



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

**COUNCIL REGULATION**

**amending the anti-dumping measures imposed by Council Regulation (EC) No  
1824/2001 on imports of gas-fuelled, non-refillable pocket flint lighters originating in the  
People's Republic of China and Taiwan**

(presented by the Commission)

## **EXPLANATORY MEMORANDUM**

On 13 June 2002 a partial interim review limited to the form of the measure was initiated with regard to anti-dumping measures imposed by Council Regulation (EC) No 1824/2001 on imports into the Community of gas-fuelled, non-refillable pocket flint lighters originating in the People's Republic of China and Taiwan.

The attached proposal for a Council Regulation is based on the findings of the investigation with regard to the need to foresee in the operative part of Council Regulation (EC) No 1824/2001 a clause for damaged goods.

It is therefore proposed that the Council adopt the attached proposal for a Council Regulation which should be published in the Official Journal of the European Communities as soon as possible.

Proposal for a

## **COUNCIL REGULATION**

**amending the anti-dumping measures imposed by Council Regulation (EC) No 1824/2001 on imports of gas-fuelled, non-refillable pocket flint lighters originating in the People's Republic of China and Taiwan**

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<sup>1</sup> ("basic Regulation"), and in particular Article 11(3) thereof,

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

Whereas:

### **A. PROCEDURE**

#### **1. Measures in force**

- (1) In September 2001, the Council, by Regulation (EC) No 1824/2001<sup>2</sup>, imposed definitive anti-dumping duties on imports of gas-fuelled, non-refillable pocket flint lighters originating in the People's Republic of China (the "PRC") and Taiwan. The duties took the form of a specific duty.

#### **2. Initiation**

- (2) On 13 June 2002, the Commission announced by a notice ("Notice of Initiation") published in the Official Journal of the European Communities<sup>3</sup> the initiation of a partial interim review of the anti-dumping measures applicable to imports into the Community of gas-fuelled, non-refillable pocket flint lighters originating in the PRC and Taiwan.
- (3) The review was initiated on an initiative of the Commission in order to examine the appropriateness of the measures in force. The current measure, i.e. a duty in the form of a specific duty, does not cater for situations in which imported goods have been damaged before entry into free circulation.

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<sup>1</sup> OJ L 56, 6.3.1996, p. 1, as last amended by Regulation (EC) No 1972/2002 (OJ L 305, 7.11.2002, p. 1).

<sup>2</sup> OJ L 248, 18.9.2001, p. 1.

<sup>3</sup> OJ C 140, 13.6.2002, p. 13.

### **3. Investigation**

- (4) The Commission officially advised exporting producers, the importers and the users known to be concerned and their associations, the representatives of the exporting countries concerned and the Community producers about the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the Notice of Initiation.
- (5) A number of exporting producers in the countries concerned, as well as Community producers and Community importers/traders made their views known in writing. All parties who so requested within the set above time limit and who demonstrated that there were particular reasons why they should be heard were granted the opportunity to be heard.
- (6) The Commission sought and verified all the information it deemed necessary for the purpose of a determination of the appropriateness of the measures in force.

### **B. RESULTS OF THE INVESTIGATION**

- (7) Article 145 of Commission Regulation (EEC) No 2454/93 of 2 July 1993<sup>4</sup> laying down provisions for the implementation of the Community Customs Code<sup>5</sup> foresees, for the determination of the customs value, an apportioning of the price actually paid or payable in situations where goods have been damaged before entry into free circulation.
- (8) In order to avoid that an excessive amount of anti-dumping duty is levied, the specific duty should, in case of damaged goods, be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable. According to the well-established rules set out by the Community Customs Code, the customs value is reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.
- (9) No interested party submitted any comments or arguments against this proposal.
- (10) It is therefore concluded that in the absence of any substantiated argument from interested parties, in cases where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value, the specific duty shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

In Council Regulation (EC) 1824/2001, Article 3 shall be replaced by:

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<sup>4</sup> OJ L 253, 11.10.1993, p. 1, as last amended by Regulation (EC) No 444/2002 (OJ L 68, 12.3.2002, p. 11).

<sup>5</sup> Council Regulation (EEC) No 2913/92 (OJ L 302, 19.10.1992, p. 1).

*“Article 3*

1. In cases where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value pursuant to Article 145 of Commission Regulation (EEC) No 2454/93, the amount of the anti-dumping duty, calculated on the basis of the amounts set above, shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.
2. Unless otherwise specified, the provisions in force concerning customs duties shall apply.”

*Article 2*

This Regulation shall enter into force on the day following that of 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,

*For the Council  
The President*