Implementing Regulation of the Council (EU) No 151/2010 of 22 February 2010 terminating the partial interim review of the anti-dumping measures applicable to imports of certain tungsten electrodes originating in the People's Republic of China

IMPLEMENTING REGULATION OF THE COUNCIL (EU) No 151/2010

of 22 February 2010

terminating the partial interim review of the anti-dumping measures applicable to imports of certain tungsten electrodes originating in the People's Republic of China

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community[(1)] (the basic Regulation) and in particular Articles 11(3) and 9(1) thereof,

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

Whereas:

1. **PROCEDURE**

1.1. **Measures in force**

(1) By Regulation (EC) No 260/2007[(2)], the Council imposed a definitive anti-dumping duty on imports of certain tungsten electrodes originating in the People's Republic of China. For the three companies with individual duties, the duties in force range from 17 % to 38,8 %. The residual duty is 63,5 %.

1.2. **Request for review**

(2) In May 2008, the Commission received a request for a partial interim review pursuant to Article 11(3) of the basic Regulation from one exporting producer of certain tungsten electrodes originating in the People's Republic of China.

(3) The request was lodged by Shandong Weldstone Tungsten Industry Co. Ltd ('SWT' or 'the applicant').

(4) The applicant had provided prima facie evidence showing that, on the basis of a comparison of constructed normal values and export prices to the Union, its dumping margin appeared to be substantially lower than the existing level of the measure and that the continued application of the measure at the existing level was no longer necessary to offset dumping.

1.3. **Initiation**

(5) Having determined, after consulting the Advisory Committee, that sufficient evidence existed to justify the initiation of a partial interim review, the Commission announced, by a notice (the notice of initiation) published in the *Official Journal of the European Union*[3], the initiation of a partial interim review in accordance with Article 11(3) of the basic Regulation, limited to the examination of dumping as far as SWT is concerned. The 'product concerned' was the same as that set out in Council Regulation (EC) No 260/2007, being tungsten welding electrodes, containing 94 % or more by weight of tungsten, other than those obtained simply by sintering, whether or not cut to length, falling within CN codes ex 8101 99 10 and ex 8515 90 00 and originating in the People's Republic of China.

(6) The investigation of dumping covered the period from 1 October 2007 to 30 September 2008.

(7) The Commission officially advised the applicant, representatives of the Union industry and the representatives of the exporting country of the initiation of the review investigation. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.

2. WITHDRAWAL OF THE REQUEST AND TERMINATION OF THE PROCEEDING

(8) By letter to the Commission dated 9 November 2009 SWT formally withdrew its request for the partial interim review of the anti-dumping measures applicable to imports of certain tungsten electrodes originating in the People's Republic of China. In the light of the recent economic crisis, the applicant has begun to reconsider the economic viability of certain aspects of its operations.

(9) The representatives of the Union industry considered that the reasons given by the applicant for the withdrawal were circumstantial and not acceptable.

(10) However, since the request for the review had already been submitted in May 2008, i.e. before the onset of the economic crisis, and that the applicant withdrew the request well after the beginning of the crisis, when the investigation was still ongoing and not yet complete, the Commission cannot consider the reasons for withdrawal as circumstantial.

(11) It was considered whether it would be warranted to continue the review investigation *ex officio*. The Commission services found that the termination would not affect the actual anti-dumping measures and no compelling arguments were received that termination would be against the Union interest. On this basis, the review investigation should be terminated.

(12) Interested parties were informed of the intention to terminate the review investigation and were given the opportunity to comment. No comments received were such as to alter the conclusions set out in recitals 10 and 11.