

**COMMISSION IMPLEMENTING REGULATION (EU) 2017/942****of 1 June 2017****imposing a definitive anti-dumping duty on imports of tungsten carbide, fused tungsten carbide and tungsten carbide simply mixed with metallic powder originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union <sup>(1)</sup> ('basic Regulation'), and in particular Article 11(2) thereof,

Whereas:

**1. PROCEDURE****1.1. Measures in force**

- (1) By Council Regulation (EEC) No 2737/90 <sup>(2)</sup>, the Council imposed a definitive anti-dumping duty of 33 % on imports of tungsten carbide and fused tungsten carbide originating in the People's Republic of China ('PRC', 'China' or 'country concerned') ('original investigation'). By Decision 90/480/EEC <sup>(3)</sup> the Commission accepted undertakings given by two major exporters concerning the product subject to measures.
- (2) Following the withdrawal of the undertakings by the two Chinese exporters concerned, the Council, by Council Regulation (EC) No 610/95 <sup>(4)</sup>, amended Regulation (EEC) No 2737/90 and imposed a definitive duty of 33 % on imports of tungsten carbide and fused tungsten carbide.
- (3) By Council Regulation (EC) No 771/98 <sup>(5)</sup>, following an expiry review, these measures were extended for another five-year period.
- (4) By Council Regulation (EC) No 2268/2004 <sup>(6)</sup>, following an expiry review, the Council imposed an anti-dumping duty of 33 % on imports of tungsten carbide and fused tungsten carbide originating in the PRC.
- (5) By Council Regulation (EC) No 1275/2005 <sup>(7)</sup>, the Council amended the definition of the product scope to also cover tungsten carbide simply mixed with metallic powder.

<sup>(1)</sup> OJ L 176, 30.6.2016, p. 21.

<sup>(2)</sup> Council Regulation (EEC) No 2737/90 of 24 September 1990 imposing a definitive anti-dumping duty on imports of tungsten carbide and fused tungsten carbide originating in the People's Republic of China and definitively collecting the provisional duty (OJ L 264, 27.9.1990, p. 7).

<sup>(3)</sup> Commission Decision 90/480/EEC of 24 September 1990 accepting undertakings given by certain exporters in connection with the anti-dumping proceeding concerning imports of tungsten carbide and fused tungsten carbide originating in the People's Republic of China and terminating the investigation with regard to the exporters in question (OJ L 264, 27.9.1990, p. 59).

<sup>(4)</sup> Council Regulation (EC) No 610/95 of 20 March 1995 amending Regulations (EEC) No 2735/90, (EEC) No 2736/90 and (EEC) No 2737/90 imposing a definitive anti-dumping duty on imports of tungsten ores and concentrates, tungstic oxide, tungstic acid, tungsten carbide and fused tungsten carbide originating in the People's Republic of China, and definitively collecting the amounts secured by way of the provisional anti-dumping duty imposed by Commission Regulation (EC) No 2286/94 (OJ L 64, 22.3.1995, p. 1).

<sup>(5)</sup> 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 (OJ L 111, 9.4.1998, p. 1).

<sup>(6)</sup> Council Regulation (EC) No 2268/2004 of 22 December 2004 imposing a definitive anti-dumping duty on imports of tungsten carbide and fused tungsten carbide originating in the People's Republic of China (OJ L 395, 31.12.2004, p. 56).

<sup>(7)</sup> Council Regulation (EC) No 1275/2005 of 26 July 2005 amending Regulation (EC) No 2268/2004 imposing a definitive anti-dumping duty on imports of tungsten carbide and fused tungsten carbide originating in the People's Republic of China (OJ L 202, 3.8.2005, p. 1).

- (6) Following a review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 <sup>(1)</sup>, the Council extended the measures for another five-year period by Council Implementing Regulation (EU) No 287/2011 <sup>(2)</sup> ('previous expiry review').

### 1.2. Request for an expiry review

- (7) Following the publication of a notice of impending expiry <sup>(3)</sup> of the existing measures, the Commission received on 7 December 2015 a request for the initiation of an expiry review of these measures pursuant to Article 11(2) of Regulation (EC) No 1225/2009 ('the request for review').
- (8) The request was lodged on behalf of six Union producers ('the applicant') representing more than 25 % of the total Union production of tungsten carbide, fused tungsten carbide and tungsten carbide simply mixed with metallic powder ('tungsten carbide').
- (9) The request was based on the grounds that the expiry of the measures would likely result in a continuation of dumping and recurrence of injury to the Union industry.

### 1.3. Initiation

- (10) Having determined, after consulting the Committee established by Article 15(1) of the basic Regulation, that sufficient evidence existed for the initiation of an expiry review, the Commission announced on 23 March 2016, by a notice published in the *Official Journal of the European Union* <sup>(4)</sup> ('the Notice of Initiation'), the initiation of an expiry review on the basis of Article 11(2) of Regulation (EC) No 1225/2009.
- (11) Several users claimed that they had requested the Commission prior to the initiation of the current expiry review investigation that, if an expiry review investigation was opened, an interim review pursuant to Article 11(3) of the basic Regulation should be initiated in parallel. This claim was also reiterated after the disclosure.
- (12) In contrast to what was claimed, no such request was submitted to the Commission. The parties in question simply raised the question to the Commission whether the previous dumping and injury findings were still valid today. These questions were neither coupled with a request to initiate an interim review nor did these parties provide any evidence showing a lasting change in circumstances. Only a request substantiated with sufficient evidence, showing such change in circumstances of a lasting nature, can be considered as a valid request.

### 1.4. Interested parties

- (13) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission specifically informed known Union producers, known exporting producers, the Chinese authorities, known importers and users about the initiation of the investigation and invited them to participate.
- (14) Interested parties were given the opportunity to make their views known in writing and request a hearing within the time limits set out in the Notice of Initiation. All interested parties, who requested so and showed that there were particular reasons why they should be heard, were granted a hearing. Interested parties were also granted an opportunity to comment on the initiation of the investigation and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.
- (15) Four hearings were held during the investigation: two with several users, one with the Union producers and one in the presence of the Hearing Officer in trade proceedings for one importer/user.

<sup>(1)</sup> Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ L 343, 22.12.2009, p. 51). This Regulation has been codified by the basic Regulation.

<sup>(2)</sup> Council Implementing Regulation (EU) No 287/2011 of 21 March 2011 imposing a definitive anti-dumping duty on imports of tungsten carbide, tungsten carbide simply mixed with metallic powder and fused tungsten carbide originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009 (OJ L 78, 24.3.2011, p. 1).

<sup>(3)</sup> Notice of the impending expiry of certain anti-dumping measures (OJ C 212, 27.6.2015, p. 8).

<sup>(4)</sup> Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of tungsten carbide, fused tungsten carbide and tungsten carbide simply mixed with metallic powder originating in the People's Republic of China (OJ C 108, 23.3.2016, p. 6).

(a) Sampling

- (16) In its Notice of Initiation, the Commission stated that it might sample the interested parties in accordance with Article 17 of the basic Regulation.

*Sampling of exporting producers in the PRC*

- (17) In view of the apparent large number of exporting producers in the PRC, sampling was envisaged in the Notice of Initiation.
- (18) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known exporting producers in the PRC to provide the information specified in the Notice of Initiation. In addition, the Commission requested the Mission of the People's Republic of China to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.
- (19) The sampling information was received from eight exporting producers/groups of exporting producers located in the PRC.
- (20) In accordance with Article 17(1) of the basic Regulation, the Commission initially selected a sample of three exporting producers/groups of exporting producers on the basis of the largest representative volume of exports to the Union which could reasonably be investigated within the time available. In accordance with Article 17(2) of the basic Regulation, all known exporting producers/groups of exporting producers concerned and the authorities in the PRC were consulted on the selection of the sample. No comments were received.
- (21) Questionnaires were sent to the three sampled exporting producers/groups of exporting producers, but none of them provided the Commission with the information requested. Therefore, in order to collect the necessary information for the determination of the likelihood of continuation or recurrence of dumping and injury the Commission's services deemed necessary to seek cooperation from the remaining exporting producers/groups of exporting producers that submitted sampling information. All known exporting producers/groups of exporting producers concerned and the authorities in the PRC were consulted on the new sample. No comments were received. Questionnaires were therefore sent to the remaining exporting producers/groups of exporting producers. Nonetheless, none of the Chinese exporting producers/groups of exporting producers provided the Commission with the information requested.

*Sampling of Union producers*

- (22) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. According to the request for review, there are nine producers of tungsten carbide in the Union, six out of which produce for the free market and three mainly for the captive use. All six Union producers/groups of Union producers that manufacture for the free market came forward during the standing exercise, representing 65 % of the total Union production. The Commission decided to sample all six producers. The Commission invited interested parties to comment on the provisional sample. No comments were received within the deadline and the provisional sample was thus confirmed. The sample was considered representative for the Union industry.
- (23) The three producers mainly producing for the captive market, although not cooperating, did not oppose to the investigation.

*Sampling of importers/users*

- (24) To decide whether sampling was necessary and, if so, to select a sample, the Commission contacted ten known importers/users and asked them to provide the information specified in the Notice of Initiation.
- (25) Seven companies came forward within the time limits and questionnaires were sent to all of them. All of them were users.

(b) Replies to the questionnaire

- (26) The Commission sent questionnaires to the six sampled Union producers, seven known users, eight exporting producers/groups of exporting producers in the PRC, and 20 known producers in potential analogue countries (Canada, Japan and the United States of America).
- (27) Questionnaire replies were received from six Union producers, eight users (two of them related), one potential analogue country producer in the United States of America and one potential analogue country producer in Japan. None of the Chinese exporting producers/groups of exporting producers replied to the questionnaire.
- (28) One German association of non-ferrous metals came forward supporting the continuation of the measures.

(c) Verification visits

- (29) The Commission sought and verified all the information deemed necessary for the determination of likelihood of continuation or recurrence of dumping and injury and Union interest. Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:

*Union producers*

- Eurotungstène Poudres SA, Grenoble, France
- Global Tungsten & Powders spol. s.r.o, Bruntál, Czech Republic
- H. C. Starck GmbH & Co. KG, Goslar, Germany
- Tikomet Oy, Jyväskylä, Finland
- Treibacher Industrie AG, Althofen, Austria
- Wolfram Bergbau und Hütten-GmbH Nfg.KG., St Peter, Austria

*Users*

- Atlas Copco Secoroc AB, Fagersta, Sweden
- Betek GmbH & Co. KG, Aichhalden, Germany
- Gühring KG, Albstadt, Germany
- Konrad Friedrichs GmbH & Co. KG, Kulmbach, Germany
- Technogenia SAS, Sait-Jorioz, France

*Producer in the analogue country*

- Global Tungsten & Powders Corp., Towanda, United States of America.

### 1.5. Investigation period and period considered

- (30) The investigation of the likelihood of continuation or recurrence of dumping and injury covered the period from 1 January 2015 to 31 December 2015 ('the review investigation period' or 'RIP'). The examination of trends relevant for the assessment of the likelihood of continuation or recurrence of injury covered the period from 1 January 2012 to the end of the review investigation period ('the period considered').

## 2. PRODUCT UNDER REVIEW AND LIKE PRODUCT

### 2.1. Product under review

- (31) The product subject to this review is tungsten carbide, fused tungsten carbide and tungsten carbide simply mixed with metallic powder ('the product under review'), currently falling within CN codes 2849 90 30 and ex 3824 30 00 (TARIC code 3824 30 00 10).

- (32) Tungsten carbide, fused tungsten carbide and tungsten carbide simply mixed with metallic powder are compounds of carbon and tungsten produced by heat treatment. These 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.
- (33) During the period considered the product under review was manufactured in the Union from 'virgin' raw materials (ore, concentrate, Ammonium Paratungstate — APT and oxide) under a process called 'virgin production' and from scrap under a process called 'recycling production'. The hard metal scrap is generated in the production process of hard metal companies, in the production process of tools and at end users of hard metal products. In the tungsten industry, the scrap can be recycled by using chemical recycling or the zinc reclamation process.
- (34) Virgin tungsten carbide and chemically recycled tungsten carbide have identical physical and chemical characteristics and the same usage. In addition, in the manufacturing process there is no separation between tungsten carbide manufactured from virgin raw materials or from scrap.
- (35) The zinc reclamation process generates tungsten carbide mixed with metallic powders, like for example cobalt. This manufacturing process is a physical-mechanical recycling process and the quality of the input (the scrap used) determines the quality of the tungsten carbide.
- (36) Several interested parties claimed that zinc reclaimed powders should not be covered by this investigation due to different manufacturing costs, different level of demand, different customers and different applications as compared to the tungsten carbide obtained from virgin raw materials.
- (37) Zinc reclaimed powders fall under the description of tungsten carbide mixed with metallic powders, one of the three product types covered by this investigation. The current investigation revealed that zinc-reclaimed powder has a lower chemical purity and a wider grain size distribution than tungsten carbide manufactured from virgin raw materials or from tungsten scrap through the chemical recycling process. The quality of the obtained powder depends on the quality of the input scrap. Although the zinc-reclaimed powders cannot be used in all the applications as tungsten carbide, it is used to produce certain hard metal tools as tungsten carbide. Therefore, it was concluded that this type of tungsten carbide has similar physical and chemical characteristics and similar applications as tungsten carbide manufactured from virgin raw materials or from scrap through the chemical recycling process. Moreover, the other elements mentioned in recital (36), like manufacturing cost and demand, are not relevant as such for the definition of the product under review. As concerns the alleged different customers for zinc reclaimed powders, the investigation revealed that three of the interested parties making this claim were in fact consumers of this type of product as well as of tungsten carbide. Therefore, the claim was rejected.
- (38) Several interested parties argued that the current investigation should not cover tungsten carbide manufactured from scrap. It was claimed that the product under review imported from the PRC is almost exclusively manufactured from virgin raw materials while the Union industry produced tungsten carbide also from recycled material. These parties argued that the cost of production of tungsten carbide varies depending on the raw material used and that the collection, transport and processing of scrap results in a different cost structure.
- (39) The cost of production depending on the input used (virgin raw materials or scrap) is not as such relevant for the product definition, but rather the product's technical, physical and chemical characteristics and basic applications. Furthermore, as confirmed during the assessment of the production process of the Union industry, there is no separation between tungsten carbide manufactured from virgin raw materials and tungsten carbide manufactured from scrap. Certain Union producers use only virgin raw materials in their manufacturing process, while others use scrap as well. As mentioned in recital (34), the tungsten carbide produced from virgin raw materials and the one produced from scrap have identical physical and chemical characteristics and the same usage. In any event, as stated in recital (21), none of the Chinese exporting producers replied to the questionnaire. The Commission was therefore not able to assess their manufacturing process and the product types exported to the Union. Therefore, the claim that the present investigation should not cover tungsten carbide manufactured from scrap was rejected.

- (40) One user claimed that the investigation should take into account different commercial qualities of tungsten carbide as the different grades of tungsten carbide (such as ultrafine, standard grades and high temperature carburized grades) have an impact on prices and price comparability. Furthermore, it was claimed that the Chinese exporting producers are specialised in producing standard grades while the Union industry is producing all grades.
- (41) This claim was not substantiated and could not be confirmed during the investigation. The user in question did not provide any evidence indicating a significant price difference between various product types/qualities. Also, this claim could not be confirmed by the information collected during the investigation. Furthermore, as stated in recital (21) none of the Chinese exporting producers submitted a reply to the questionnaire. The Commission was therefore not able to assess, among other elements, the type of products they manufacture, their cost structure and their sales prices. Therefore, this claim was rejected.

## 2.2. Like product

- (42) The investigation concluded that the product under review manufactured and sold by the exporting producers to the Union is identical in terms of physical and chemical characteristics and uses to the product produced by the Union producers and sold on the Union market or to the one produced and sold in the analogue country.
- (43) The Commission therefore concluded that these products are like products within the meaning of Article 1(4) of the basic Regulation.

## 3. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF DUMPING

### 3.1. Dumping

#### *Analogue country*

- (44) None of the Chinese exporting producers was granted market economy treatment in the original investigation. According to Article 2(7)(a) of the basic Regulation, normal value for all exporting producers shall be determined on the basis of the price or constructed value in a market economy third country. For this purpose, a market economy third country had to be selected ('the analogue country').
- (45) The United States of America ('USA') was selected as an analogue country in the previous expiry reviews. In the Notice of Initiation of the present review, the Commission proposed to use again the USA as an analogue country and invited interested parties to comment.
- (46) The Commission sought cooperation in other potential analogue countries, contacted known producers of tungsten carbide in Japan and Canada and invited them to provide the necessary information. The Commission contacted the authorities of Israel, Japan, the USA, Canada, Republic of Korea, India and the Russian Federation and asked them to provide information regarding production of tungsten carbide in their respective countries. The Commission received information from Canada, Japan and USA on about 20 known producers of the like product in these countries, which were contacted and invited to reply to a questionnaire. Only one producer in the USA and one in Japan came forward and provided the information requested.
- (47) Both markets, in the USA and Japan, were similar in terms of the number of domestic producers, the absence of anti-dumping measures in force and the significant quantities of imports from China. This indicated that both markets were competitive.
- (48) However, while the Japanese producer sold only negligible quantities of the like product on its domestic market, the USA producer sold significant quantities on its domestic market during the RIP.
- (49) Although several parties noted that the producer in the USA was related to the Union industry, this fact in itself is not an impediment for the selection of the USA as the analogue country. Indeed, no party submitted evidence that in this case this relationship had an impact on domestic prices in the USA and that, as a consequence, the USA would not be an appropriate analogue country.

- (50) Several interested parties also claimed that no consideration was given to the production methods used in the USA in particular whether tungsten carbide was produced from virgin raw material or from scrap (as explained in recital (33)). These parties claimed that there was an impact of these different production methods on the demand and prices in the USA market, which should be taken into consideration. Furthermore, they claimed that the prices in the USA were at a particularly high level given that the USA producers had contracts with the USA army at high prices.
- (51) As already mentioned in recital (34), tungsten carbide manufactured from virgin raw materials and tungsten carbide manufactures from scrap have identical physical and chemical characteristics and the same usage. Therefore, also in the USA, there was no separation between tungsten carbide manufactured from virgin raw materials and tungsten carbide manufactures from scrap in the manufacturing process. In addition, the investigation revealed that the production process had no impact on the demand and the prices.
- (52) Furthermore, while tungsten carbide is indeed used for military applications, based on the information collected during the investigation, there was no evidence that any cooperation with the government had an impact on the domestic price of the analogue market producer.
- (53) Finally, these interested parties did not propose any alternative analogue country.
- (54) The arguments challenging the appropriateness of the USA as an analogue market were therefore rejected.
- (55) On the basis of the above, taking into account the quantities sold on the domestic markets of producers in potential analogue countries at the time of the selection, given that the USA was also used as an analogue country in the original investigation and the fact that the Commission did not receive any comments from interested parties which were able to put into question the appropriateness of the USA as the analogue country, the USA was considered to be a suitable analogue country.
- (56) Interested parties were informed on this selection. No comments were received.

*Normal value*

- (57) In accordance with Article 2(2) of the basic Regulation, the Commission first examined whether the total volume of sales of the analogue country producer of the like product in the domestic market was representative during the review investigation period. These sales were considered representative if the total sales volume to independent customers represented at least 5 % of the total Chinese export sales volume of the product under review to the Union as established in recital (111) below during the review investigation period. On this basis the sales of the like product of the analogue country producer in the domestic market were representative.
- (58) The Commission subsequently examined for the analogue country producer whether the like product sold domestically was profitable during the review investigation period and thus could be regarded as having been made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation.
- (59) The volume of profitable sales of the like product represented less than 80 % of the total sales volume of the like product, thus the normal value was based on the actual domestic price calculated as a weighted average of profitable sales only.

*Export price*

- (60) As mentioned above in recital (21), due to the non-cooperation of the Chinese exporting producers, the export price was based on facts available, in accordance with Article 18 of the basic Regulation, i.e. on the information from Eurostat revised with the data received from users that imported tungsten carbide from China.
- (61) Exports from China were made under both, the inward processing procedure <sup>(1)</sup> ('IPP') and the normal regime. As shown in recital (111), since the exports made under the normal regime represented only 0,1 % of the Union market share during the RIP, they were considered negligible and calculations were performed on the export price under the IPP only.

<sup>(1)</sup> The tungsten carbide that is imported under IPP is not subject to the payment of customs and anti-dumping duties, and is used in the manufacturing process of tools which are exported outside EU.

*Comparison*

- (62) The Commission compared the normal value and the export price thus established on an ex-works basis. Where justified for the purpose of a fair comparison, the export price and normal value were adjusted for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. Adjustments were made for transport costs (domestic and ocean freight) and export tax of 5 % (repealed in May 2015) based on the facts available, in accordance with Article 18 of the basic Regulation, i.e. the request for review.
- (63) Several interested parties claimed that the Chinese producers have a comparative advantage regarding the price of the raw material, namely APT and therefore lower production costs. This claim was also reiterated after the disclosure. They also claimed that Chinese exporting producers had a more efficient production and economies of scale. These elements should be taken into consideration when calculating the dumping margin.
- (64) As noted in the recital (21) above, none of the Chinese exporting producers/groups of exporting producers provided the Commission with a questionnaire reply. In addition, none of those interested parties provided evidence which supported their claim. Therefore, it was not possible to evaluate any alleged comparative advantage *vis-à-vis* the analogue country producer in the production process of the Chinese producers. The argument was therefore rejected.
- (65) After disclosure, several users claimed that differences in quality for uses, costs of production and sales must be taken into account when calculating dumping and injury margins.
- (66) In this regard, as explained above in recitals (34) and (37), the three product types have similar physical and chemical characteristics and similar applications. Moreover, as stated in recital (21) none of the Chinese exporting producers submitted a reply to the questionnaire. The Commission was therefore not able to assess, among other elements, the type of products they manufacture, the differences in their quality and in their end uses, the cost structure and their sales prices. Therefore, this claim was rejected.
- (67) Furthermore, several users claimed after disclosure that by not using product control numbers in this investigation, the Commission departed from its normal practice.
- (68) The original investigation established that there was no need to use different product control numbers in order to differentiate within the product types for the calculation of, *inter alia*, dumping margins.
- (69) The current investigation confirmed that no change in factual circumstances that would have justified a deviation from the original methodology took place. In addition, due to the non-cooperation of the Chinese exporting producers as explained in recital (21), no comparison per product type was possible between the product produced and sold in the analogue market and the product exported from China into the Union. Therefore, the claim was rejected.

*Dumping margin*

- (70) The Commission compared the weighted average normal value to the weighted average export price as established above in accordance with Article 2(11) and (12) of the basic Regulation.
- (71) On this basis, the weighted average dumping margin expressed as a percentage of the cost, insurance, freight ('CIF) Union frontier price, duty unpaid, was above 40 %.
- (72) Several interested parties claimed that, given the shift by Chinese exporting producers to manufacture downstream products, it was highly unlikely that Chinese exporting producers would sell at dumped prices.
- (73) It should be noted that the dumping margin established above in recital (71) was in accordance with the methodology defined in the Article 2 of the basic Regulation. None of the Chinese exporting producers cooperated and provided the relevant information to calculate dumping margins. The parties in question did also not provide any evidence in support of their claim. The claim was rejected.



- (74) Several interested parties claimed that the data requested from the Chinese exporting producers and the analogue country producer was incomplete and did not allow a proper comparison by product type. They claimed data should have been collected on a product type basis.
- (75) This claim was not substantiated. The investigation established, as in previous investigations concerning the same product, that the differences in types/qualities of tungsten carbide did not have a significant impact on cost and prices. The interested parties in question did also not provide any evidence indicating such significant price difference between various product types/qualities. Furthermore, as stated in recital (21) none of the Chinese exporting producers submitted a reply to the questionnaire and the Commission was therefore not able to ascertain the type of products manufactured by the Chinese exporting producers and any impact on cost and prices. The claim was rejected.

### 3.2. Development of imports should measures be repealed

- (76) In order to establish the likelihood of recurrence of dumping should measures be repealed, the following elements were analysed: (i) production, production capacity and spare capacity in China, (ii) stockpiling of raw materials and export tax on tungsten concentrate and (iii) Chinese exports and attractiveness of the Union market, (iv) development of consumption in China and its other main export markets.

#### 3.2.1. Production, production capacity and spare capacity in the PRC

- (77) In the absence of cooperation from the Chinese exporting producers, production, production capacity and spare capacity in China were established on basis of facts available in accordance with Article 18 of the basic Regulation and on the basis of the following sources: (i) information collected during the sampling exercise of the exporting producers, (ii) information provided in the request for review (based on the market intelligence of the applicant), and (iii) publicly available information, i.e. the Metal Bulletin, specialised on market information concerning global steel, non-ferrous and scrap metals markets.
- (78) During the RIP production of tungsten carbide in China was estimated at around 30 000 tonnes, production capacity from 42 000 to 50 000 tonnes and spare capacity therefore from 12 000 to 20 000 tonnes. The estimated spare capacity represented thus between 94 % and 156 % of the Union consumption (as established in recital (107)) during the RIP.

#### 3.2.2. Stockpiling of raw materials and export tax on tungsten concentrate

- (79) On the basis of publicly available information<sup>(1)</sup>, the Commission found that during and after the RIP, China held a stockpile of raw materials (i.e. APT and tungsten concentrates), from which more than 25 000 tons of tungsten carbide could be produced and therefore create a substantial volume available in short term. The investigation did not reveal any indication of an increase of the worldwide demand to produce tungsten carbide from these raw materials.
- (80) In addition, the PRC controls 60 % of the world's tungsten ore reserves and, at the same time, levies an export tax of 20 % on tungsten concentrate<sup>(2)</sup>.

#### 3.2.3. Chinese exports and attractiveness of the Union market

- (81) Chinese export volumes and attractiveness of the Union market were established on basis of facts available in accordance with Article 18 of the basic Regulation, on the basis of the following sources: (i) the Chinese Export Statistics Database, (ii) the information from Eurostat revised with the data received from users that imported tungsten carbide from China as described in recital (106), (iii) the information collected during the sampling exercise of the exporting producers, (iv) the information on Chinese spot market prices collected during the investigation and (v) a Chinese price offer to Japan collected during the investigation.

<sup>(1)</sup> Metal Bulletin: (1) <https://www.metalbulletin.com/Article/3646910/2017-PREVIEW-Chinese-tungsten-prices-will-continue-journey-of-recovery-as-market-reaches-consensus-on.html> and (2) <https://www.metalbulletin.com/Article/3596231/Chinas-SRB-tungsten-concentrate-stockpiling-boosts-domestic-export-prices.html>

<sup>(2)</sup> <https://minerals.usgs.gov/minerals/pubs/commodity/tungsten/mcs-2015-tungs.pdf>

- (82) The main known Chinese exporting producers exported around 20 % of their production of the product under review and the ratio of exports to the Union and to the other third countries (Japan, the Republic of Korea, the USA, etc.) was around 1:3.
- (83) Furthermore, Chinese exports of the product under review to the other third countries increased by 10 % during the period considered.
- (84) Despite the anti-dumping measures in force, China continued to be the largest tungsten carbide exporting country to the Union. Indeed, imports of the product under review from China in the RIP were more than five times the imports in 2012 (or 406 %), representing an increase of 6,9 percentage points in terms of Union's market share (as established in recital (109), from 2,0 % in 2012 to 8,9 % in RIP). This shows the continued Chinese interest in the Union market. The Union is the second largest tungsten carbide export market for China after Japan.
- (85) To assess the attractiveness of the Union market in terms of prices, Chinese export prices to the Union were compared to Chinese domestic prices and Chinese export prices to other third countries.
- (86) The average Chinese domestic prices in the RIP were up to 19 % lower than Chinese export prices to the Union.
- (87) The Chinese export prices charged to other third markets in the RIP were up to 25 % lower than Chinese export prices to the Union.
- (88) The fact that during the RIP the Chinese export prices of the product under review to the Union market have been higher than the Chinese domestic prices and their export prices to other third markets is a strong indication that the Union market is attractive for Chinese exporting producers.
- (89) In addition it should be noted that even in the absence of anti-dumping duties in other third countries the Union is still the second largest tungsten carbide export market for China after Japan, as stated above in recital (84). Moreover, in their post-disclosure submission several users agreed that the Chinese product will always be demanded on the Union market.
- (90) Several interested parties claimed that the level of attractiveness of the Union market for Chinese producers is rather low. These parties claimed that this is corroborated by the fact that for the last 10 years Chinese exporting producers did not resort to any circumvention or absorption methods, that Chinese exporting producers did not significantly increase their exports or market shares in the Union market or did not decrease their export prices to the Union.
- (91) Although circumvention or absorption practices are valid indicators showing whether certain exporting producers may have an interest in a specific market despite measures in force, they are as such not indispensable when establishing the attractiveness of such market to third country imports. The other allegations made by these parties could not be confirmed by the findings of this investigation which, as explained in the recital (109) and (114) below, established an increase in the market share of Chinese exporting producers and the decrease of their export prices to the Union during the period considered. The argument was therefore rejected.
- (92) Several interested parties claimed that there are no anti-dumping duties on tungsten carbide in any other markets, hence should the measures lapse it is unlikely that a part of this spare capacity will be used to increase exports to the Union.
- (93) First, Chinese exporting producers could already export to these other third countries without anti-dumping duties. Second, as noted below in the recital (107) the consumption in the Union market increased by 15 % during the period considered. Third, as explained below in the recitals (111)-(112), the majority of imports from the PRC are made under IPP (without the duties), which increased by 477 % during the period considered. Therefore, should the antidumping duties be lifted, the Chinese exports to the EU would likely increase. The argument was rejected.

### 3.2.4. *Development of consumption in China and its other main export markets*

- (94) Regarding the likely evolution of domestic consumption in China, the investigation did not bring into light any elements that could indicate any significant increase of domestic demand in China in the near future. Following the increase of Chinese exports of tungsten carbide to the Union (406 %) and other third countries (10 %) (as explained above in recitals (83) and (84)), the Commission concluded that domestic demand in China could not absorb the available spare capacity.
- (95) Regarding the likely evolution of consumption in other main Chinese export markets (Japan, Republic of Korea and the USA), the investigation did not bring into light any elements that could indicate any significant increase of domestic demand in these markets. The increase of Chinese export volume to these countries was 8 % during the period considered, however, Chinese export volumes to the USA decreased by 35 % during the same period. Taking into account the fact that China is the main producer of tungsten in the world (as explained below in recital (192)) and even if the domestic production and import data from these countries is not known, the Commission concluded that these markets could not absorb significant level of the available spare capacity existing in China.

### 3.2.5. *Conclusion*

- (96) In conclusion, the dumping margin established in the RIP, the significant spare capacity available in China, and the established attractiveness of the Union market, indicate that a repeal of the measures would likely result in a continuation of dumping, and that dumped exports will enter the Union market in significant quantities. It is therefore considered that there is a likelihood of continuation of dumping should the current anti-dumping measures be allowed to lapse.

## 4. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF INJURY

### 4.1. **Definition of the Union industry and Union production**

- (97) Within the Union, the like product is manufactured by nine companies or groups of companies, out of which six companies are producing and selling on the free market and the remaining three companies are producing tungsten carbide mainly as an input for downstream products ('captive use'). They are deemed to constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.
- (98) One user highlighted the fact that one of the Union producers is using a different CN code (8101 10 00) which is not covered by the current investigation, when selling its products in the Union. It, therefore, implied that this Union producer should not be part of the Union industry as defined under recital (97).
- (99) CN codes used when selling products within the Union are irrelevant for the definition of the product under review and for defining the Union industry. What matters is whether the product manufactured by the Union producers falls under the definition of the product under review stated in recital (31). The investigation revealed that the product manufactured by this Union producer falls indeed under the said definition. Consequently, this Union producer is part of the Union industry as defined in recital (97).

### 4.2. **Union consumption**

- (100) As mentioned in recital (97) some of the Union producers are mainly producing the product under review for the captive use as primary raw material for the production of various downstream products and therefore captive and free market consumption were analysed separately.
- (101) The distinction between captive and free market is relevant for the injury analysis because products destined for captive use are not exposed to direct competition from imports, and transfer prices are set within the groups according to various price policies and are, therefore, not reliable. By contrast, production destined for the free market is in direct competition with imports of the product under review and prices are free market prices.

- (102) On the basis of the data obtained from the cooperating Union producers and the applicant for the entire activity of the Union industry (captive and free) the Commission determined that around 31 % of the total Union production was destined for captive use.
- (103) Furthermore, in the free market the Union industry is producing under normal agreements (the Union industry owns the raw material) and under tolling agreements (the customer of tungsten carbide is the owner of the raw material which pays a processing fee to the Union producers for the conversion of the raw material into tungsten carbide). The tolling agreements are used for recycling activities as the customers are supplying the scrap to the Union industry for processing. During the review investigation period, 23 % of the total production volume was manufactured under a tolling agreement, out of which around 89 % was destined for the Union market. It follows that the normal production for the free market is around 46 % of total production.

#### 4.2.1. Captive consumption

- (104) The Commission established the Union captive consumption on the basis of the captive use and captive sales on the Union market of all known producers in the Union. On this basis, the Union captive consumption developed as follows:

Table 1

#### Captive consumption

	2012	2013	2014	RIP
Captive consumption (tonnes)	2 249	2 461	2 599	2 653
<i>Index (2012 = 100)</i>	100	109	116	118

Source: Questionnaire replies, the information provided by the applicant and Eurostat.

- (105) During the period considered, the Union captive consumption increased by 18 % reaching 2 653 tonnes in the review investigation period.

#### 4.2.2. Free market consumption

- (106) The Commission established the Union free market consumption on the basis of: (a) the free sales volume of all known Union producers in the Union and (b) total import volumes into the Union as reported by Eurostat. Concerning the PRC, import volumes from Eurostat were revised taking into account the verified questionnaire replies of the cooperating users, as these reported higher import volumes compared to Eurostat.
- (107) On this basis, the Union free market consumption developed as follows:

Table 2

#### Free market consumption

	2012	2013	2014	RIP
Free market consumption (tonne)	11 151	11 778	13 815	12 814
<i>Index (2012 = 100)</i>	100	106	124	115

Source: Questionnaire replies and Eurostat.

- (108) The Union consumption on the free market increased between 2012 and 2014 by 24 % and then decreased in the RIP by 7 % as compared to 2014 reaching 12 814 tonnes. Overall, the consumption on the free market increased by 15 % over the period considered.

#### 4.3. Imports from the country concerned

##### 4.3.1. Volume and market share of the imports from the country concerned

- (109) The Commission established the volume of imports on the basis of revised Eurostat data by taking into account the verified questionnaire replies of the cooperating users, as these reported in total higher import volumes compared to Eurostat as also mentioned in recital (106). Imports into the Union from the country concerned developed as follows:

Table 3

#### Import volume and market share

	2012	2013	2014	RIP
Chinese imports (tonnes)	225	303	905	1 140
<i>Index (2012 = 100)</i>	100	135	402	506
Chinese market share (%)	2,0	2,6	6,6	8,9
<i>Index (2012 = 100)</i>	100	127	325	441

Source: Eurostat and questionnaire replies.

- (110) Imports from the PRC increased significantly in the period considered. In the review investigation period 1 140 tonnes were imported from the PRC, more than five times than the volume of imports from the PRC at the beginning of the period considered (225 tonnes). The increase of the volume of imports exceeded the increase in consumption and, therefore, the Chinese market share increased by 6,9 percentage points during the period considered, from 2,0 % in 2012 to 8,9 % during the review investigation period.

##### 4.3.1.1. Imports regimes

- (111) The volume from the PRC were imported via normal regime and IPP, as shown below:

Table 4

#### Import volume and market share per import regime

	2012	2013	2014	RIP
<b>Normal import regime</b>				
Chinese imports (tonnes)	29	8	10	10
<i>Index (2012 = 100)</i>	100	27	34	33
Chinese market share (%)	0,3	0,1	0,1	0,1
<i>Index (2012 = 100)</i>	100	25	28	29

	2012	2013	2014	RIP
<b>Inward processing process</b>				
Chinese imports (tonnes)	196	295	895	1 131
<i>Index (2012 = 100)</i>	100	151	457	577
Chinese market share (%)	1,8	2,5	6,5	8,8
<i>Index (2012 = 100)</i>	100	143	369	502

Source: Eurostat and questionnaire replies.

- (112) The quasi totality of imports from the PRC is made under IPP, which increased almost five times in volume terms during the period considered. The imports under the normal regime were negligible throughout the period considered (below 0,1 % market share), and even showed a decreasing trend.

#### 4.3.2. Prices of the imports from the country concerned and price undercutting

- (113) The Commission established the trend of the prices of Chinese imports on the basis of Eurostat taking also into account the verified questionnaire replies of the cooperating users. As import volumes from the PRC under normal import regime were negligible they were disregarded in the determination of the average import price and in the price undercutting calculation.
- (114) The average price of imports into the Union from the PRC developed as follows:

Table 5

#### Import prices (EUR/tonne) for IPP

	2012	2013	2014	RIP
Chinese import prices (EUR/tonne)	39 418	35 465	34 414	33 327
<i>Index (2012 = 100)</i>	100	90	87	85

Source: Eurostat and questionnaire replies.

- (115) The average price of the product imported under IPP, overall, decreased by 15 % over the period considered. This decrease in prices followed the decrease in the price of raw materials.
- (116) On the basis of the information provided by the cooperating users and the import regimes used for imports from the PRC, all imports from the PRC of the product under review are made under normal agreements. Therefore, and for the purpose of a fair comparison, in the calculation of the price undercutting sales of the Union industry made under tolling agreements were disregarded. Furthermore, as mentioned in recital (113), the imports under normal regime were negligible throughout the period considered and were, consequently, disregarded. Therefore, the calculation of undercutting was based on the IPP import prices only.
- (117) The Commission determined the price undercutting during the review investigation period by comparing:
- the weighted average sales prices of tungsten carbide sold by the Union producers charged to unrelated customers on the Union market under normal agreements, adjusted to an ex-works level; and
  - the corresponding weighted average prices of the imports from Eurostat taking also into account the verified questionnaire replies of the cooperating users, with appropriate adjustments for post-importation costs.

- (118) The result of the comparison was expressed as a percentage of the Union industry average weighted price during the review investigation period and was on average 13,2 %. This calculation takes into consideration the fact that zinc-reclamation powders were not imported from the PRC during the review investigation period and were, thus, excluded.

#### 4.4. Imports from other third countries

- (119) The volume of imports into the Union from third countries other than the country concerned is shown in the table below. The quantity and the price trend are based on Eurostat and cover all import regimes (normal regime, inward processing process and outward processing process). The majority of the import volume from third countries is imported under the normal regime.

Table 6

#### Imports from other third countries

	2012	2013	2014	RIP
Imports (tonnes)	1 896	1 402	1 724	1 359
<i>Index (2012 = 100)</i>	100	74	91	72
Market share (%)	17,0	11,9	12,5	10,6
USA market share (%)	4,2	2,8	4,7	4,8
Average price (EUR/tonne)	54 525	52 342	40 543	39 878
<i>Index (2012 = 100)</i>	100	96	74	73
South Korea market share (%)	1,4	2,3	2,0	2,4
Average price (EUR/tonne)	49 249	38 022	39 256	41 316
<i>Index (2012 = 100)</i>	100	77	80	84
Vietnam market share (%)	1,3	1,0	1,1	0,9
Average price (EUR/tonne)	44 633	35 110	36 869	37 352
<i>Index (2012 = 100)</i>	100	79	83	84

Source: Eurostat.

- (120) Total imports from third countries decreased by 28 % over the period considered. Their trend did not follow the general market trend triggered by the increasing consumption as described in recital (108). Only in 2014 the volume of imports increased as compared to 2013 by 23 % but then it decreased by 21 % in the review investigation period as compared to 2014. Thereby, the market share of these imports decreased from 17,0 % to 10,6 % during the period considered.
- (121) The USA and South Korea did not follow this overall trend and slightly increased during the period considered, however reaching a lower level in the review investigation period as compared to the Chinese imports. In addition, the average import price from the USA and South Korea decreased during the period considered, however remaining consistently above the average selling price of Chinese exports imported under IPP.

#### 4.5. Economic situation of the Union industry

##### 4.5.1. General remarks

- (122) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.
- (123) As stated in recital (97), the Union industry is made of nine companies or group of companies out of which six companies are producing and selling on the free market and the remaining three companies are producing mainly for the captive use. Three of the Union producers active on the free market and the three producers on the captive market are downstream integrated. In addition, as stated in recital (22), the Commission decided to investigate all six Union producers operating in the free market for the determination of possible injury suffered by the Union industry.
- (124) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated macroeconomic indicators relating to the whole Union industry on the basis of information provided by the applicant. The Commission evaluated microeconomic indicators relating only to the sampled companies on the basis of data contained in the questionnaire replies of the sampled Union producers which was verified. Both sets of data were found representative of the economic situation of the Union industry.
- (125) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity and magnitude of the dumping margin.
- (126) The microeconomic indicators are: average unit prices, average unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital.
- (127) For some macroeconomic indicators relating to the Union industry, the Commission analysed separately data related to the free and the captive market and made a comparative analysis. These factors are: sales and market share. However, other economic indicators could meaningfully be examined only by referring to the whole activity, including the captive use of the Union industry because they depend on the whole activity, whether the production is captive or sold on the free market. These factors are: production, capacity, capacity utilisation, cash flow, investments, return on investments, employment, productivity, and labour costs. For these factors, analysis of the whole Union industry is warranted in order to establish a complete injury picture of the Union industry, as the data in question cannot be separated between captive and free sales.
- (128) For some microeconomic indicators (average unit price, average unit cost and profitability), the analysis distinguished between normal and tolling agreements. This was due to the fact that the tolling agreements do not include the cost of raw materials and prices are in fact conversion fees.
- (129) Several interested parties claimed that the tolling activity should not be covered by the investigation arguing that as the customer is the owner of the raw materials, it is questionable who the real producer is. Furthermore, it was claimed that the cost of manufacturing for tolling is lower than the cost of manufacturing for normal production where the Union industry remains the owner of the raw material (as the cost of the raw material is not included under the tolling agreements) and the two business models should not be mixed in the injury analysis.
- (130) The investigation revealed that in the manufacturing process of the Union producers, it is not possible to separate the tungsten carbide produced under normal agreements from tungsten carbide produced under tolling agreements. The customers will not know if the tungsten carbide it received is obtained from scrap or from virgin raw materials. Only the zinc reclaimed process works with batches and, in this case, the customer receives the tungsten carbide produced from its own scrap. However, the volumes produced under the zinc reclaimed process under tolling were very low (less than 3 %) as compared to the total production of the Union industry during the period considered. Therefore, the quantities produced under this process under tolling do not distort the general assessment of the Union production. Furthermore, the share of the tolling production in the total Union production differs from one year to another depending on the availability of the raw materials on the market.



- (131) Concerning the difference between the cost of manufacturing for tolling and the cost of manufacturing for normal production, this is not a reason to exclude the tolling activity from the injury analysis. In any event this difference is reflected in the analysis. Therefore, the claim that tolling should not be covered by the investigation is rejected.

#### 4.5.2. Macroeconomic indicators

##### 4.5.2.1. Production, production capacity and capacity utilisation

- (132) The total Union production, production capacity and capacity utilisation developed over the period considered as follows:

Table 7

#### Production, production capacity and capacity utilisation

	2012	2013	2014	RIP
Production (tonnes)	12 667	13 903	15 068	14 668
<i>Index (2012 = 100)</i>	100	110	119	116
Production capacity (tonnes)	19 225	20 100	21 245	21 565
<i>Index (2012 = 100)</i>	100	105	111	112
Capacity utilisation (%)	66	69	71	68
<i>Index (2012 = 100)</i>	100	105	108	103

Source: Questionnaire replies and the information provided by the applicant.

- (133) The data in the above table includes both the normal and tolling production, for virgin and recycling products.
- (134) The total production volume increased between 2012 and 2014 by 16 %, and then slightly decreased by 3 % from 2014 to the review investigation period reaching 14 668 tonnes. Overall, production volume increased by 16 % during the period considered.
- (135) The production capacity increased as well during the period considered by 12 % reaching 21 565 tonnes in the review investigation period. Several Union producers also have plans to continue to increase their production capacity in the following 3-4 years.
- (136) Moreover, the capacity utilisation rate increased by 8 % between 2012 and 2014 and then slightly decreased in the review investigation period as compared to 2012. Overall, the capacity utilisation rate increased by 3 % during the period considered to 68 % in the review investigation period.

## 4.5.2.2. Sales volume and market share

- (137) The Union industry's sales volume and market share in the free market developed over the period considered as follows:

Table 8

**Free market sales volume and market share**

	2012	2013	2014	RIP
Sales volume on the Union free market (tonnes)	9 030	10 073	11 186	10 314
<i>Index (2012 = 100)</i>	100	112	124	114
Market share (%)	81,0	85,5	81,0	80,5
<i>Index (2012 = 100)</i>	100	106	100	99

Source: Questionnaire replies, the information provided by the applicant and Eurostat.

- (138) Sales volume on the free market between 2012 and 2014 increased by 24 % and then decreased by 8 % between 2014 and review investigation period. Overall, the sales volume increased by 14 % during the period considered reaching 10 314 tonnes in the review investigation period. This development followed the increase in the Union consumption during the same period.
- (139) The market share of the Union industry on the free market increased by 4,5 percentage points between 2012 and 2013 and then decreased by 5 percentage points by the end of the review investigation period reaching 80,5 %. Overall, the market share of the Union industry on the free market slightly decreased by 0,5 percentage points during the period considered.
- (140) As far as the captive market is concerned, the volume and market share developed over the period considered as follows:

Table 9

**Captive volume and market share**

	2012	2013	2014	RIP
Captive consumption (tonnes)	2 249	2 461	2 599	2 653
<i>Index (2012 = 100)</i>	100	109	116	118
Market share (out of total captive and free markets) (%)	17	17	16	17
<i>Index (2012 = 100)</i>	100	103	94	102

Source: Questionnaire replies, the information provided by the applicant and Eurostat.

- (141) The Union industry sales volume on the captive market (composed of captive use and captive sales of the Union industry) increased by 18 % during the period considered, slightly above the increase in total consumption for both captive and free market. As a consequence, the Union industry's captive market share expressed as a percentage of total consumption (both captive and free market) remained almost constant during the period considered at 17 %.

## 4.5.2.3. Growth

- (142) The sales volume of the Union industry on the free market followed closely the evolution of the Union consumption and increased by 14 % over the period considered. As a consequence, the Union industry maintained a rather stable level of market share throughout the period considered, except in 2013 when it increased by 4,5 percentage points as compared to 2012.

## 4.5.2.4. Employment and productivity

- (143) Employment and productivity developed over the period considered as follows:

Table 10

**Employment and productivity**

	2012	2013	2014	RIP
Number of employees	681	687	700	704
<i>Index (2012 = 100)</i>	100	101	103	103
Productivity (tonnes/employee)	19	20	22	21
<i>Index (2012 = 100)</i>	100	109	116	112

Source: Questionnaire replies and the information provided by the applicant.

- (144) The number of employees in the Union industry slightly increased during the period considered by 3 % to 704 employees in the review investigation period. As a result of a higher increase in production, the productivity increased over the period considered by 12 %.

## 4.5.2.5. Magnitude of the dumping margin and recovery from past dumping

- (145) The investigation established in recital (71) that imports of the product under review from the PRC continued to enter the Union market at significant dumped prices.
- (146) The Union industry recovered to a large extent from the effects of past dumping and the anti-dumping measures in force proved to be effective. Thus, the Union industry increased its sale volume by 14 %. Its market share slightly decreased by 0,5 percentage points on the free market over the period considered.

## 4.5.3. Microeconomic indicators

## 4.5.3.1. Prices and factors affecting prices

- (147) The weighted average unit sales prices of the Union producers to unrelated customers for normal agreements in the Union free market developed over the period considered as follows:

Table 11

**Weighted average unit sales price**

	2012	2013	2014	RIP
Weighted average unit sales price in the Union (EUR/tonne)	47 296	41 686	41 118	36 160
<i>Index (2012 = 100)</i>	100	88	87	76

Source: Questionnaire replies.

- (148) The weighted average unit sales prices of the Union industry for normal volumes decreased by 24 % during the period considered. The decrease in prices followed the decrease in the price of raw materials.
- (149) The weighted average unit conversion fee of the Union producers to unrelated customers for tolling agreements in the Union free market developed over the period considered as follows:

Table 12

**Weighted average unit conversion fee**

	2012	2013	2014	RIP
Weighted average unit conversion fee in the Union (EUR/tonne)	12 792	13 497	13 669	13 452
<i>Index (2012 = 100)</i>	100	106	107	105

Source: Questionnaire replies.

- (150) The weighted average unit conversion fee of the Union industry for tolling volumes increased by 5 % during the period considered.
- (151) As concerns the cost of production and the conversion cost of the Union industry, the Commission had to provide this data in indexes as this constitutes business confidential information.
- (152) The weighted average unit cost of production of the Union industry for normal agreements developed over the period considered as follows:

Table 13

**Weighted average unit cost of production for normal agreements**

	2012	2013	2014	RIP
<i>Index (2012 = 100)</i>	100	82	85	78

Source: Questionnaire replies.

- (153) Over the period considered the weighted average unit cost of production for normal production decreased by 22 %. The cost of production followed the decrease in the price of raw materials as well.

- (154) The weighted average unit conversion cost of the Union industry for tolling agreements developed over the period considered as follows:

Table 14

**Weighted average unit conversion costs for tolling agreements**

	2012	2013	2014	RIP
<i>Index (2012 = 100)</i>	100	105	97	99

Source: Questionnaire replies.

- (155) Over the period considered the weighted average unit conversion fee for tolling production decreased by 1 %.

## 4.5.3.2. Labour costs

- (156) The average labour costs of the Union producers developed over the period considered as follows:

Table 15

**Average labour costs per employee**

	2012	2013	2014	RIP
Average labour costs per employee	65 626	70 243	73 736	71 898
<i>Index (2012 = 100)</i>	100	107	112	110

Source: Questionnaire replies.

- (157) Average labour costs increased by 12 % between 2012 and 2014 and then decreased by 2 % in the review investigation period as compared to 2014. Overall, the average labour costs increased by 10 % during the period considered.

## 4.5.3.3. Inventories

- (158) Stock levels of the Union producers developed over the period considered as follows:

Table 16

**Inventories**

	2012	2013	2014	RIP
Closing stocks (tonnes)	1 201	1 095	923	1 069
<i>Index (2012 = 100)</i>	100	91	77	89
Closing stocks as a percentage of production (%)	9	9	7	8
<i>Index (2012 = 100)</i>	100	91	77	89

Source: Questionnaire replies.

- (159) The level of inventories decreased by 11 % over the period considered. The inventories represented 8 % of the volume of production in the review investigation period and it was found to be at a normal level.

## 4.5.3.4. Profitability, cash flow, investments, return on investments and ability to raise capital

- (160) Profitability, cash flow, investments and return on investments of the Union industry developed over the period considered as follows:

Table 17

**Profitability, cash flow, investments and return on investments**

	2012	2013	2014	RIP
Profitability of total sales in the Union to unrelated customers — normal and tolling (% of sales turnover)	11,9	16,8	13,6	11,6
<i>Index (2012 = 100)</i>	100	140	114	97
Cash flow (EUR)	63 654 025	57 060 905	54 583 859	40 680 386
<i>Index (2012 = 100)</i>	100	90	86	64
Investments (EUR)	19 902 447	21 890 061	25 810 548	15 752 867
<i>Index (2012 = 100)</i>	100	110	130	79
Return on investments (%)	37,1	46,0	35,9	20,1
<i>Index (2012 = 100)</i>	100	124	97	54

Source: Questionnaire replies.

- (161) The Commission established the profitability of the Union producers by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales for the total activity of the Union industry (normal and tolling production). The profitability of the normal activity which represented 77 % in the total production in the RIP was lower than the profitability of the tolling activity. In addition, it should be noted that the profitability of the normal activity was lower than the target profit of 10 %.
- (162) The Union industry was profitable during the period considered having a fluctuating profitability rate. Thus, profitability increased in 2013 as compared to 2012 by 4,8 percentage points reaching 16,8 % and then it decreased in the review investigation period by 5,1 percentage points to 11,6 %. Overall, the profitability decreased by 0,3 percentage points during the period considered.
- (163) The cash flow, which is the ability of the Union producers to self-finance their activities, remained positive during the period considered. However, it decreased significantly during the period considered by 36 %
- (164) The investments increased by 30 % between 2012 and 2014 and then it decreased by 39 % by the end of the review investigation period as compared to 2014. Overall, the investment decreased by 21 % over the period considered. During the period considered the Union industry's investments exceeded EUR 80 million. Investments were made to obtain a better utilisation of the raw materials and thus to obtain a decrease in the cost of manufacturing, like improvements in the sorting operations, improvements in the recycling facility for the vacuuming activity and improvements in the crushing activity. In addition, the Union industry made investments to be compliant with the environmental rules applicable in the Union. Investments were also made to improve efficiency by replacing old technology with a more efficient one from an energy consumption point of view. Moreover, investments were made in replacing several furnaces to be more flexible in mixing the hard with the soft scrap and to process a wider range of scrap.

- (165) The return on investments is the profit in percentage of the net book value of investments. It was positive during the period considered. It increased by 24 % in 2013 as compared to 2012 and then it decreased by the end of the review investigation period by 25,9 percentage points. Overall, the return on investments decreased by 17 percentage points during the period considered.

#### 4.5.4. *Conclusion on injury*

- (166) Due to the anti-dumping duties in place, the Union industry continued to recover from the effect of past injurious dumping.
- (167) Sales volume and market share displayed a positive development during the period considered as the Union industry managed to follow the increase in consumption. Also production and capacity utilisation increased over the period considered.
- (168) The injury indicators related to the financial performance of the Union industry (profitability, cash flow and return on investment) were positive during the period considered. Nevertheless, the cash flow had a decreasing trend.
- (169) In view of the above, the Commission concluded that the Union industry recovered from past dumping and that it did not suffer material injury during the period considered within the meaning of Article 3(5) of the basic Regulation.

#### 4.6. **Likelihood of recurrence of injury**

##### 4.6.1. *Preliminary remarks*

- (170) The investigation has shown that the Chinese imports were made at dumped price levels during the review investigation period and that there was a likelihood of continuation of dumping should measures be allowed to lapse.
- (171) Since the Union industry did not suffer material injury, it was assessed whether there would be a likelihood of recurrence of injury should measures against the PRC be allowed to lapse in accordance with Article 11(2) of the basic Regulation.
- (172) To establish the likelihood of recurrence of injury the following elements were analysed: (i) the spare capacity and stockpiling of raw materials in the PRC (ii) the possible price levels of Chinese imports to the Union market of the product under review and (iii) their impact on the Union industry

##### 4.6.2. *Spare capacity and stockpiling of raw materials in the PRC*

- (173) As explained in recital (78), the PRC has a significant spare capacity for the production of tungsten carbide that can be estimated between 12 000 to 20 000 tonnes, representing between 94 % and 156 % of the Union consumption during the review investigation period.
- (174) In addition, as stated in recital (79), the PRC has a stockpile of raw material of tungsten carbide (i.e. APT and tungsten concentrates), from which more than 25 000 tons of tungsten carbide could be produced in a short period of time.
- (175) In the absence of anti-dumping measures, the spare capacity coupled with the stockpile of raw materials would likely to be used to produce for export to the Union, since it is an attractive market for Chinese exporting producers as described in recitals (85) and following. There are also no indications that there would be an increased demand for tungsten carbide in other third country markets, while the consumption in the Union showed an increasing trend and as also mentioned in recital (84) the Union market was the PRC's largest export market after Japan during the review investigation period. Imports from the PRC are, therefore, likely to re-enter the Union market in significant quantities.

- (176) After disclosure, several users claimed that the Chinese producers will prefer supplying Chinese downstream producers than exporting the raw material to the Union market. However, as this claim was not substantiated with any evidence, it was therefore rejected.

#### 4.6.3. Possible price levels of Chinese imports to the Union market

- (177) As an indication of the price level at which it is likely that Chinese tungsten carbide will be imported in the Union market should the measures be repealed, the Chinese import prices to the Union during the review investigation period were taken into account. Under the IPP regime, these were undercutting the Union industry's prices by around 13,2 % on average. Moreover, when considering possible prices under the normal import regime, without anti-dumping duties and with customs duties included, the undercutting would also be significant, amounting to 8,6 % on average.
- (178) Furthermore, the price levels of Chinese imports to other third countries and the Chinese prices on the domestic market were analysed. In both cases, the Chinese prices were found to be lower than the Union industry's prices by up to 33 % compared to other third countries, and by up to 28 % compared to Chinese domestic prices.

#### 4.6.4. Impact on the Union industry

- (179) The significant spare capacity and the stockpiling of raw materials in the PRC explained in recitals (173) and (174) coupled with the price differential described in recitals (85) to (87) and (177), will incentivize the Chinese exporting producers to export significant volumes at low prices at dumped levels in a short period of time on the Union market in the absence of anti-dumping measures.
- (180) These high volumes of cheap tungsten carbide will exert a significant price pressure on the Union industry that will have to decrease its prices to still be able to sell in the Union. At the same time, however, the Union industry will also lose volumes as it will not be able to decrease its prices to the same low level as the Chinese export prices. It is recalled that, as stated in recital (80), the Chinese exporting producers have access to cheaper raw materials than the Union industry as the PRC controls 60 % of the world's tungsten ore reserves and, at the same time, levies an export tax of 20 % on tungsten concentrate which increases the price of this raw material for parties outside the PRC.
- (181) If the Chinese imports prices under IPP plus custom duties are considered as a possible benchmark for future sale price of the Union industry after the repeal of the measures, the Union industry will no longer make profits but be in a breakeven situation, which is not sustainable. This scenario is in fact a conservative one, since the Chinese exporting producers are likely to sell on the Union market at prices even lower than this benchmark, taking into account the Chinese price levels observed in other third countries. They would have an incentive to do so in an attempt to reduce their stockpiling of raw materials as explained in recital (79). In this case, the Union industry will have to continue decreasing its sale prices, which will result in the normal activity turning into a loss making business within a short period of time (1-2 years). In addition, it should be noted that the product under review is characterised by high volatility in the profit margin. As shown in Table 17, the profitability of the Union industry decreased by 5,2 percentage points in only two years (between 2013 and the review investigation period).
- (182) In addition, the Union industry will likely be pushed to also decrease its production volume because it will not be able to align to the Chinese low prices without incurring losses. The loss in volume has a direct effect also on the tolling activity. Indeed, the tungsten industry is a capital intensive industry which needs to maintain a certain volume of production to keep the fixed costs at reasonable levels. The increase in fixed costs following a decrease in production will increase not only the cost of production of the normal activity but also the conversion costs and therefore negatively affect the profitability of the tolling agreements as well.
- (183) For example, under the scenario of a decrease in production volume of 25 % (3 700 tonnes or 23 % of Chinese spare capacity), the conversion costs will increase by 82 % and the tolling activity will turn from being profitable to more than 30 % loss making. This was also observed in the previous investigation when a decrease in production volume of around 50 % (6 400 tonnes) caused a drop in profitability from 7,6 % to — 19,5 % in one year only.



- (184) The tolling activities only make economic sense for the customers of the Union industry (users) as long as the conversion fees (conversion cost + margin) plus the cost of scrap (for the user) is below the import price of tungsten carbide from the PRC. When this limit is reached, the users will not have an incentive to engage in tolling agreements with the Union industry, but supply tungsten carbide from the PRC. The possibility to renegotiate the conversion fees with the Union industry does not seem to be an option as the conversion costs of the Union industry will increase as explained above.
- (185) Moreover, even if the tolling activity is more profitable than the normal activity, the Union industry cannot work exclusively under tolling agreements. Tolling is only for recycling activities and the capacity of the Union industry to process the scrap into tungsten concentrate is too low as compared to the total needs of tungsten concentrate in the production process. Therefore, the Union industry needs to supplement the needs of tungsten concentrate with virgin concentrates under normal agreements. In addition, there is not enough scrap on the market for the Union industry to increase its recycling capacity.
- (186) In view of the above, a decrease in the selling price to at least the level of the IPP import price during the RIP, including custom duties, coupled with a decrease in volume will transform the Union industry in a loss making industry.
- (187) Based on the facts described above, the Commission concluded that if measures are repealed it is likely that material injury will recur very fast. In particular, on short term (1-2 years) it is likely that the non-downstream integrated Union producers will be forced to liquidate their business as they will be directly exposed on the free market to the downward price pressure of the low priced dumped imports from China. Two of these companies are not involved in recycling activities and therefore cannot rely on the higher margins of the tolling agreements. In addition, the downstream integrated Union producers will continue to sell tungsten carbide to related users at lower prices, however the conversion costs in the tolling agreements will increase due to the decrease in volume of production. On longer term (4-5 years), it is likely that also the downstream integrated Union producers will stop their activity as they will not be able to compete with this pressure in the long run, as their related users will opt to purchase tungsten carbide from China as well. Should this scenario materialise, it follows that there will be no more production of this strategic raw material in the Union.

## 5. UNION INTEREST

- (188) In accordance with Article 21 of the basic Regulation, the Commission examined whether the maintenance of the existing anti-dumping measures on imports of the product under review originating in the PRC following the findings of the present expiry review would be against the interest of the Union as a whole. The determination of the Union interest was based on an appreciation of all interests involved, including those of the Union industry, importers, users and suppliers. All interested parties were given the opportunity to make their views known under Article 21(2) of the basic Regulation.
- (189) It should be recalled that, in the previous investigations, the adoption of measures was considered not to be against the interest of the Union. Furthermore, the fact that the present investigation is an expiry review, thus analysing a situation in which anti-dumping measures have already been in place, allows the assessment of any undue negative impact on the parties concerned by the current anti-dumping measures.
- (190) On this basis it was examined whether, despite the conclusions on the likelihood of a continuation of dumping and recurrence of injury, compelling reasons existed which would lead to the conclusion that it is not in the Union interest to maintain measures in this particular case.

### 5.1. Interest of the Union industry

- (191) In view of the conclusions on the situation of the Union industry set out in recitals (166) to (169), and pursuant to the arguments relating to the analysis on the likelihood of recurrence of injury as explained in recitals (170) to (186), the Commission concluded that the Union industry would be likely to experience a serious deterioration of its financial situation in case the anti-dumping duties were allowed to expire. The measures are proven to be essential for keeping tungsten carbide production in the Union as the Union industry would not have been able to withstand the pressure of large volumes of dumped imports of tungsten carbide from the PRC sold in the Union market below the prices levels of the Union industry.

- (192) It is considered that the continuation of measures would benefit the Union industry which should then be able to continue to invest in new technology for its production facilities, especially in its recycling activities in order to be more independent from the PRC and thus be in a better situation to face the shortages of virgin raw materials on the market.
- (193) By contrast, should the measures be repealed, this will likely have a negative effect on the Union industry. It will seriously threaten the viability of the Union industry that, as a consequence, may have to close their operations, thus reducing the available sources of supply on the Union market and competition. Should the Union producers stop their production, the Union will be mainly dependent on imports from other third countries, and primarily from the PRC, which is not only the world leading producer of tungsten but also owns the majority of the world's raw materials' reserve.

## 5.2. Interest of users

- (194) At initiation ten known importers/users were contacted. Seven users came forward within the time limits and questionnaires were sent to all of them. They purchased tungsten carbide from the PRC, other third countries (South Korea, Vietnam, Japan, Israel and India), and the Union industry. These users used tungsten carbide to manufacture cemented carbide to produce hard metal tools for different industries like oil and mining industries.
- (195) Questionnaire replies were received from eight users (two of them related). They reported higher imports from the PRC than the recorded in Eurostat. All of them except one imported the product under review under IPP only. The cooperating users represented 32 % of free market consumption in the Union in the review investigation period. Another five users came forward supporting the measures in force, but did not reply to the questionnaire. These users covered around 8 % of the total free market consumption.
- (196) One of the cooperating users argued that it needed a specific type of product in its production process that was not produced by the Union industry in the required quality and requested to be exempted from the anti-dumping duty for this specific product type. However, the product type imported by this user fell under the product scope described in recitals (31) and (32). There were no grounds to exclude certain product types from the scope of the investigation in the framework of the current expiry review. Therefore, this claim was rejected.
- (197) The other seven cooperating users claimed that the anti-dumping measures in place had a significant negative effect on their profitability.
- (198) The investigation revealed that the activity incorporating tungsten carbide for these users represent between 55 % and 100 % of their total turnover during the review investigation period. Some of the users were part of groups of companies and also sold their products produced from tungsten carbide inside their group, while others were standalone entities. These companies sold cemented carbide tools to independent customers on the Union market as well as outside the Union. For the sales outside the Union market, the users were mainly purchasing the product under review from the PRC under IPP, thus no import duties were paid on these imports.
- (199) All cooperating users were manufacturing a large variety of products incorporating the product under review. The cost of tungsten carbide in the total manufacturing costs varied significantly from one user to the other, i.e. between 6 % and 50 %, depending on the type of finished products. Some of the products manufactured by the cooperating users incorporate significant value added and knowhow and, therefore, these users are able to charge significant margins, while other products which incorporate less value added are less profitable. In addition, most of the cooperating users were found to be profitable during the review investigation period of up to more than 15 %. Furthermore, the investigation revealed that the profitability of these users was impacted also by factors other than the anti-dumping measures in force, such as low demand on the markets they operate (oil drilling and mining).
- (200) The additional five users mentioned in recital (194) that came forward supporting the continuation of the anti-dumping measures in force were customers of the Union industry. These users argued that while a decrease in prices of tungsten would benefit users in the short term, in the medium and long term the Chinese prices will likely increase again in the absence of competition with the Union industry. In addition, they argued that the repeal of the anti-dumping measures would also have a negative impact on the recycling activities in the Union as imports of large volumes of low priced tungsten carbide from China would make the recycling activity in the Union unprofitable. Finally, these users highlighted their interest in having multiple sources of supply, including the Union industry.

- (201) The findings of the investigation show that users were able to continue to purchase tungsten carbide from several sources. This included imports of tungsten carbide from the PRC, in significant quantities, without paying duties as made under the IPP regime. Most of them were profitable. While it is reasonable to expect that certain users will benefit, at least in the short term, from the availability of cheaper imports from the PRC, the measures have not had a serious negative effect on them and this confirms that the maintenance of the anti-dumping measures in force does not have a serious impact on the users. Moreover, several users even supported the continuation of the measures.
- (202) Several interested parties argued that the assessment of the impact of the measures on the users should be done over the whole period that the measures have been in force in line with the Ferro-silicon case <sup>(1)</sup> arguing that the users are experiencing long term cumulative negative effects which are disproportionate to any potential or actual benefit for the Union producers.
- (203) In this regard, it should be noted that although the measures have been in place since 1990, the users have managed to absorb their increase in cost and still be profitable. In addition, in the framework of the original investigation and each expiry review conducted in relation to it, the Commission assessed the impact of the anti-dumping measures on the users. Each time the Commission concluded that the maintenance of the anti-dumping measures was not likely to have a serious effect on users in the Union. Moreover, the current assessment confirmed this conclusion on the basis of the actual impact of measures. Therefore, the claim was rejected.
- (204) After disclosure, four more users of the product under review came forward, three of them being related to one of the cooperating users that submitted a questionnaire reply. One of them, however, is located in Brazil and thus it is not considered to be an interested party in this investigation. These companies were against the maintenance of the anti-dumping measures in force.
- (205) In addition, after disclosure, several users claimed that their ability to absorb the cost of the measures and remain profitable has reached its maximum. It's was, furthermore, claimed that these users have demonstrated and proved that there are no further potential technological improvements of the product and that it becomes unfeasible to continue to bear the additional costs.
- (206) As explained in recital (198) the cooperating users were manufacturing a large variety of products incorporating the product under review and the cost of tungsten carbide in the total manufacturing costs varied significantly from one user to the other, i.e. between 6 % and 50 %, depending on the type of finished products. While it is not excluded that the profitability per product varies, most of the cooperating users were found to be profitable during the review investigation period of up to more than 15 %. Therefore, the claim is rejected.
- (207) On this basis, the Commission concluded that concerning the impact on users, there are no indications that the maintenance of the measures will have a significant negative effect on their activity.

### 5.3. Interest of suppliers

- (208) Ten companies in the upstream market came forward expressing their support for the continuation of the measures. Four of them were mining companies and producers of tungsten concentrate, supplying the Union industry.
- (209) The other six companies were suppliers of recycling materials to Union industry. They argued that the closure of the Union industry will significantly have a negative impact on their activity because they will lose their customers. They also highlighted the importance of the recycling of scrap in the Union, arguing that the scrap materials have higher tungsten content than the ore concentrate, thus making the tungsten scrap a valuable raw material, which can lower the raw material costs for users.
- (210) On this basis, the Commission concluded that it is in the interest of the suppliers to maintain the anti-dumping measures in force.

<sup>(1)</sup> Commission Decision 2001/230/EC of 21 February 2001 terminating the anti-dumping proceeding concerning imports of ferro-silicon originating in Brazil, the People's Republic of China, Kazakhstan, Russia, Ukraine and Venezuela (OJ L 84, 23.3.2001, p. 36).

#### 5.4. Tungsten as a critical raw material

- (211) Since 2011 tungsten has been classified as a critical raw material <sup>(1)</sup> in the European Union.
- (212) It is, therefore, in the interest of the Union to keep production of tungsten in the Union, to promote recycling in order to reduce the consumption of primary raw materials and to decrease the relative import dependence.

#### 5.5. Competition in the Union

- (213) Several interested parties claimed that the anti-dumping measures had deteriorated the competition level in the Union as it reduced the choice of suppliers. They argued that all Union producers had similar price levels which were not competitive.
- (214) There are six Union producers on the market, using different manufacturing processes and different raw materials. As stated in recital (33), some of the Union producers use only virgin raw materials and some are using both virgin raw materials and scrap. For the virgin production process, the manufacturing process can start either from the concentrate, APT or tungsten oxide. These elements influence the cost of production. Therefore, the fee that the Union industry is charging its clients on top of the APT price is influenced by its manufacturing costs. The six Union producers are independent from each other and competing with each other in the Union market. Moreover, the investigation has shown that there are other sources of supply on the Union market like USA, Vietnam, South Korea, and Israel. Therefore, the claim is rejected.

#### 5.6. Competitive disadvantage of downstream producers

- (215) Several interested parties claimed that due to the measures in force users in the Union are at competitive disadvantage vis-à-vis their competitors located in other third countries as the measures favour users outside the Union at the expense of Union users. In addition, they claimed that as third country downstream users benefit from a lower cost base they are more profitable compared to their competitors in the Union. It was, furthermore, claimed that the fact that the PRC eliminated the export duty of 5 % on tungsten carbide and restrictions on the upstream products (export quotas on APT) in May 2015 had a negative impact on them. They also claimed that in case measures are prolonged, in order to avoid losing their customers, the users will have to relocate the production plants outside the Union.
- (216) As stated in recital (198), the investigation has shown that most of the cooperating users in the Union were profitable during the review investigation period and that other factors than the anti-dumping measures in force, like low demand on the markets they operate (oil drilling and mining), affected their profitability. The argument that users in other third countries are allegedly generating more profits than the users in the Union is irrelevant for the assessment of the Union interest. In addition, these parties were not able to explain how the fact that the PRC eliminated the export duty and restrictions on the upstream products had a negative effect on users and, in addition, was not supported by any evidence. The claim regarding the relocation of some users was unfounded as the profitability of these users depends on the type of products manufactured, but at the same time, also on other factors like the decrease in the demand for these products. In any event, there is no evidence showing that even the repeal of the measures would prevent the relocation of the users. Therefore, the claims in recital (214) are rejected.

#### 5.7. Downstream integration

- (217) Several interested parties claimed that the majority of the Union producers of tungsten carbide are integrated downstream and, therefore, their related producers of tools can source raw materials at lower prices than the not integrated users, which lead to unequal disadvantage amongst users.
- (218) The investigation has shown that out of the six Union producers of tungsten carbide for the free market, three were downstream integrated. These Union producers sold the product under review to its related companies at market prices which did, therefore, not have any price advantage in sourcing raw materials as compares to the non-integrated users. Therefore, the claim is rejected.

<sup>(1)</sup> COM(2011) 25 final of 2 February 2011 and COM(2014) 297 final of 26 May 2014.

- (219) After disclosure, several users claimed that the vertically integrated suppliers are also competitors of the users and hinder the fair competition as they can stop the supply of the product under review to the users.
- (220) The investigation did not reveal any indications that the Union industry will stop selling the product under review to unrelated users. To the contrary, during the period considered the sales of the downstream integrated Union producers to the unrelated users increased by 16 %. Therefore, the claim was rejected.

#### 5.8. Lack of investments and outdated technologies

- (221) Several interested parties claimed that as a consequence of anti-dumping measures in force the Union industry did not have any incentive to invest in new technologies. These parties claimed that the Union industry is operating with old and outdated technologies.
- (222) However, the investigation revealed that as stated in recital (164) during the period considered the Union industry has made significant investments in order to obtain a better utilisation of the raw materials and, therefore, to decrease the cost of manufacturing, to improve efficiency, to increase flexibility in mixing the hard with the soft scrap and in order to improve compliance with environmental rules. Therefore, the claim is rejected.

#### 5.9. Raw materials

- (223) Several users claimed that the Union industry's situation depended on their access to the raw material, their availability and pricing. Anti-dumping measures should not compensate for any disadvantage in sourcing raw materials.
- (224) Anti-dumping measures were imposed on the basis of a finding of dumping by the Chinese exporting producers thus causing material injury to the Union industry. Therefore, the claim that the anti-dumping measures compensate for the disadvantages in sourcing raw materials was rejected.
- (225) **The new Union Custom Code**
- (226) Several users claimed that Article 169(2) of Commission Delegated Regulation (EU) 2015/2446 <sup>(1)</sup> introduced changes in the Union customs rules according to which the IPP will not be allowed anymore for goods subject to anti-dumping measures or at least it will not be economically viable anymore. Therefore, its manufacturing cost will increase.
- (227) This claim was factually incorrect because Article 169(2) of Delegated Regulation (EU) 2015/2446 does not forbid the use of the IPP in case of anti-dumping duties but refers to the use of equivalent goods. Thus, goods imported under the IPP will only be subject to an anti-dumping duty if the further processed goods are later released for free circulation in the Union. In case the processed goods are re-exported, as it is currently the rule, they will not be subject to any anti-dumping duties. In addition, the interested parties have not provided any evidence showing that the IPP will not be economically viable anymore. This argument was therefore rejected.
- (228) After disclosure, several users claimed that the changes in Union Customs Code will limit the use of IPP due to an increase in documentation and the high risk of non-compliance, which will increase the cost of raw materials by up to 15 %.
- (229) In this regard it should be noted that the changes in the Union Customs Code are meant to improve the traceability of the goods subject to anti-dumping measures which are imported under IPP. Therefore, it is not excluded that this will lead to an increase in the administrative costs of the companies. However, the users didn't provide any supporting evidence or explanations about how the 15 % increase was calculated. Therefore, in view of its hypothetical nature, the claim was rejected.

<sup>(1)</sup> Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1).

#### 5.10. Duration of measures

- (230) Interested parties argued that the anti-dumping measures on the product under review are in force since 1990 and should therefore not be prolonged anymore.
- (231) Under the conditions set by Article 11(2) of the basic Regulation, in case continuation or recurrence of injurious dumping is established and measures are not against the Union interest as a whole, such measures must be maintained. All conditions were met in the present investigation. Likewise, the parties concerned did not demonstrate any specific reason in terms of the overall Union interest that would speak against the measures. The Commission has therefore no other option than to impose anti-dumping measures. This argument is therefore rejected.

#### 5.11. Conclusion on Union interest

- (232) On the basis of the above, the Commission concluded that there were no compelling reasons in terms of Union interest that would speak against the maintenance of the definitive anti-dumping measures on imports of tungsten carbide, fused tungsten carbide and tungsten carbide simply mixed with metallic powder originating in the PRC.

### 6. ANTI-DUMPING MEASURES

#### 6.1. Measures

- (233) All interested parties were informed of the essential facts and considerations on the basis of which it was intended to maintain the anti-dumping measures in force. They were also granted a period within which they could submit comments subsequent to this disclosure. The submissions and comments were duly taken into consideration where warranted.
- (234) As stated in recital (65) after disclosure, several users claimed that the differences in quality for uses, costs of production and sales must be taken into account when calculating, inter alia, the injury margin.
- (235) This claim is unfounded. It is recalled that the current investigation is an expiry review pursuant to Article 11(2) of the basic Regulation with the purpose to assess whether the anti-dumping measures in force should be maintained or repealed. No new injury margin is calculated in the framework of this investigation.
- (236) In addition, after disclosure, several users requested that the measures should be allowed to lapse when the inward processing permits are phased out, that is in two years.
- (237) In this regard it should be noted that the investigation did not reveal any exceptional circumstances that could justify the extension of the measures for a period of less than five years, in accordance with the applicable rules of the basic Regulation.
- (238) It follows from the above that, as provided for by Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of tungsten carbide, fused tungsten and tungsten carbide simply mixed with metallic powder originating in the PRC should be maintained. It is recalled that these measures consist of *ad valorem* duties.
- (239) The Committee established by Article 15(1) of Regulation (EU) 2016/1036 did not deliver an opinion,

HAS ADOPTED THIS REGULATION:

#### Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of tungsten carbide, fused tungsten carbide and tungsten carbide simply mixed with metallic powder currently falling within CN codes 2849 90 30 and ex 3824 30 00 <sup>(1)</sup> (TARIC code 3824 30 00 10) and originating in the People's Republic of China.

<sup>(1)</sup> The particles are irregular and not free flowing in contrast to 'ready to press powder' particles, which are spherical or granular shaped, homogeneous and free flowing. The lack of flowability can be measured and established by using a calibrated funnel e.g. a HALL flow meter according to ISO standard 4490.

2. The rate of duty applicable to the net free-at-Union-frontier price, before duty, for the products described in paragraph 1, shall be 33 %.
3. Unless otherwise specified, the relevant 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 Union*.

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

Done at Brussels, 1 June 2017.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

---