

Notice of Initiation of an expiry review of the antidumping measures applicable to imports of tungsten carbide and fused tungsten carbide originating in the People's Republic of China

(2003/C 84/02)

Following the publication of a notice of impending expiry ⁽¹⁾ of the anti-dumping measures in force on imports of tungsten carbide and fused tungsten carbide originating in the People's Republic of China, ('country concerned'), the Commission has received a request for review pursuant to Article 11 (2) of Council Regulation (EC) No 384/96 ⁽²⁾, as last amended by Council Regulation (EC) No 1972/2002 ⁽³⁾ ('the Basic Regulation').

1. Request for review

The request was lodged on 9 January 2003 by Eurometaux ('the applicant') on behalf of producers representing a major proportion, in this case more than 80 %, of the total Community production of tungsten carbide and fused tungsten carbide.

2. Product

The product under review is tungsten carbide and fused tungsten carbide originating in the People's Republic of China ('the product concerned'), currently classifiable within CN code 2849 90 30. This CN code is given only for information.

3. Existing measures

The measures currently in force are a definitive anti-dumping duty imposed by Council Regulation (EC) No 771/984 ⁽⁴⁾.

4. Grounds for the review

The request is based on the grounds that the expiry of measures would be likely to result in a continuation or recurrence of dumping and injury to the Community industry.

In view of the provisions of Article 2(7) of the Basic Regulation, the applicant established normal value for the People's Republic of China on the basis of the price in an appropriate market economy country, which is mentioned in paragraph 5.1(d) of this notice. The allegation of continuation of dumping is based on a comparison of normal value, as set out in the preceding sentence, with the export prices of the product concerned when sold for export to the Community.

On this basis, the dumping margin calculated is significant.

With regard to the recurrence of dumping it is also alleged that the exports to other third countries, i.e., Canada and USA, are made at dumped prices.

The applicant further alleges the likelihood of further injurious dumping. In this respect the applicant presents evidence that,

should measures be allowed to lapse, the current import level of the product concerned is likely to increase due to the existence of unused capacity in the country concerned.

It is also alleged that the flow of imports of the product concerned is likely to raise due to the saturation in traditional markets other than the EU (i.e. USA and Japan).

In addition, the applicant alleges that the removal of injury is mainly due to the existence of measures and that any recurrence of substantial imports at dumped prices from the country concerned would likely lead to a recurrence of further injury of the Community industry should measures be allowed to lapse.

5. Procedure

Having determined, after consulting the Advisory Committee, that sufficient evidence exists to justify the initiation of an expiry review, the Commission hereby initiates a review in accordance with Article 11 (2) of the Basic Regulation.

5.1. Procedure for the determination of likelihood of dumping and injury

The investigation will determine whether the expiry of the measures would be likely, or unlikely, to lead to a continuation or recurrence of dumping and injury and the need for the continuation or the removal of the existing measures.

(a) Sampling

In view of the apparent number of parties involved in this proceeding, the Commission may decide to apply sampling, in accordance with Article 17 of the Basic Regulation.

(i) Sampling for exporters/producers in the People's Republic of China

In order to enable the Commission to decide whether sampling is necessary and, if so, to select a sample, all exporters producers, or representatives acting on their behalf, are hereby requested to make themselves known by contacting the Commission and providing the following information in confidential and non-confidential form on their company or companies within the time limit set in paragraph 6(b)(i) of this notice:

— name, address, e-mail address, telephone, and fax, and/or telex numbers and contact person,

⁽¹⁾ OJ C 166, 12.7.2002, p. 2.

⁽²⁾ OJ L 56, 6.3.1996, p. 1.

⁽³⁾ OJ L 305, 7.11.2002, p. 1.

⁽⁴⁾ OJ L 111, 9.4.1998, p. 1.

- the turnover in local currency and the volume in tonnes of the product concerned sold for export to the Community during the period 1 January 2002-31 December 2002,
- the turnover in local currency and the sales volume in tonnes for the product concerned on the domestic market during the period 1 January 2002-31 December 2002,
- whether the company intends to claim an individual margin (individual margins can only be claimed by producers),
- the precise activities of the company with regard to the production of the product concerned and the volume in tonnes of the product concerned, the production capacity and the investments in production capacity during the period 1 January 2002-31 December 2002,
- the names and the precise activities of all related companies ⁽¹⁾ involved in the production and/or selling (export and/or domestic) of the product concerned,
- any other relevant information that would assist the Commission in the selection of the sample,
- an indication of whether the company or companies agree to their inclusion in the sample, which implies replying to a questionnaire and accepting an on-the-spot investigation of their response.

In order to obtain the information it deems necessary for the selection of the sample of exporters/producers, the Commission will, in addition, contact the authorities of the exporting country, and any known associations of exporters/producers.

(ii) Final selection of the sample

All interested parties wishing to submit any relevant information regarding the selection of the sample must do so within the time limit set in paragraph 6(b)(ii) of this notice.

The Commission intends to make the final selection of the sample after having consulted the parties concerned that have expressed their willingness to be included in the sample.

Companies included in the sample must reply to a questionnaire within the time limit set in paragraph 6(b)(iii) of this notice and must co-operate within the framework of the investigation.

If sufficient co-operation is not forthcoming, the Commission will base its findings, in accordance with Articles 17(4) and 18 of the Basic Regulation, on the facts available.

⁽¹⁾ For guidance on the meaning of related companies, please refer to Article 143 of Commission Regulation (EEC) No 2454/93 concerning the implementation of the Community Customs Code (OJ L 253, 11.10.1993, p. 1).

(b) *Questionnaires*

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the Community industry and to any association of producers in the Community, to the sampled exporters/producers in the People's Republic of China, to any association of exporters/producers, to the importers, to any association of importers named in the request or which co-operated in the investigation leading to the measures subject to the present review, and to the authorities of the exporting country concerned.

In any event, all parties should contact the Commission forthwith by fax in order to find out whether they are listed in the request and if necessary request a questionnaire within the time limit set in paragraph 6(a)(i), given that the time limit set in paragraph 6(a)(ii) of this notice applies to all interested parties.

(c) *Collection of information and holding of hearings*

All interested parties are hereby invited to make their views known, submit information other than questionnaire replies and to provide supporting evidence. This information and supporting evidence must reach the Commission within the time limit set in paragraph 6(a)(ii) of this notice.

Furthermore, the Commission may hear interested parties, provided that they make a request showing that there are particular reasons why they should be heard. This request must be made within the time limit set in paragraph 6(a)(iii) of this notice.

(d) *Selection of the market economy country*

In the previous investigation the USA was used as an appropriate market economy country for the purpose of establishing normal value in respect of the People's Republic of China. The Commission envisages to use the USA again for this purpose. Interested parties are hereby invited to comment on the appropriateness of this country within the specific time limit set in paragraph 6(c) of this notice.

5.2. *Procedure for the assessment of Community interest*

In accordance with Article 21 of the Basic Regulation and in the event that the likelihood of a continuation of dumping and injury is confirmed, a decision will be reached as to whether to maintain or repeal the anti-dumping measures would not be against the Community interest. For this reason the Community industry, importers, their representative associations, representative users and representative consumer organisations, provided that they prove that there is an objective link between their activity and the product concerned, may, within the general time limits set in paragraph 6(a)(ii) of this notice, make themselves known and provide the Commission with information. The parties which have acted in conformity with the precedent sentence may request a hearing, setting the particular reasons why they should be heard, within the time limit set in paragraph 6(a)(iii) of this notice. It should be noted that any information submitted pursuant to Article 21 will only be taken into account if supported by factual evidence at the time of submission.

6. Time limits

(a) General time limits

(i) For parties to request a questionnaire

All interested parties who did not co-operate in the investigation leading to the measures subject to the present review should request a questionnaire as soon as possible, but not later than 15 days after the publication of this notice in the *Official Journal of the European Communities*.

(ii) For parties to make themselves known, to submit questionnaire replies and any other information.

All interested parties, if their representations are to be taken into account during the investigation, must make themselves known by contacting the Commission, present their views and submit questionnaire replies or any other information within 40 days of the date of publication of this notice in the *Official Journal of the European Communities*, unless otherwise specified. Attention is drawn to the fact that the exercise of most procedural rights set out in the Basic Regulation depends on the party's making itself known within the aforementioned period.

Companies selected in a sample must submit questionnaire replies within the time limit specified in paragraph 6(b)(iii) of this notice.

(iii) Hearings

All interested parties may also apply to be heard by the Commission within the same 40 day time limit.

(b) Specific time limit in respect of sampling

- (i) The information specified in paragraph 5.1(a)(i) should reach the Commission within 15 days of the date of publication of this notice in the *Official Journal of the European Communities*, given that the Commission intends to consult parties concerned that have expressed their willingness to be included in the sample on its final selection within a period of 21 days of the publication of this notice in the *Official Journal of the European Communities*.

- (ii) All other information relevant for the selection of the sample as referred to in 5.1(a)(ii) must reach the Commission within a period of 21 days of the publication of this notice in the *Official Journal of the European Communities*.

- (iii) The questionnaire replies from sampled parties must reach the Commission within 37 days from the date of the notification of their inclusion in the sample.

(c) Specific time limit for the selection of the market economy country

Parties to the investigation may wish to comment on the appropriateness of the USA which, as mentioned in paragraph 5.1(d) of this notice, is envisaged as a market-economy country for the purpose of establishing normal value in respect of the People's Republic of China. These comments must reach the Commission within 10 days of the date of publication of this notice in the *Official Journal of the European Communities*.

7. Written submissions, questionnaire replies and correspondence

All submissions and requests made by interested parties must be made in writing (not in electronic format, unless otherwise specified), and must indicate the name, address, e-mail address, telephone and fax, and/or telex numbers of the interested party.

Commission address for correspondence:

European Commission
J-79 5/16
B-1049 Brussels
Fax (32-2) 295 65 05
Telex COMEU B 21877

8. Non-co-operation

In cases in which any interested party refuses access to or otherwise does not provide the necessary information within the time limits, or significantly impedes the investigation, findings, affirmative or negative, may be made in accordance with Article 18 of the Basic Regulation, on the basis of the facts available.

Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of the facts available.