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

COMMISSION IMPLEMENTING REGULATION (EU) 2017/942

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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[(1)] ('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[(2)], 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[(3)] 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[(4)], 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[(5)], following an expiry review, these measures were extended for another five-year period.

(4) By Council Regulation (EC) No 2268/2004[(6)], 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.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/942. (See end of Document for details)*

(5) By Council Regulation (EC) No 1275/2005[7], the Council amended the definition of the product scope to also cover tungsten carbide simply mixed with metallic powder.

(6) Following a review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009[8], the Council extended the measures for another five-year period by Council Implementing Regulation (EU) No 287/2011[9] ('previous expiry review').

1.2. **Request for an expiry review**

(7) Following the publication of a notice of impending expiry[10] 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*[11] ('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.

(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.

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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