COMMISSION REGULATION (EC) No 1646/1999

of 27 July 1999

initiating an investigation concerning the alleged circumvention of anti-dumping measures imposed by Council Regulation (EC) No 2861/93 on imports of certain magnetic disks (3,5 in. microdisks) originating in Taiwan and the People's Republic of China by assembly operations in the Community and making imports of microdisk parts subject to registration

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1], as last amended by Regulation (EC) No 905/98 [2], and in particular Articles 13 and 14 thereof,

After consulting the Advisory Committee,

Whereas:

A. **REQUEST**

(1) The Commission has received a request, pursuant to Article 13(3) of Regulation (EC) No 384/96 (hereinafter referred to as 'the Basic Regulation'), to investigate the alleged circumvention of the anti-dumping duties imposed by Council Regulation (EC) No 2861/93 [3] on imports of certain magnetic disks (3,5 in microdisks) (hereinafter referred to as 'microdisks') originating in Taiwan and the People's Republic of China by imports of microdisk parts originating in the same countries, which are allegedly used to assemble microdisks in the Community, to make imports of the main parts subject to registration by the customs authorities, pursuant to Article 14(5) of the Basic Regulation, and to propose to the Council, if justified, the extension of the above anti-dumping duties to imports of microdisk parts from the same countries.

B. **APPLICANT**

(2) The request was lodged on 14 June 1999 by the Committee of European Diskette Manufacturers (Diskma).

C. **PRODUCT**

(3) The products through which the alleged circumvention is taking place are microdisk parts originating in Taiwan and the People's Republic of China and used in the assembly of microdisks in the Community: shells (CN code ex 3926 90 99), clamshells (CN code ex 8523 20 90), adhesive rings (CN code ex 3926 90 99), lifters (CN codes ex 3920 69 00 and 3919 10 31), magnetic coated disks ('cookies') (CN code ex 8523 20 90), centre cores ('hubs') (CN codes ex 7326 90 97 and ex 7616 10 00), shutters (CN codes ex 3926 90 99, ex 7326 90 97 and ex 7616 10 00), springs (CN code ex 7320 20 89), write protector tabs (CN code ex 3926 90 99) and liners (CN code ex 5603 12 90). The CN codes are those in which the products are currently classifiable and are given for information only.

D. **EVIDENCE**

(4) The request contains sufficient evidence, in accordance with Article 13(3) of the Basic Regulation, to initiate an investigation to examine whether the antidumping duties on imports of microdisks originating in Taiwan and the People's Republic of China are being circumvented by imports of microdisk parts from these countries used in assembly operations in the Community.

(5) The evidence is as follows:

(a) subsequent to the imposition of the measures, at least one assembly operation using parts from the People's Republic of China and/or Taiwan started or substantially increased. Moreover, the request provides *prima facie* evidence that the value of the Taiwanese and Chinese parts constitute 60 % or more of the total value of the parts of the assembled product, and that the value added to the parts brought in, during the assembly or completion operation in the Community, is not greater than 25 % of the manufacturing cost;

(b) furthermore, the request contains evidence which shows that the prices at which microdisks assembled from Chinese and Taiwanese parts are being sold in the Community are lower than the non-dumped level of the export price;

(c) finally, the applicant claims that the alleged circumvention is severely undermining the remedial effects of the existing anti-dumping duties in terms of the quantities and prices of the assembled like product.

[1] OJ L 56, 6.3.1996, p. 1.
[2] OJ L 128, 30.4.1998, p. 18.
[3] OJ L 262, 21.10.1993, p. 4.

E. **PROCEDURE**

(6) In the light of the evidence contained in the request, the Commission has concluded that sufficient evidence exists to justify the initiation of an investigation pursuant to Article 13(3) of the Basic Regulation, and to make imports of microdisk parts from the countries under investigation subject to registration in accordance with Article 14(5) of the said Regulation.

(i) **Questionnaires**

(7) In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the microdisk assembler named in the request and to its related exporter in Taiwan. Questionnaires will also be sent to exporting producers in the People's Republic of China and in Taiwan which cooperated in the original investigation. Information, as appropriate, may be sought from Community producers. The authorities of Taiwan and the People's Republic of China will be notified of the initiation of the investigation and provided with a copy of the request and the questionnaire.

(8) Other interested parties should request a copy of the questionnaire as soon as possible, as they are also subject to the time limit specified in this Regulation. Any request for questionnaires must be made in writing to the address mentioned below and should indicate the name, address, telephone and fax numbers of the requesting party.

(ii) **Certificates of non-circumvention**

(9) In accordance with Article 13(4) of the Basic Regulation, certificates exempting the imports of the product concerned from registration or measures may be issued when the importation does not constitute circumvention.

Since the issue of these certificates requires the prior authorisation of the Community institutions, requests for such authorisations should be addressed by interested importers to the Commission as early as possible in the course of the investigation. The Commission may grant such requests only after a thorough appraisal of their merits. Requests must be accompanied by a complete reply to the questionnaire referred to at recital (8) above.

F. **REGISTRATION**

(10) In view of the great variety and large number of microdisks parts, registration of imports, pursuant to Articles 13(3) and 14(5) of the Basic Regulation, should be limited to the main parts used in microdisk assembly operations, namely magnetic coated disks ('cookies'), clamshells, shells, shutters and centre cores ('hubs'), falling within CN codes ex 8523 20 90, ex 3926 90 99, ex 7616 10 00 and ex 7326 90 97 respectively. Registration will ensure that, should the investigation confirm the allegation of circumvention, the duties applicable to imports of microdisks originating in Taiwan or in the People's Republic of China can be extended to the aforementioned main parts and levied retroactively from the date of initiation of the proceeding.

G. **TIME LIMIT**

(11) In the interest of sound administration, a period should be fixed within which interested parties, provided that they can show that they are likely to be affected by the results of the investigation, may make their views known in writing. A period should also be fixed within which interested parties may make a written request for a hearing and show that there are particular reasons why they should be heard. As the said time limit applies to all interested parties, including parties not named in the request or not known from the previous investigation, it is consequently in the interest of these parties to contact the Commission without delay.

H. **NON-COOPERATION**

(12) In cases in which any interested party refuses access to, or otherwise does not provide, necessary information within the time limit, or significantly impedes the investigation, findings, affirmative or negative, may be made in accordance with Article 18 of the Basic Regulation, on the basis of the facts available. Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of facts available,

HAS ADOPTED THIS REGULATION:

Article 1

An investigation, pursuant to Article 13(3) of Regulation (EC) No 384/96, of imports of the following microdisk parts: shells (CN code ex 3926 90 99); clamshells (CN code ex 8523 20 90); adhesive rings (CN code ex 3926 90 99); lifters (CN codes ex 3920 69 00 and ex 3919 10 31); magnetic coated disks ('cookies') (CN code ex 8523 20 90), centre cores ('hubs') (CN codes ex 7326 90 97 and ex 7616 10 00), shutters (CN codes ex 3926 90 99, ex 7326 90 97 and 7616 10 00), springs (CN code ex 7320 20 89), write protector tabs (CN code ex 3926 90 99) and liners (CN code ex 5603 12 90), originating in Taiwan and the People's Republic of China, is hereby initiated.

Article 2

Customs authorities are hereby directed, pursuant to Articles l3(3) and 14(5) of Regulation (EC) No 384/96, to take the appropriate steps to register the imports of the following microdisk parts, originating in Taiwan and the People's Republic of China, in order to ensure that, should the anti-dumping duties applicable to imports of microdisks from these countries be extended to the aforementioned imports, they may be collected from the date of such registration:

Parts	CN code
Magnetic coated disks ('cookies')	ex 8523 20 90 Taric code 8523 20 90*20
Clamshells	ex 8523 20 90 Taric code 8523 20 90*30
Shells	ex 3926 90 99 Taric code 3926 90 99*40
Centre cores ('hubs')	ex 7326 90 97 Taric code 7326 90 97*40 ex 7616 10 00 Taric code 7616 10 00*20
Shutters	ex 3926 90 99 Taric code 3926 90 99*50 ex 7326 90 97 Taric code 7326 90 97*50 ex 7616 10 00 Taric code 7616 10 00*30

Registration shall expire nine months following the date of entry into force of this Regulation.

Imports shall not be subject to registration where they are accompanied by a customs certificate issued in accordance with Article 13(4) of Regulation (EC) No 384/96.

Article 3

Interested parties must, if their representations are to be taken into account during the investigation, make themselves known, present their views in writing, submit information and apply to be heard by the Commission within 40 days of the date of publication of this Regulation in the *Official Journal of the European Communities*. This time limit applies to all interested parties, including parties not named in the request.

Any information relating to this matter, any request for a hearing or for a questionnaire as well as any request for authorisation of certificates of non-circumvention should be sent to the following address:
European Commission,
Directorate General for External Relations:
Commercial Policy and Relations with North America, the Far East, Australia and New Zealand
Directorate I-C

Rue de la Loi/Wetstraat 200
B-1040 Brussels
Fax (32-2) 295 65 05.

Article 4

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.

Done at Brussels, 27 July 1999.

For the Commission
Leon BRITTAN
Vice-President