

## I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 771/98**

of 7 April 1998

**imposing a definitive anti-dumping duty on imports of tungsten carbide and fused tungsten carbide originating in the People's Republic of China**

THE COUNCIL OF THE EUROPEAN UNION,

imposed a definitive duty of 33 % on imports of tungsten carbide and fused carbide.

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> and in particular Articles 9(4) and 11(6) thereof,

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

Whereas:

**A. PROCEDURE**

**1. Measures in force**

- (1) By Regulation (EEC) No 2737/90<sup>(2)</sup>, the Council imposed a definitive anti-dumping duty on imports of tungsten carbide and fused tungsten carbide originating in the People's Republic of China. By Decision 90/480/EEC<sup>(3)</sup> the Commission accepted undertakings given by two major exporters concerning the product subject to measures.

Following the withdrawal of the undertakings by the two Chinese exporters concerned, the Commission imposed by Regulation (EC) No 2286/94<sup>(4)</sup> a provisional anti-dumping duty on the product concerned.

By Regulation (EC) No 610/95<sup>(5)</sup>, the Council amended Regulation (EEC) No 2737/90 and

**2. Request for review**

- (2) Following the publication in February 1995 of a notice<sup>(6)</sup> of the impending expiry of the measures in force, the Commission received a request for a review of these measures lodged by Eurométaux, on behalf of three Community producers representing, with the exception of one small producer, the totality of the producers of the product concerned in the Community. The request contained evidence of dumping of the product originating in the People's Republic of China and of renewed material injury likely to recur in the event of expiry of the existing measures. This evidence was considered sufficient to justify the initiation of a review investigation.

- (3) On 21 September 1995, the Commission announced by a notice published in the *Official Journal of the European Communities*<sup>(7)</sup>, the initiation of a review of Regulation (EEC) No 2737/90. This review was initiated within the meaning of Article 11(2) of Regulation (EC) No 3283/94<sup>(8)</sup> which was replaced during the investigation by Regulation (EC) No 384/96 (hereafter referred to as the 'Basic Regulation').

**3. Investigation**

- (4) The Commission officially advised the producers/exporters and importers known to be concerned, the representatives of the exporting country and the complainant Community producers of the initiation of the review.

<sup>(1)</sup> 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).

<sup>(2)</sup> OJ L 264, 27. 9. 1990, p. 7.

<sup>(3)</sup> OJ L 264, 27. 9. 1990, p. 59.

<sup>(4)</sup> OJ L 248, 23. 9. 1994, p. 8.

<sup>(5)</sup> OJ L 64, 22. 3. 1995, p. 1.

<sup>(6)</sup> OJ C 48, 25. 2. 1995, p. 3.

<sup>(7)</sup> OJ C 244, 21. 9. 1995, pp. 3, 4 and 5.

<sup>(8)</sup> OJ L 349, 31. 12. 1994, p. 1.

- (5) Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the above notice.
- (6) The Commission sent questionnaires to all parties known to be concerned and received replies from the three complainant Community producers, three importers which were also users of the product concerned and from two exporters/producers and an importer in the Community related to exporters/producers. The Community producers, exporters/producers and some importers/users made their views known in writing and were granted a hearing.
- (7) The Commission sought and verified all information it deemed necessary for the purpose of the investigation and carried out verification visits at the premises of the following companies:
- (a) *Community producers:*
- Wolfram Bergbau und Hüttengesellschaft m.b.H., St Peter, Austria
  - H. C. Starck GmbH & Co. KG, Goslar, Germany
  - Eurotungstène Poudres, Grenoble, France
- (b) *Importers/users in the Community:*
- AB Sandvik Hard Materials, Sweden
  - Seco Tools AB, Sweden
- (c) *Related importer:*
- Minmetals North-Europe AB, Sweden
- (d) *Producer in the analogue country:*
- Teledyne Advanced Materials, USA
- (8) The investigation of dumping covered the period from 1 October 1994 to 30 September 1995 (hereafter referred to as the 'investigation period'). The examination of injury covered the period from 1991 up to the end of the investigation period.
- (9) The present review exceeded the period of one year within which it should normally have been concluded pursuant to Article 11(5) of the Basic Regulation, due to the complexity of the investigation, and in particular due to the difficulties in obtaining reliable data on an appropriate analogue country. Furthermore, two other investigations concerning tungsten products, i.e. tungsten ores and concentrates on the one hand, and tungstic oxide and acid on the other hand, were initiated at the same time as the present review and had to be carried out in parallel given the links between these products in the tungsten production chain.

## B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

### 1. Product under consideration

- (10) The product concerned by the present review is the same as the one under consideration in Regulation (EC) No 2737/90 and falls within CN code 2849 90 30.

Tungsten carbide and fused tungsten carbide are compounds of carbon and tungsten produced by heat treatment (carburisation in the first case, fusion in the second). Both products are intermediate products, used as input materials in the manufacture of hard metal components such as cemented carbide cutting tools and high-wear components, in abrasion-resistant coatings, in bits for oil drilling and mining tools as well as in dies and tips for the drawing and forging of metals.

- (11) An allegation was made by an importer that tungsten carbide and fused tungsten carbide were different products. The arguments put forward were mainly based on the different manufacturing processes and the differences in chemical characteristics.

However, the investigation has shown that, although their manufacturing process is different, tungsten carbide and fused tungsten carbide have the same chemical composition (both consist of approximately 92 to 94 % of tungsten metal and 4 to 6 % of carbon) and come from the same stage in the tungsten production chain, i.e. between tungsten metal powder and carbide tools and wear-resisting materials. Furthermore, they are put to similar end-uses in the industry, i.e. as a surface hardening component. Although for certain specific and limited applications which require higher wear and abrasive resistance only fused tungsten carbide is used, fused tungsten carbide and tungsten carbide are generally interchangeable. It was therefore concluded that, as in the original investigation, tungsten carbide and fused tungsten carbide are one single product for the purpose of the investigation. They are hereafter referred to as 'carbide'.

### 2. Like product

- (12) As established in the original investigation, the review investigation has confirmed that the products exported by the People's Republic of China and those manufactured and sold by the Community producers and by producers in the analogue country were like products within the meaning of Article 1(4) of the Basic Regulation, because they have essentially the same physical characteristics and end uses.

### C. CONTINUATION AND LIKELIHOOD OF RECURRENCE OF DUMPING

#### 1. Preliminary remarks

- (13) In accordance with Article 11(2) of the Basic Regulation, the purpose of the present review was to determine whether or not the expiry of the measures would lead to a continuation or recurrence of dumping, in particular by examining whether dumping continued to take place after the adoption of anti-dumping measures.

#### 2. Analogue country

- (14) Since the People's Republic of China is not a market economy country, normal value had to be determined on the basis of information obtained in a third country market economy (hereinafter the 'analogue country').

For this purpose South Korea had been suggested as an analogue country by the complainants. The notice of initiation envisaged the use of this country as an analogue country. Although substantial efforts were made to secure cooperation from several South Korean manufacturers of the product concerned, these producers refused to cooperate.

- (15) As an alternative, the complainants had suggested the use of the United States of America as an analogue country. In addition, the use of Israel for this purpose was also considered in the light of the readiness of the Israeli manufacturer Metek Metal Technology Ltd to cooperate not only in the review concerning tungstic oxide and tungstic acid<sup>(1)</sup>, but also in this review. However, when analysing the data submitted by the Israeli producer Metek Metal Technology Ltd, it became clear that this company did not sell the product concerned on its domestic market.

In the present case, only the US market seemed to provide for sufficient sales in the ordinary course of trade of domestically produced carbide. One major US producer of carbide, Teledyne Advanced Materials (hereinafter 'Teledyne'), offered to cooperate.

The following facts and considerations were decisive for the choice of the United States of America as an appropriate analogue country:

- the carbide produced in the US had the same characteristics as that produced in the People's Republic of China and exported to the Community,
- the carbide manufacturing process of the cooperating US producer is based on the calcination into tungstic oxide of domestically produced or imported ammonium paratungstate which is further carburised into tungsten carbide, or on the direct carburisation of

imported tungstic oxide, as well as the reprocessing of various tungsten containing scrap compositions. It is similar to the manufacturing process of the Chinese producers, assessed on the basis of data available from the cooperating Chinese exporters/producers. It is modern and efficient, and proved to be profitable during the investigation period,

- in terms of sourcing, Teledyne had unimpeded access to the raw materials for the production of carbide, namely ammonium paratungstate and tungstic oxide, which were purchased at world market prices during the investigation period from different sources of supply,
- the US producer sold around 85 % of its production on the US market, an open and representative domestic market with a considerable number of end-users, where it competed with six other local producers of carbide. The US market showed a competitive structure of supply and demand, further bolstered by significant import volumes of carbide from various countries (the People's Republic of China, South Korea, Israel, etc.). Nothing was found to suggest that costs and prices were not governed by the economic forces of a non-regulated, free market economy.

- (16) On the basis of the above factors, and in accordance with Article 2(7) of the Basic Regulation, the United States of America was, therefore, considered to be an appropriate and not unreasonable choice of an analogue country for establishing normal value for the product under investigation.

No objections were raised to the choice of the US as an analogue country, either by the Chinese exporters/producers or by the Chinese authorities, or by any other party concerned.

#### 3. Normal value based on domestic sales

- (17) In accordance with Article 2(2) of the Basic Regulation it was examined whether the volume of sales of carbide by Teledyne on the domestic market reached at least 5 % of the volume of the product concerned exported by the People's Republic of China to the Community. It was found that the domestic sales of the like product achieved by Teledyne represented a multiple of the volume of the exports made by the Chinese exporters to the Community.

- (18) It was subsequently examined whether the domestic sales of Teledyne to independent customers could be considered to have been made in the ordinary course of trade.

<sup>(1)</sup> OJ L 87, 21. 3. 1998, p. 24.

Whether or not domestic sales were made in the ordinary course of trade was determined pursuant to Article 2(4) of the Basic Regulation. It was found that the weighted average selling price of all sales during the investigation period was equal to or higher than the weighted average unit cost of production, and that the volume of individual sales transactions below unit cost of production was less than 20 % of sales being used to determine normal value; therefore all domestic sales were regarded as having been made in the ordinary course of trade.

- (19) Normal value was therefore based, as set out in Article 2(1) of the Basic Regulation, on the basis of the prices paid or payable of all domestic sales of the carbide to independent customers of Teledyne in the US market during the investigation period.

#### 4. Export prices

- (20) Comprehensive data were received on export prices from two Chinese producers/exporters and four importers. The data covered almost the totality of Chinese exports of carbide to the Community during the investigation period, as confirmed by Eurostat figures.

For those Chinese exports which were sold directly for export to independent customers in the Community, export prices were established on the basis of the prices actually paid or payable for the product concerned, in accordance with Article 2(8) of the Basic Regulation. For a significant percentage of the Chinese exports which were made through a related company (Minmetals North-Europe AB), export prices were constructed on the basis of resale prices to the first independent customers in the Community, in accordance with Article 2(9) of the Basic Regulation. An adjustment was made for all costs, including duties and taxes incurred between importation and resale, and for profit. The profit margin was established on the basis of data obtained from the unrelated importers in the same business sector.

#### 5. Comparison

- (21) In accordance with Article 2(11) of the Basic Regulation, a weighted average normal value, on a fob US border basis, was compared to a weighted average export price on a fob China border basis, and at the same level of trade.

For the purpose of a fair comparison, in accordance with Article 2(10) of the Basic Regulation, due allowance in form of adjustments was made for differences in respect of transport, insurance, credit costs, handling and ancillary costs, which were

claimed and demonstrated to affect price comparability.

#### 6. Dumping margin

The above comparison showed the existence of dumping, the dumping margin being equal to the amount by which the normal value exceeded the export price.

Expressed as a percentage of the free-at-Community frontier price, duty unpaid, the single weighted average dumping margin amounts to 30,6 %.

#### D. COMMUNITY INDUSTRY

- (22) A number of claims were made by the Chinese exporters/producers and some users concerning the definition of the Community industry and the standing of the producers supporting the review request.

- (23) The Chinese exporters/producers claimed that one of the producers supporting the review request was related to one importer of Chinese carbide and should therefore be excluded from the definition of the Community industry, pursuant to Article 4(1)(a) and (2) of the Basic Regulation.

It was established during the investigation that the two companies concerned although related had no control over each other. Moreover, these companies had conflicting interests regarding the imposition of the anti-dumping measures. One company was producing carbide whereas the other company was importing the product concerned. It was found that the two companies were acting autonomously when defining and pursuing their business strategy. Overall, it was concluded that their relationship did not influence the behaviour nor did it distort the analysis of the economic situation of the Community producer in question as regards the product concerned and there was therefore no reason to exclude this producer from the definition of the Community industry.

- (24) As mentioned in recital (2), the request for review was submitted by producers representing almost the totality of the production of carbide intended for sales on the open market and, accordingly, they constituted the Community industry.

This was contested by a number of integrated producers of tungsten end-products in the Community (tools, hard metals), producing small quantities of carbide exclusively for internal

consumption. Specifically, they argued that the representativity of the producers supporting the review should be assessed by reference to the totality of the Community production of the product concerned (including their own captive production) and that, on this basis, the producers supporting the review were not representative of the Community industry.

- (25) This issue was examined but it was concluded that the argument was incorrect. Indeed, even if the output of the companies which only produce for captive use was taken into account, the producers supporting the review request would still account for 60 % of the overall Community production of the product concerned, thus fulfilling the criteria of Article 5(4) of the Basic Regulation. In addition, it was confirmed that the producers supporting the review accounted for almost all Community production of carbide intended for sales in the open market.
- (26) Given the above, the producers supporting the review request constitute the Community industry within the meaning of Articles 4(1) and 5(4) of the Basic Regulation. For the remainder of this Regulation, the term 'Community industry' will be used to refer to the companies supporting the review.

#### E. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY

##### 1. Preliminary remarks

- (27) When examining injury, it should be recalled that carbide is part of an entire production chain of tungsten products and that, therefore, any developments of the market for the product concerned should be seen in conjunction with the developments for the other products in the production chain.

Conclusions with regard to injury were based on data relating to the Community as composed at the time of the initiation of the review, i.e. the Community of 15 Member States.

##### 2. Community consumption

- (28) For the purpose of the investigation, and as the Community industry only produced carbide for the open market, consumption in the Community market was established on the basis of the production by the Community industry plus imports, minus exports, plus or minus stock variations. This approach did not take into account captively used production of integrated downstream producers of tungsten end products (e.g. hard metal com-

ponents) which was not considered to be in direct competition with the dumped imports.

On this basis, the consumption in the Community rose from 2 801 tonnes in 1991 to 2 819 tonnes in 1992, decreased to 2 706 tonnes in 1993 and increased again in 1994 to 4 236 tonnes and in the investigation period to 4 703 tonnes, representing an increase of 68 % in comparison with 1991. This development of consumption, showing a decrease until the end of 1993 and a recovery thereafter, was in line with the market developments for the industrial sectors using the product concerned.

##### 3. Volume and market share of the dumped imports

- (29) Imports from the People's Republic of China in the Community decreased from 143 tonnes in 1991 to 68 tonnes in 1992 and increased again to 83 tonnes in 1993, 136 tonnes in 1994 and 234 tonnes in the investigation period (overall increase by 63,6 %).

The market share of these imports decreased from 5,1 % in 1991 to 2,4 % in 1992 but increased continuously thereafter, up to 5 % in the investigation period, despite the imposition of anti-dumping measures in the form of *ad valorem* duties after the withdrawal of the undertakings by the Chinese exporters in 1994.

##### 4. Prices of the dumped imports

###### (a) Overall trend

- (30) On the basis of price information available (Eurostat), prices of the Chinese exporters (cif, customs and anti-dumping duties unpaid) remained relatively stable between 1991 and the investigation period (+2 %).

The relatively stable price of carbide has to be seen in conjunction with the increase in prices of the tungsten upstream products, ammonium paratungstate and tungstic oxide and acid which increased respectively by 27 % and 25 % over the same period.

###### (b) Price undercutting

- (31) For the investigation period, the Community industry's monthly weighted average selling price for carbide was compared with a monthly weighted average price of tungsten exported from the People's Republic of China to the Community.

The Community industry's prices were ex-works and the exporters' prices were at-Community-frontier, customs and anti-dumping duties paid.

This comparison showed a negligible undercutting margin. However, it should be noted that, prior to the imposition of the *ad valorem* duty (September 1994) resulting from the withdrawal of the undertakings by the Chinese exporters, the Chinese prices were found to continuously undercut the Community producers' prices and price undertakings in force during this period did not appear to have been consistently adhered to.

#### 5. The situation of the Community industry

(32) In accordance with Article 11(2) of the Basic Regulation, it was examined whether the expiry of the measures in force would lead to a continuation or recurrence of injury to the Community industry.

##### (a) *Production, production capacity, utilization rate and stocks*

(33) The Community industry's production of the product concerned remained stable at around 3 300 tonnes from 1991 to 1993 and increased to 4 375 tonnes in 1994 and 4 641 tonnes in the investigation period, which represents an increase of 40 % in comparison with 1991. This increase should be seen in the light of the increase in consumption over the same period (+68 %).

(34) The Community industry's production capacity remained stable from 1991 to 1993 at 4 240 tonnes and increased to 4 740 tonnes in 1994 and 5 095 tonnes in the investigation period (+20 % in comparison to 1991).

(35) The utilization rate was stable from 1991 to 1993, at around 78 %, and increased up to more than 90 % in 1994 and the investigation period.

(36) Stocks decreased overall during the period, in particular in 1994 and the investigation period.

##### (b) *Sales volume and market share*

(37) The quantity of carbide sold in the Community market by the Community industry increased in absolute terms from 1 873 tonnes in 1991, to 1 993 tonnes in 1992, decreased to 1 828 tonnes in 1993, increased again to 2 596 tonnes in 1994 and 2 994 tonnes in the investigation period (overall increase by 60 %). The market share of this industry, after an increase in 1992, decreased continuously thereafter. It developed as follows: 66,9 % in 1991, 70,7 % in 1992, 67,6 % in 1993, 61,3 % in 1994 and 63,7 % in the investigation period.

##### (c) *Price evolution*

(38) The weighted average selling price of carbide decreased sharply (−20 %) between 1991 and 1994 and strongly recovered during the investigation period.

It is noted that this recovery in prices coincided with the imposition in September 1994 of a 33 % *ad valorem* duty on Chinese imports. Furthermore, this price increase followed the increase in the prices of the tungsten upstream intermediates, i.e. ammonium paratungstate and oxide (see also recital (31)). The price increase also coincided with the increase in demand.

##### (d) *Profitability*

(39) The Community producers suffered heavy losses of up to 20 % on average from 1991 to 1994. As a consequence of the strong price recovery, profitable returns on sales were reached during the investigation period (13 % on average).

##### (e) *Employment*

(40) Given the fact that the personnel concerned work in an integrated production chain and the close links between the various tungsten products, specific allocations of personnel per product were not possible. Employment of the tungsten sector decreased by 14 % over the whole period. In the investigation period, the Community industry employed 580 people in the tungsten production chain.

##### (f) *Conclusion on the situation of the Community industry*

(41) The above analysis has revealed that some injury indicators such as production, sales and capacity utilisation showed, after a long period of negative trends, positive developments in line with the positive development in the market overall and coinciding with the imposition of *ad valorem* anti-dumping duties on the imports concerned by the present investigation after 1994. As far as the financial situation of the Community industry is concerned, it should be noted that profits were only made in the investigation period. In the years prior to the investigation period (1991 to 1994), the Community industry continued to suffer material injury in the form of decreasing prices and heavy losses of up to 20 % on average. Finally it should

be noted that the market share held by the Community industry, after an increase in 1992, decreased continuously from 1993 to the investigation period by almost 10 percentage points. In this respect, it should be noted that, in the past, the Chinese exports were mostly concentrated on ammonium paratungstate and to a lesser extent oxide. However, it is not unlikely that, in the absence of measures on carbide, the Chinese exports would move gradually to carbide given that this is a higher value product in the chain.

#### 6. Price undercutting in the event of the expiry of measures

- (42) A second price undercutting calculation was undertaken to establish the level of undercutting in the event of the expiry of anti-dumping measures. The methodology was the same as that described in recital (31) except that no anti-dumping duty was added to the import price. In this case, undercutting margins resulted in 23 % on average, expressed as a percentage of the Community producers' prices.

#### 7. Conclusion

- (43) The situation of the Community producers improved during the investigation period. However, it can be concluded from the investigation that, because of their low prices, Chinese imports aggravated the difficulties of the Community industry prior to the imposition of *ad valorem* duties when the undertakings offered by the Chinese exporters/producers were apparently not respected. This has prevented the Community industry from fully recovering from the effects of the previous dumping practices. It appears highly likely that in the absence of anti-dumping measures, the prices of the Chinese dumped imports would be made at a level that undercuts the prices of the Community industry.
- (44) In this context, a number of claims were made by the Chinese exporters questioning the causal link between the dumped imports and the situation of the Community industry.

It was alleged that the recovery of the Community industry was only due to the surge in demand for carbide in 1994 and the investigation period and not to the imposition of an *ad valorem* duty on Chinese imports. In this respect, it cannot be denied that the recovery in demand influenced the level of prices. However, it should be stressed that it was only after September 1994, when the *ad valorem* anti-dumping duties were imposed, that the sales prices achieved by the Community

industry increased and the financial situation of the Community producers improved after years of losses.

- (45) It was further claimed that Chinese imports have had less impact on the Community market than imports from other third countries like the United States or South Korea. It should be noted that, although imports originating from the USA and South Korea took over part of the increase in consumption during the period examined, with a consequent increase of the respective market shares, their prices were found to be generally higher than the Chinese prices and there was no evidence of these prices being dumped. In addition, any influence of other imports on the situation of the Community industry does not detract from the negative impact that, in the absence of measures, the Chinese imports could continue to have on the situation of the Community industry as shown by the likelihood of continued price undercutting (see recital (43)).
- (46) Furthermore, the need for measures to be maintained should also be seen in the light of the pressure that imports of Chinese intermediate products could apply on the prices of the Community industry's end-product. In this context, it should be noted that the Community industry is, to a certain degree, dependent on external supply of upstream products (mainly ammonium paratungstate), given that the recycling process of scrap materials does not, at the moment, meet the overall needs of the industry. In the absence of anti-dumping measures on carbide, the industry could be compelled, under pressure from the Chinese imports of this product, to lower its prices of carbide and if faced at the same time with an increase in the Chinese prices of upstream products, its viability would be compromised.
- (47) It was therefore concluded that, in the absence of measures, there is a likelihood of a recurrence of injury.

#### F. COMMUNITY INTEREST

- (48) It should be recalled that in the previous investigation, the adoption of measures was considered not to be against the interest of the Community. Furthermore, it should be noted that the present investigation is a review, thus analysing a situation in which anti-dumping measures have already been in place. Consequently, the timing and nature of the present investigation would allow to assess any negative undue impact on the parties concerned by the anti-dumping measures imposed.

### 1. The Community carbide industry

- (49) The Community industry in the investigation period was composed of three companies located in different Member States. For each of these companies, carbide represents the most important product in the tungsten production chain, being the final product in this chain. In terms of turnover, carbide accounts for more than 60 % of the value of all sales of tungsten products. In the past years, constant investments have been made in this sector in order, in particular, to ensure compliance of production methods with environmental requirements and to develop new processing methods, namely recycling of tungsten containing scrap materials. This technology is aimed at gaining more independence from the raw materials (concentrates) or intermediate products (ammonium paratungstate and tungstic oxide and tungstic acid).

The economic situation which is characterised by financial losses having been incurred over four years by the Community industry has not yet been fully re-established since the recent introduction of an *ad valorem* anti-dumping duty.

- (50) As shown in the investigation, it is likely that in the absence of protective measures on carbide, the last and most vulnerable stage of the tungsten production chain, injury would recur in the form of losses to the Community industry and continuing and even growing losses of market share. Fair conditions of competition should therefore be maintained to allow the Community industry to remain viable.

### 2. The user industry

- (51) It is recalled that the Community users of carbide are mainly the manufacturers of hard metal components, (i.e. carbide tools and wear-resisting materials). It is composed of a few large companies ('major users') which partly have an integrated production (i.e. they start from the ammonium paratungstate or tungsten oxide stage and transform these products up to the final stage) and around a hundred smaller companies ('smaller users'), which start mostly at the carbide stage.
- (52) One major user claimed that the anti-dumping duty on Chinese imports would increase its overall production costs and endanger its position on the Community market in comparison with its major US and Japanese competitors which can obtain supplies of carbide not subject to anti-dumping

measures. It would allegedly suffer a loss of competitiveness.

It was found that this user, which is an integrated producer of carbide tools and wear-resistant materials, started its production process during the period considered mainly from upstream intermediates such as ammonium paratungstate and tungstic oxide and had, therefore, limited needs for imported carbide. It imported almost a quarter of the total of carbide imported in the Community from the People's Republic of China. However, this represented less than 4 % of its carbide consumption. The maximum impact of the 33 % duty was calculated to amount to less than 1 % on the production costs of the tungsten related products of this user. Any impact of the duty on this company's tungsten chain would therefore appear to be minimal.

- (53) A dozen smaller users have expressed themselves in favour of maintaining the measures. The main argument was that if the measures on carbide lapsed, it would only favour the major users' strong position in the market of carbide tools. These users have a stronger negotiating position *vis-a-vis* the Chinese suppliers than the smaller companies and could therefore obtain more advantageous prices.
- (54) No other substantiated comments against measures were submitted by users. Since the measures have been in place for a certain period, and would be maintained at the same level, it can be concluded that this would not imply any deterioration of the situation of the users in general.

### 3. Effective competition

- (55) It has also been claimed that the level of competition on the carbide market would be affected by the continuation of the anti-dumping duty since it would create an oligopolistic market. All users would have to rely on the Community producers.
- (56) It should be recalled that in spite of anti-dumping measures, the Chinese exporters have always been present on the Community market and increased their market share during the investigation period. It should be further noted that there are other third-country suppliers of carbide in the Community, ensuring that a number of alternative supply sources exist. Finally, it has been demonstrated that due to the interrelationship between the various products of the tungsten chain, there is considerable competitive pressure in the market for any product in the chain from the competitors in the market for the other products.



#### 4. Conclusion on Community interest

- (57) In the light of the above, it was concluded that there were no compelling reasons not to maintain the measures in force, in order to ensure competitive conditions of fair pricing and to avoid any likelihood of a recurrence of injury to the Community industry which would certainly occur if the measures were allowed to expire.

#### G. ANTI-DUMPING MEASURES

- (58) All parties concerned were informed of the essential facts and considerations on the basis of which it was intended to recommend the maintenance of the existing measures. They were also granted a period within which to make representations subsequent to these disclosures. The comments of the parties were considered and, where appropriate, the findings have been modified accordingly.
- (59) It follows from the above that, as provided for by Article 11(2) of the Basic Regulation, the anti-dumping duty of 33 % on imports of tungsten carbide and fused carbide originating in the

People's Republic of China imposed by Regulation (EEC) No 2737/90 should be maintained. Regulation (EEC) No 2737/90 has been maintained in force by this review and will lapse on its conclusion. The anti-dumping duty imposed by that Regulation should therefore be reimposed,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

1. A definitive anti-dumping duty is hereby imposed on imports of tungsten carbide and fused tungsten carbide, falling within CN code 2849 90 30 and originating in the People's Republic of China.
2. The duty shall be 33 % of the net, free-at-Community-frontier price of the product, before duty.
3. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

#### *Article 2*

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 Luxembourg, 7 April 1998.

*For the Council*  
*The President*  
D. BLUNKETT

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