of provisional anti-dumping measures, the following interested parties submitted comments in writing:

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[1] OJ L 56, 6. 3. 1996, p. 1. Regulation as amended by Regulation (EC) No 2331/96 (OJ L 317, 6. 12. 1996, p. 1).
[2] OJ L 209, 2. 8. 1988, p. 1. Regulation as last amended by Regulation (EC) No 522/94 (OJ L 66, 10. 3. 1994, p. 10).
[3] OJ L 158, 17. 6. 1997, p. 8.

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(a) producers/exporters in Japan:

— Kobe Match Co. Ltd, Ibo-gun,

— Yaka Chemical Industry Co. Ltd, Himeji,

— Daiwa Trading & Industrial Co. Ltd, Himeji,

— Harima Match Company Co. Ltd, Himeji;

(b) the representative of the Community industry on behalf of their clients;

(c) importers located in the Community:

— Advertising support Werbeträger Vertriebs GmbH.

(5) The parties who so requested were granted an opportunity to be heard by the Commission.

(6) The Commission continued to seek and verify all the information it deemed necessary for the purpose of its definitive findings within the period of time available.

(7) Parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-dumping duties and the definitive collection of amounts secured by way of provisional duties. They were also granted a period within which to make representations subsequent to this disclosure.

(8) The comments submitted by the interested parties were considered, and, where appropriate, taken into account in the definitive findings to the extent that they were fully substantiated.

2. **Request for termination of proceeding**

(9) Japanese exporters requested that the proceeding be immediately terminated on the ground that the Commission had breached Article 7 (9) (a) of the basic Regulation. They claimed that the investigation was a very ordinary one and that it was very likely that it could have been concluded within the time limit provided for in the basic Regulation.

(10) As already mentioned in recital 7 of the provisional duty Regulation, the length of the investigation was mainly due to its complexity, particularly the detailed examination of the many figures and arguments put forward as well as the different issues and problems which arose in the course of the investigation.

In this respect, given the claim of the Japanese exporters and the views expressed by other interested parties on the duration of the investigation it seems appropriate to explain in some detail the main events which had a significant impact on its duration.

(11) Following the initiation of the investigation in August 1994, three different types of questionnaires were sent to some 15 different companies in the Community and in Japan. Verification visits were conducted and preliminary results were reached within the first half of 1995.

(12) As indicated in recital 39 of the provisional duty Regulation, the investigation had then shown that sales made by Japanese exporters in the Community were not at the same level of trade as the large majority of the Community industry sales. Accordingly a level of trade adjustment had to be calculated. Considering the importance of the adjustment, in particular its direct impact on the undercutting and underselling margins, and consequently on the level of the possible anti-dumping duties, this issue was carefully considered before a provisional decision was taken. This already indicates that, contrary to the allegation made by some Japanese exporters, complex issues had to be dealt with in this investigation. A considerable amount of time had to be spent on assessing the level of trade adjustment and a preliminary conclusion on this issue could not be made until the end of 1995.

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(13) In the first half of 1996, the representative of the Community industry emphasized the weight and importance of the segmentation of the market into three main categories of customers. In this respect, the Community industry supplied complementary information on the link between the segmentation of the market and the level of prices and relative costs, thus elaborating on the data already submitted in the responses to the questionnaire.

In accordance with Article 7 (2) (a) of the basic Regulation, the Commission verified and analysed all the substantiated complementary information supplied and carried out the necessary reconciliation with the verified responses to the questionnaire of the Community industry and the Japanese exporters. These additional tasks took until the end of 1996.

(14) Consequently, it has to be pointed out that contrary to the allegation of some Japanese exporters, the Commission did not accept any new responses to the questionnaire from the Community industry years after the deadline set, but considered it appropriate to investigate further substantiated information which completed the responses already received.

(15) During 1996, several other problems had to be solved. Thus some unrelated importers and one Community producer itself importing dumped advertising matches from Japan, who were originally not opposed to the proceeding, made their views known and put forward arguments related to the assessment of the Community interest. All the submissions made, in some cases received late in 1996, had to be given due consideration.

(16) In 1997 the Commission became aware that one Japanese exporter might have provided misleading information during the investigation and requested that additional information be provided in order to take a final decision on the matter. Conclusive evidence was only received recently.

(17) In the light of the above facts and considerations, even though the duration of the investigation was long, the Council refers to the statement made in recital 7 of the provisional duty Regulation, namely that the length of the investigation is mainly attributable to its complexity and, therefore, considers that there is no reason for terminating the proceeding on these grounds.

C. **PRODUCT CONCERNED AND LIKE PRODUCT**

(18) For the purpose of its preliminary findings, the Commission considered advertising matches produced and sold in the Community, produced and sold in Japan and those exported to the Community from Japan as 'like products' within the meaning of Article 2 (12) of the basic Regulation because they are either identical or have characteristics closely resembling each other.

(19) An importer provided a list of around 50 models which Japanese exporters can offer to their Community clients alleging that the Community industry can only offer a few models.

(20) It should be pointed out that not all those Japanese models are also sold in the Community; they are simply part of a list of models that the Japanese exporters are offering to their Community customers. Furthermore, the investigation contradicted the allegation of another importer that the Community industry does not offer, in contrast to Japanese exporters, a wide range of models of advertising matches. Indeed, it was found that the Community industry sold over 30 different models to its customers and that numerous, other personalized models had been produced to clients' specifications.

(21) Since no other comments were received on the product concerned and the definition of the 'like product', the findings made on this issue, as established in recital 9 of the provisional duty Regulation, are confirmed.

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D. **DUMPING**

1. **Normal value**

(22) Before imposition of the provisional measures, the Commission received information that the relationship between the producer-exporter Yaka with another Japanese producer — Nittosha Match Company Ltd, which did not make itself known in the framework of this proceeding — might not only be limited to a relatively small shareholding. The Commission considered that it could not be excluded that Yaka's export prices might have been influenced by its relationship with Nittosha, which would render Yaka's reply to the questionnaire unreliable for the purpose of this investigation. The Commission informed Yaka forthwith of the serious implications this might have.

Nittosha eventually informed the Commission that during the period of investigation on dumping it had exported to the Community the product concerned; the quantities it exported, however, had been negligible in relation to the exports made by Yaka during the same period. Under these conditions, exports from Nittosha could not have influenced those of Yaka; moreover, based on verified information Yaka demonstrated that transactions between the two companies had not been influenced by the existence of the small shareholding.

It was concluded that there was no reason to reverse the findings in respect of Yaka as an independent exporter from Japan.

(23) One Japanese producer claimed that for export orders of 5 000 units the normal value should exclusively be based on such quantities and not also on orders for lower quantities since orders of for instance 1 000 or 2 000 units are usually sold at higher prices.

Firstly, it should be noted that for the purpose of this proceeding an order category of up to 5 000 units was defined by this producer in its response to the questionnaire. Secondly, it was found for this industry that for orders up to 5 000 units no distinct difference in prices exists and that orders of substantially less than 5 000 units only represent a relatively small part of the category up to 5 000 units. Thirdly, the normal value and the export price were both established on the basis of the same categories of products and so the comparison takes into account the order sizes in as far as they are considered to be relevant by industry standards.

Consequently, the claim has to be rejected.

(24) No further comments were received on the determination of the normal value. The Council therefore considers that the findings as established in recitals 10 to 17 of the provisional duty Regulation are to be confirmed.

2. **Export price**

(25) As no comments were received on the determination of the export price as established in recital 18 of the provisional duty Regulation the Council considers that the findings made therein are to be confirmed.

3. **Comparison**

(26) One Japanese producer claimed that no adjustment should be made for salesmen's salaries as on export sales no salesmen were involved. During the on-the-spot verifications, at the premises of the company concerned, it was established however that salesmen were indeed involved in the export of advertising matches. Consequently, in order to allow for a fair comparison, an adjustment was made to the export price on the basis of the corresponding cost incurred in export sales of the product concerned.

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(27) The same Japanese company repeated its claim, already made at the provisional stage of the investigation, to establish the normal value only on sales to unrelated distributors as, according to this company, export sales were taking place exclusively at this level of trade.

Recital 20 of the provisional duty Regulation explains why the claim could not be accepted. Since no new arguments in support of this claim have been put forward by the company, the rejection of this claim is confirmed by the Council.

(28) Two Japanese producers reiterated their claim that an adjustment should be made for print film making and artwork.

The claim was based on the fact that for sales to the Community, generally the print film was supplied by the customer, while for sales on the Japanese market in general, it was the producer who supplied the artwork and the film making.

One Japanese producer also further claimed that an adjustment should be made for those domestic orders for which a particular type of paper, called 'Japanese paper' was used, because this type of finishing of the product was not offered for sales to the Community.

Both claims were rejected at the stage of the provisional duty Regulation as the company concerned was not in a position to quantify the market value of the adjustment claimed to the satisfaction of the Commission.

After disclosure of the essential facts leading to the imposition of provisional measures the Japanese producers submitted additional information and explanations on the basis of which it was possible to determine the market value of the adjustments claimed. One of the Japanese producers was not in a position to demonstrate the market value of the adjustment claimed. As the claim itself was considered to be justified the adjustment for this producer was made by reference to another producer in Japan.

Consequently the claim was granted to the extent that it was justified.

(29) One Japanese producer maintained its request, already made at the provisional stage, that an adjustment should be made for the differences in time of delivery.

This request was based on the grounds that the domestic delivery delay is, generally, much shorter than the one for export transactions and that the customers in the Community are charged lower prices because of the longer delay in delivery.

In this respect the company concerned did not substantiate its claim in particular by showing that customers consistently pay different prices on the domestic- and/or export markets because of the different delivery delays.

Therefore the request has to be rejected.

4. **Dumping margins**

(30) The complainant argued that as the export prices of the Japanese producers are, generally, at the same level and as the Japanese domestic market is homogeneous the individual dumping margins found should not have such a wide spread. The complainant asked the Commission to review the dumping findings, particularly as far as Kobe and Yaka are concerned.

It has to be recalled that the dumping margin is determined individually for each exporter by comparing its normal value with its export price as explained in recitals 10 to 24 of the provisional duty Regulation.

In this respect, the Commission can confirm that the export prices charged by the Japanese exporters for comparable product types are, generally, for all exporters at a similar level. The invest-

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igation revealed however that the domestic prices of different Japanese producers vary significantly, thus constituting the principal reason for the variance in dumping margins established.

The complainant further argued, in this context, that the sales channels of the Japanese producers on their domestic market are similar. The verification of the information submitted by the Japanese producers does not confirm this argument.

Other arguments made by the complainant on the provisional findings concerning the margins of dumping related to the cost structure, age of the workers, low productivity, the fact that no manufacturer is left in Japan for match machines and the utilization of old and inefficient machinery.

Consequently, as the evidence provided by the complainant in support of its arguments is either merely circumstantial or not confirmed by the findings made during the investigation, it is concluded that the arguments have to be rejected.

(31) After having considered the arguments raised by the parties and after having modified, when appropriate, the provisional findings, the definitive dumping margins for the cooperating producers/exporters, expressed as a percentage of the free-at-Community-frontier price are as follows:

— Daiwa Trading & Industrial Co. Ltd	31,8 %
— Harima Match Company Co. Ltd	63,5 %
— Kobe Match Co. Ltd	9,8 %
— Yaka Chemical Industry Co. Ltd	23,3 %.

(32) The approach followed in recital 24 of he provisional duty Regulation for the assessment of the dumping margin applicable to non-cooperating companies in Japan which is based on facts available and verified during the investigation is confirmed by the Council. On that basis, it is considered that the highest dumping margin found, i.e. 63,5 % with regard to a producer in Japan which had cooperated in the investigation, should also apply to non-cooperating producers in Japan.

E. **COMMUNITY INDUSTRY**

(33) The large majority of the Community producers of advertising matches are members of FEFA (Féderation Européenne des Fabricants d'allumettes), the European association who lodged the complaint on behalf of its members. These producers, located in France, Spain, Italy, Belgium, Portugal and United Kingdom are usually small and medium-sized enterprises with limited resources. Consequently, even though they all supported the complaint, only the main producers, representing 78 % of the total Community output of the product concerned and thus, clearly meeting the criteria set forth in Article 4 (5) of the basic Regulation, have actively cooperated with the Commission in this investigation.

(34) A Japanese exporter questioned the exclusion from the published provisional determinations of a Community producer located in France, who replied to the Commission questionnaire.

(35) This situation is explained by the fact that this producer, although supporting the complaint, was not in a position to comply with the requirements of the Commission for the on-the-spot investigation due to important internal difficulties. Therefore it was decided that this producer could not be considered as actively cooperating in the proceeding and was not included in the definition of the Community industry.

(36) This decision is reflected in the contents of recital 25 of the provisional duty Regulation which indicates that the term 'Community industry' should be interpreted as referring to those Community producers of the like product whose collective output

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constitutes a major proportion of the total Community production who supported the complaint and who actively cooperated in the proceeding.

(37) Despite the explanation provided in recital 26 of the provisional duty Regulation, one importer of Japanese advertising matches in the Community claimed that the main complainant Community producer should not be considered as part of the Community industry on the grounds that he imported directly or via its related companies dumped advertising matches from Japan in volumes representing far more than 4 % of its own production. In support of its claim a list of the subsidiaries of the above complainant which allegedly imported the advertising matches from Japan was supplied.

(38) The Commission re-examined the level of imports made by this Community producer and confirmed its provisional finding, namely that the quantities imported by this producer represented around 4 % of its own total production of advertising matches.

(39) Another exporter claimed that two of the complaining Community producers were no longer producing advertising matches. Even though this exporter is referring to events which allegedly happened after the investigation period, which therefore should normally not be taken into account, it has to be noted that no indication exists that any of the complaining Community producers stopped manufacturing the product covered by this investigation.

(40) In conclusion, the definition of the Community industry for the purposes of the present proceeding and the provisional findings made by the Commission in this respect are hereby confirmed.

F. **INJURY**

1. **Injury examination period and injury factors**

(41) Some exporters argued that the Commission had not been consistent as far as the investigation period for the assessment of injury is concerned.

(42) The period covered by the injury examination is the whole period from 1 January 1990 to 30 June 1994 as mentioned in recital 7 of the provisional duty Regulation. The 'investigation period' for dumping analysis covered a one-year period from 1 July 1993 to 30 June 1994. The main injury indicators were assessed for the whole injury examination period. However, when the information submitted was not fully substantiated or not reliable and consequently could not guarantee an accurate analysis of a certain injury factor within the injury examination period, the Commission considered it appropriate to disregard the information and based its conclusion on the available, substantiated information.

(43) As requested by some exporters, the Commission has further verified the information available in order to complete its analysis of certain injury factors, the results of which are given below:

(a) *Prices*

(44) With reference to recital 45 of the provisional duty Regulation, 80 % of the sales of book and box matches taken together made by the Community industry in the Community market were taken into account in the price development exercise. It was found that, from 1990 up to the investigation period, sales prices charged by the Community industry increased on average by 4 %.

(45) A further analysis has been carried out separately for book and box matches, the latter representing around 60 % of the total Community industry sales of matches and around 80 % of Japanese exporters' total sales in the Community. On that new basis it was found that from 1990 up to the investigation period the sales prices of box matches charged by the Community industry

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decreased by 2 %, whereas the sales prices of book matches of this industry, representing the minority of Japanese sales in the Community, had increased by 10 % during the same period.

(b) *Production capacity and capacity utilization*

(46) As requested by one Japanese exporter, the Commission, notwithstanding the difficulties described in recital 44 of the provisional duty Regulation, made the best possible estimate of the production capacity of advertising matches and relative capacity utilization of the Community industry. It appears that on average the Community industry worked 222 days per year and two shifts per day. On this basis, whilst a reasonable average capacity utilization ratio would be around 75 % for the type of business involved, the estimated capacity utilization of the Community industry from 1990 up to the investigation period was consistently low at around 56 %, with a peak of 59 % in 1991.

(c) *Cash flow*

(47) In addition to the provisional findings stated in recital 51 of the provisional duty Regulation, the operating cash flow of the Community industry established at company-wide level for the advertising division whose main activity is advertising matches, that is the product concerned, decreased by 7 % from 1990 up to the investigation period.

(d) *Profitability*

(48) For 1990, the first year of the injury period under examination, it was found that the sales of the product concerned by the Community industry were still profitable with a rate of return on turnover of around 2,5 %.

2. **Segmentation of the market**

(49) Following the publication of the provisional duty Regulation, interested parties did not object to the provisional finding set out in recital 36 of the provisional duty Regulation, namely that advertising matches were sold in the Community to separate categories of customers depending on the size of their orders. In fact it should be pointed out that the Japanese market had also been similarly categorized for the establishment of dumping. The investigation revealed that such categorization is a crucial issue given its impact on prices and costs.

(50) One Japanese exporter noted that the Community industry had requested the exclusion from the determination of injury of one customer on account of the very high volume of purchases, which rendered it not directly comparable within the other customer categories. The Commission established that the customer concerned was notable for the volume of its purchases. However, these characteristics did not constitute a sufficient ground to exclude it from the overall injury assessment.

3. **Cost allocation method**

(51) Some exporters questioned the cost allocation method applied by the Community industry and provisionally accepted by the Commission. They argued that the selling, general and administrative (SG & A) expenses which the Community industry allocated either according to the number of orders or according to the number of matchboxes should instead be allocated on a turnover basis.

(52) Article 2 (11) of the basic Regulation specifies for the examination of dumping that, in general, all cost allocations shall be based on available accounting data, normally allocated, where necessary, in proportion to the turnover for each product and market under consideration. An analogue approach seems appropriate in this case.

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This approach implies that the appropriateness of the cost allocation method has to be examined and appreciated on the basis of the consistency in its utilization and, that only in the absence of an appropriate method, should the allocation of costs be made on the basis of turnover.

(53) After publication of the provisional duty Regulation, the Commission continued to seek the information it deemed necessary. In the light of the submissions received it was decided to conduct a very detailed on-the-spot investigation at the premises of the main Community producer which was part of the Community industry to verify yet again its cost allocation method.

This verification confirmed that the allocation method accepted by the Commission at the provisional stage of the investigation was consistently applied by the producer concerned and reasonably reflected the costs associated with the production and the sale of the product under consideration. Accordingly, the contents of recitals 49 to 50 of the provisional duty Regulation are hereby confirmed.

4. **Undercutting and underselling**

(54) Some Japanese exporters claimed for price comparison an allowance for the difference in delivery time on the grounds that, particularly for the small size orders, delivery time affected consumer choice and thus price comparability. These exporters explained that longer delivery periods were the result of the fact that matches from Japan are usually shipped via ocean freight to the Community, thus significantly decreasing the cost of transport and lowering prices to clients who are willing to wait several months for their orders. The Community industry time being much shorter, Japanese exporters have no choice but to lower prices to compensate for the longer delivery terms.

These Japanese exporters consider that longer delivery time justified a price lower than that charged by the Community industry and estimate the amount of this price difference at around 5 %, in line with the average undercutting found to exist. For the reasons given in recital 29 this claim could not be accepted.

(55) One Japanese exporter questioned its undercutting and underselling margins on the grounds that they were calculated on the basis of the prices of certain basic Community industry models which were not identical in all respects to the models exported by the company concerned to the Community. It was alleged that three basic models of the Community industry were wood-stem book matches, whereas the corresponding book matches exported by the company were made of carton paper (card-stem book matches). The former material being more expensive than the latter, the exporter requested an adjustment reflecting the market value of the difference in physical characteristics between the abovementioned models.

(56) In the absence of evidence to substantiate the exporter's claim, the Commission has investigated this issue on the basis of the information available to it. It appeared that sales of comparable models of wood-stem and carton paper book matches were not necessarily made at different prices. As an example, for a particular model, although there were 20 % more wooden matches in this model, its sales price was the same as the card-stem model. This seems to indicate that any adjustment to the Japanese prices should be made downwards rather than upwards. In conclusion, based on the information available and, as the exporter concerned did not provide any evidence to substantiate its claim, the Commission could not take it into consideration.

(57) The same exporter questioned the methodology applied by the Commission in calculating the undercutting and underselling amounts. It requested that the same methodology applied in

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another anti-dumping proceeding be applied to calculate its margins.

In the anti-dumping proceeding referred to by the exporter an average sales price and an average non-injurious price for all the different models of the product under investigation were calculated, whereas in the present proceeding the Commission compared prices on a model-per-model basis.

(58) In cases where the product concerned is not sold under an homogeneous shape or form and there are no domestic standard models directly comparable with imported standard models of the like product, it is necessary to define the most appropriate unit of measurement in order to allow prices to be compared.

As explained in recitals 36 to 41 of the provisional duty Regulation, standard basic models of advertising matches and different categories of customers were found to exist in the Community market. They even represented the large majority of the trade involved. Sales prices of the different standard models of the like product sold by the Community industry could therefore be compared with those of the Japanese exporters on a model-per-model basis separately for the main categories of customers.

As the method followed in this proceeding is the most accurate to determine the undercutting and underselling margins, the Council endorses the Commission's rejection of the request made by the exporter concerned to calculate their margins on the basis of overall weighted average prices.

5. **Injury suffered by the Community industry**

(59) While recognizing that the Community industry may have suffered some injury, a number of Japanese exporters claimed that this injury could not be qualified as material. Firstly because only small and medium-sized orders, representing a limited share of the whole advertising matches market, were affected by a negative return on sales. Secondly, because the Commission claimed material injury exclusively on the basis of the negative trend of one single injury factor, namely profitability. Thirdly, because several factors were pointing to no injury at all.

(60) With reference to the first argument raised by these exporters, small and medium-sized orders represent a large share of the total Community market, namely around 59 % in terms of volume but around 67 % in terms of value. It can therefore be concluded that these segments are the main sources of revenue for the Community industry. Accordingly, even if this industry was still performing well in the large order segment, its ability to compete in this segment is dependent on maintaining overall financial viability. The deteriorating financial situation of the Community industry, which was found to be negative overall during the investigation period, is therefore a threat to the entire advertising matches sector in the Community.

(61) The above exporters indicated that some injury factors pointed to a no injury situation but did not specify to which indicators they were referring. Furthermore the statement that the Commission based its conclusion on a single injury factor is not correct.

During the whole period under examination, it was found that employment in the advertising matches sector decreased by 13 %, the share of the Community market held by the Community industry in terms of value decreased by about 10 %, cash flow decreased by 7 % and overall profitability became negative after having shown profits of 2,5 % in 1990.

Furthermore, the fact must not be neglected that Community industry prices were depressed for box matches which represent 60 % of total sales by this industry and that the slight increase in overall sales prices for matches of 4,3 % during the investigation period could not even cover the effects of inflation. This price

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suppression certainly played a significant role in the deteriorating financial situation of the Community industry.

(62) These exporters also supplied annual accounts of the main complaining Community producer and calculated a return on investment of 28,65 % for this producer during the year 1995, that is after the end of the investigation period. According to them, such a high return should demonstrate that the financial situation of the Community producer concerned is excellent.

To calculate such a return on investment, these exporters applied the profit of the large-sized orders, as stated in recital 50 of the provisional duty Regulation, to the overall turnover as reported in the annual accounts they supplied. Then they established the ratio between this extrapolated profit over the equity as reported in the annual accounts.

(63) It appears that these exporters have confused the return on investment with the return on equity ratio.

More importantly, the annual accounts they supplied were at a consolidated level, and thus included a number of activities not covered by the present investigation. By reference to the turnover as reported in the consolidated annual accounts, the sales value of the large orders segment only represents 0,4 %. Consequently, such an estimate of the return on investment must be disregarded and considered erroneous and misleading.

6. **Conclusion on injury**

(64) On the basis of the facts and considerations developed above and based on the deterioration of several injury indicators such as profitability, market share in value terms, cash flow and employment, combined with low capacity utilization and the effects of unsatisfactory price development, the Council confirms that the Community industry has suffered material injury in accordance with Article 4 (1) of the basic Regulation.

G. **CAUSATION OF INJURY**

(65) The Commission had provisionally 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 evolution of consumption, competition from other producers in the Community, other imports, the export performance of the Community industry and the behaviour of the main economic operators during the period under investigation.

(66) In spite of this detailed analysis on the causation of injury, several exporters claimed that no causal relationship was established between the alleged dumped imports and the material injury suffered by the Community industry. They stated that Japanese exporters had not increased the volume of their share of the Community market although their import prices had increased by 40 %. Furthermore they could not understand why in the large-sized orders segment where the highest undercutting margin by Japanese exporters was found, no causal effects seemed to exist. On the contrary a profitable situation had emerged.

(67) It should be borne in mind however as mentioned in recitals 58 to 62 of the provisional duty Regulation that low-priced dumped Japanese imports increased their Community market share in value terms by 24 % whereas the Community industry lost 10 % of this share. From 1990 up to the investigation period, the Community industry prices were constantly suppressed and despite a significant price increase Japanese products still undercut the former prices by an average margin of 6,2 %. Over the years this situation has caused significant difficulties for the

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Community industry whose profitability became negative during the investigation period.

An additional link between the negative situation fo the Community industry and the dumped Japanese imports was established through the fact that the return on sales of the Community industry was found to be significantly worse in the sales segments where Japanese products were mainly present, that is in the small and medium-sized order segments.

(68) The Commission has further analysed separately the market share of advertising matches for each category of customer depending on the order size in terms of volume and value as shown in the table. This table was established for the investigation period on dumping (1 July 1993 to 30 June 1994) on the basis of more than 80 % of sales made by the Community industry and around 80 % of Japanese sales in the Community market:

Order size	Japanese exporters		Community industry		Total market share	
	volume	value	volume	value	volume	value
Small	14 %	16,5 %	11 %	16,5 %	25 %	33 %
Medium	14 %	13 %	20 %	21 %	34 %	34 %
Large	4 %	3 %	37 %	30 %	41 %	33 %

(69) This analysis shows that while the volume of the market for large orders represents around 41 % of the total advertising matches market, the share held by the Community industry for large orders amounts to nearly 10 times that of Japanese exporters. The limited volume sold by the Japanese exporters in this segment explains why limited effects were found.

(70) As to the other two segments of the markets, they represent around 60 % of the volume and around 67 % of the value of the overall market share, thus demonstrating that these are the key segments in the advertising matches business.

(71) It follows that low-priced dumped Japanese imports are, therefore, targeting these key segments of the Community market, the volume of their share of the market in these segments (47 %) being comparable with that of the Community industry (53 %). Consequently the large quantities sold by the Japanese exporters combined with their constant price pressure since 1990 in such key segments of the market has clearly caused material injury to the Community industry.

(72) As far as price development is concerned, and as already mentioned in recital 45 above, sales prices of boxes and book matches of the Community industry developed differently from 1990 up to the investigation period. Prices of box matches decreased by 2 % whereas prices of book matches increased by 10 %. Considering that box matches represent the large majority of Japanese sales (around 80 %) during the above period, the link between the negative price development for the box matches and the presence in the Community market of dumped Japanese imports can clearly be established.

(73) In conclusion, based on the findings as explained and developed in the recitals above, the Council confirms that low-priced dumped imports from Japan, taken in isolation, have caused material injury to the Community industry.

H. **COMMUNITY INTEREST**

(74) In its provisional duty Regulation the Commission indicated why the Community interest calls for intervention. In this respect it is recalled that the other producers in the Community are small and medium-sized enterprises representing up to 22 % of the total Community production of the product concerned. The fact that

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the large majority (90 %) of these producers has consistently supported the complaint shows that they are of the opinion that it is in their interest to restore fair trade practices in the Community market with the imposition of anti-dumping measures.

(75) As to the competition law investigations into the main Community producer in the Community market, the Commission is aware of the fact that a complaint was lodged with the competent services of the Commission, alleging that Swedish Match abused and was abusing its dominant position by practising a policy of acquisitions and of predatory pricing. That complaint has been dismissed, without objections from the complainant, because no evidence was found or had been supplied of the existence of the alleged abuses.

(76) As to the allegation according to which the main Community producer might adopt or has already adopted a long-term strategy of selling at a loss, while confirming what it stated at recital 94 of the provisional duty Regulation it may be added that the allegations forwarded in this respect were based on a few price quotations referring to a very short period of time subsequent to the investigation period. These allegations cannot be taken into consideration because the number of quotations is very limited (three) and refers to a period of time subsequent to the investigation period.

(77) In summary, the Council, after an appreciation of all the various interests, taken as a whole, and for the reasons given in the provisional duty Regulation concludes that, on balance, it is in the Community interest to impose definitive measures.

I. ANTI-DUMPING MEASURES

(78) Based on the above conclusions on dumping, injury, causal link and Community interest, it was considered what level and form the anti-dumping measures should take in order to remove the trade-distorting effects of injurious dumping and to restore effective competitive conditions in the Community market.

(79) After the publication of the provisional duty Regulation the Commission became aware that the level of trade adjustment made in establishing the injury elimination level had been applied to the unrelated importers' resale prices, whereas such an adjustment should be applied to Japanese exporters' sales prices in the Community. Accordingly the injury margins have been recalculated.

(80) Since the injury margin, that is the level of prices at which the injurious effects of the dumped imports would be removed, was lower than the dumping margin found for three of the exporters concerned in the investigation, the injury margin was used in order to determine the level of the measures to be applied to these exporters.

For one exporter the dumping margin, which was lower than the injury margin found, was used in order to determine the level of the applicable measures.

(81) On the above basis, definitive duties, in the form of *ad valorem* duties, should be imposed.

(82) The complainant claimed that, in order to avoid the possibility of circumvention of the duties, the same duty should be imposed on all the cooperating, exporting producers. This claim was based on a report of a Japanese economic research institute alleging the existence of a close cooperation on domestic and export prices of the Japanese industry.

The information collected by the Commission and verified on the spot did not provide any evidence whatsoever of a common price strategy by the Japanese industry, at least as far as domestic prices, and therefore the normal value, are concerned (see recitals 22 and 23). Furthermore, the imposition of the same duty on all the exporting producers, regardless of their different normal

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values, would constitute arbitrary treatment that could not be jsutified by the mere, unsubstantiated possibility of circumvention of the duties,

This claim is therefore rejected.

J. COLLECTION OF THE PROVISIONAL DUTIES

(83) In view of the magnitude of the dumping margins found for the exporting producers and in the light of the seriousness of the injury caused to the Community industry, it is considered necessary that the amounts secured by way of provisional anti-dumping duties should be definitively collected at the level of the definitive duties,

HAS ADOPTED THIS REGULATION:

Article 1

1. Definitive anti-dumping duties are hereby imposed on imports of advertising matches originating in Japan. The product as described falls within CN code ex 3605 00 00 (Taric code 3605 00 00*10).

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 purpose of this Regulation, the rate of duty applicable to the net, free-at-Community-frontier price, before duty shall be 43,2 % (Taric additional code 8900) with the exception of imports manufactured and exported by the following companies, which shall be subject to the following rates of duty:

(a) 27,8 % for the products manufactured and exported by Daiwa Trading & Industrial Match Co. Ltd (Taric additional code 8022);

(b) 9,8 % for the products manufactured and exported by Kobe Match Co. Ltd (Taric additional code 8023);

(c) 10,3 % for the products manufactured and exported by ►**C1** Yaka Chemical Industry Co. Ltd ◄ (Taric additional code 8024).

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

Article 2

The amount secured by way of provisional anti-dumping duty pursuant to Regulation (EC) No 1092/97 shall be definitively collected at the duty rate definitively imposed.

Amounts secured in excess of the definitive rate of anti-dumping shall be released.

Article 3

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

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