COMMISSION DECISION

of 26 March 1990

terminating the anti-dumping proceeding concerning imports of tungsten metal powder originating in the People's Republic of China or the Republic of Korea

(90/155/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community [1], and in particular Article 9 thereof,

After consultation within the Advisory Committee as provided for in Regulation (EEC) No 2423/88,

Whereas :

A. PROCEDURE

(1) In July 1988 the Commission received a written complaint lodged by the EEC Liaison Committee for the Non-Ferrous Metal Industries on behalf of producers representing most of the Community production of tungsten metal powder.

The complaint contained evidence of dumping and consequent injury which was judged sufficient to justify the initiation of a proceeding.

In a notice published in the *Official Journal of the European Communities* [2] the Commission accordingly announced the initiation of an anti-dumping proceeding concerning imports into the Community of tungsten metal powder falling within CN code 8101 10 00, originating in the People's Republic of China or the Republic of Korea.

(2) The Commission officially advised the exporters and importers known to be concerned, the representatives of the exporting countries and the complainants.

It called on the parties concerned to reply to the questionnaires sent to them, and gave them the opportunity to make their views known in writing and request a hearing.

(3) All the Community producers on whose behalf the complaint was lodged replied to the questionnaires, made their views known in writing and requested and were granted hearings by the Commission.

(4) None of the three main Chinese export bodies, their 20 regional offices nor any of the eight Chinese producers to which the Commission sent the questionnaires returned them completed, even partially. However, the China Chamber of Commerce of Metals, Minerals and Chemicals Importers and Exporters, hereinafter referred to as 'the China Chamber of Commerce', made itself known to the Commission and informed it that it intended to reply to the questionnaires on behalf of all the Chinese exporters and producers referred to above. On two occasions the China Chamber of Commerce requested and obtained from the Commission an extension of its deadline in order to prepare a reply to the questionnaires. However, in lieu of a specific reply to the questionnaires, all that was received by the Commission was a general position paper.

The China Chamber of Commerce also requested and was granted a hearing, at which it put forward both general arguments and arguments relating to another intermediate tungsten product on which a separate anti-dumping investigation was being conducted.

None of the nine companies listed in the complaint as importers of tungsten metal powder originating in China replied to the questionnaires sent out by the Commission.

(5) The Korean producer and exporter Korea Tungsten Mining Co. Ltd (KTMC), of Seoul and Taegu, replied in full to the Commission's questionnaires on its own behalf and that of its sales offices in the Community.

KTMC also requested and was granted a hearing and made its views known in writing.

(6) Accordingly, the findings for those parties which failed to reply and did not make themselves known by any other means were made in accordance with Article 7 (7) (b) of Regulation (EEC) No 2423/88, on the basis of the facts available, namely the information supplied by the complainant and official Community statistics.

[1] OJ No L 209, 2. 8. 1988, p. 1.
[2] OJ No C 322, 15. 12. 1988, p. 6.

(7) The Commission sought and verified all the information it deemed necessary to reach a preliminary determination of dumping and consequent injury, obtained from those parties which had agreed to cooperate. To this end it carried out inspections at the premises of:

(a) *Community producers*

— Hermann C. Stark Berlin, GmbH & Co. KG, Düsseldorf and Goslar, Germany,

— Murex Ltd, Rainham, United Kingdom,

— Eurotungstène Poudres S.A., Grenoble, France;

(b) *Korean producer/exporter*

— Korea Tungsten Mining Co., Ltd (KTMC), Seoul and Taegu.

It also sought information from the producer in the reference country suggested by the complainant. Wolfram Bergbau- und Hüttengesellschaft mbH of Vienna, Austria.

(8) The dumping investigation covered by the period 1 January 1988 to 30 September 1988.

This proceeding overran the one-year period laid down in Article 7 (9) (a) of Regulation (EEC) No 2423/88 because of the duration of Advisory Committee consultations.

B. THE PRODUCT; COMMUNITY INDUSTRY

(9) Tungsten metal powder is obtained by reduction of ammonium paratungstate (APT) or tungstic oxide (generally by exposure to hydrogen in furnaces). Various grades are marketed, depending on the size of the particles, for different purposes.

It is an intermediate product, falling within CN code 8101 10 00, used in the production of tungsten carbides or without further processing to produce certain parts such as electrical contacts.

According to the information gathered by the Commission, the product exported by China and Korea and that manufactured by the Community producers may be considered to be like products within the meaning of Article 2 (12) of Regulation (EEC) No 2423/88.

(10) The Commission noted that during the reference period the Community producers on whose behalf the complaint had been lodged accounted for the bulk of Community production of tungsten metal powder.

The Commission therefore considered that the complainants did constitute the Community industry within the meaning of Article 4 (5) of Regulation (EEC) No 2423/88.

C. INJURY

1. Volume and market shares

(a) *Republic of Korea*

(11) In its reply to the questionnaire, KTMC quoted figures for the volume of its sales of tungsten metal powder in the Community which were slightly different from those for imports originating in Korea as published by Eurostat.

Bearing in mind the evidence relating to its sales of tungsten metal powder in the Community which KTMC provided during the inspection at its premises, the Commission considered that the figures for KTMC's actual deliveries to the Community between 1984 and 1987 and the first nine months of 1988 should be used, for the purposes of this investigation, in lieu of the Eurostat figures which were quoted in the complaint.

(12) On the basis, it appeard that imports of the product in question originating in Korea, which totalled 118 tonnes in 1986, fell to 58 tonnes during the reference period, i.e. a level below that of 1984, 1986 and 1987, adjusted on an annual basis.

The Commission considered that the share of the Community market held by the Korean imports should be assessed on the basis of the total quantities traded in the Community (i.e. Community industry's sales plus total imports originating in non-Community countries).

On this basis it appeared that the South Korean exporter's market share, which had stood at 5,8 % in 1984, has now fallen to less than 4 %.

(b) *People's Republic of China*

(13) According to the figures published by Eurostat, which are the best available for China, imports from China started in 1985 and totalled only 35 tonnes during the reference period.

In terms of market share, these imports amounted to less than 3 % of the total volume of tungsten metal powder traded over the whole period 1985 to 1988.

(c) *Other non-Community suppliers*

(14) Imports originating in other non-Community countries remained stable between 1984 and 1988, averaging around 900 tonnes a year, and represent some 87 % of the total import market.

2. **Prices**

(15) Between 1985 and 1988 the Korean exporter reduced its selling price in the Community by 11 % — a small reduction compared to the general downturn in the prices of imported tungsten metal powder during the same period, which resulted in a drop of 28 %.

(16) Over the same period the Chinese exporters, taken as a whole, reduced their selling prices in the Community by over 28 %.

(17) To determine the price differential in the Community between tungsten metal powder from China or Korea and that produced within the Community, the Commission compared the average price of imports from China and the weighted average selling price of imports from Korea (at the free-at-Community-frontier duty-paid stage) and the weighted average selling price, not including transport, of the products sold by Community producers.

Through this comparison the Commission found that, for the Chinese exporters, price differentials during the reference period were as much as 19,5 %, but KTMC, the Korean exporter, had not undercut Community production prices.

3. **Other economic factors to be taken into consideration**

(a) *Production*

(18) The Commission found that Community output of tungsten metal powder, taking as a basis the index 1984 = 100, rose to 106 in 1985, fell to 96 in 1986 and 91 in 1987, and rose again to 107 during the reference period. These figures highlight the clear recovery of Community production, which in 1988 exceeded its 1985 level.

(b) *Capacity utilization*

(19) Calculated on the basis of the capacity actually available each year from 1984 to 1987 and during the reference period, the capacity utilization rate of Community producers fell between 1984 and 1987 from 86 % to 70 %, but rose sharply to 91 % during the first nine months of 1988.

(c) *Sales*

(20) Community producers' sales on the Community market, taking as a basis the index 1984 = 100, totalled 122 in 1985, 117 in 1986, 103 in 1987 and 126 during the first nine months of 1988 (figures for this period having been adjusted for the year). It should be noted that between 1985 and 1988 Community producers' sales did not fall below the 1984 level and that 1988 saw a sharp increase compared with the previous year.

(d) *Market share*

(21) The market share of the Community producers, calculated in the same way as those of China and Korea, fell slightly in 1986 and 1987 but improved during the reference period, rising above 1984 and 1985 levels.

(e) *Profits*

(22) The Commission found that the Community industry's financial results worsened slightly in 1986 but improved significantly during the reference period.

4. **Conclusion**

(23) In the light of all the abovementioned economic factors, the Commission reached the conclusion that during the investigation period imports of tungsten metal powder originating in China and Korea, taken individually or together, did not cause injury to the complainant.

D. **THREAT OF INJURY**

(24) Since the complaint was in part founded on the threat of injury which the imports in question were alleged to pose to the Community industry, the Commission considered whether a change of conditions likely to bring about a situation in which the alleged dumping would cause material injury was either likely or imminent.

(25) In this respect the Commission found that:

— in the case of China, the rate of increase of the imports in question had remained low and the quantities involved were very modest if compared, in particular, with those from other supplier countries not suspected of dumping,

— in the case of Korea, the imports in question, also modest, had tended to fall from 1987 onwards.

(26) In these circumstances, the Commission considers that a change in the situation whereby the alleged dumping would cause injury is neither imminent nor, at this stage, a likely prospect.

E. DUMPING

(27) On the basis of the conclusions referred to above concerning injury and the threat of injury, the Commission did not consider it necessary to pursue its enquiry to ascertain whether the imports in question had been dumped.

F. TERMINATION OF THE PROCEEDING

(28) Accordingly, the anti-dumping proceeding concerning imports of tungsten metal powder originating in the People's Republic of China or the Republic of Korea should be terminated without protective measures being imposed.

(29) No objections to this conclusion were raised in the Advisory Committee.

(30) The complainant was informed of the facts and principal considerations on the basis of which the Commission intended to terminate the proceeding and did not dispute the arguments,

HAS DECIDED AS FOLLOWS:

Sole Article

The anti-dumping proceeding concerning imports of tungsten metal powder originating in the People's Republic of China or the Republic of Korea is hereby terminated.

Done at Brussels, 26 March 1990.

For the Commission

Frans ANDRIESSEN

Vice-President