I

(Acts whose publication is obligatory)

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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3283/94 of 22 December 1994 on protection against dumped imports from countries not members of the European Community (1), and in particular Article 8 thereof,

Having regard to the proposal from the Commission submitted after consultation within the Advisory Committee,

Whereas :

A. Provisional Measures

(1) Following the withdrawal by two Chinese exporters, China National Non-Ferrous Metals Import and Export Corporation (CNIEC) and China National Metals and Minerals Import and Export Corporation (Minmetals), of the undertakings that had been accepted by Commission Decisions 90/478/EEC (2), 90/479/EEC (3) and 90/480/EEC (4), the Commission, by Regulation (EC) No 2286/94 (5), imposed a provisional anti-dumping duty on imports into the Community of the products exported by the two Chinese exporters concerned and previously covered by the undertakings, namely tungsten ores and concentrates falling within CN code 2611 00 00 (additional Taric code : 8432), tungstic oxide and tungstic acid falling within CN code ex 2825 90 40 (Taric codes : 2825 90 40*10 ; 2825 90 40*20 ; additional Taric code : 8481) and tungsten carbide and fused tungsten carbide falling within CN code 2849 90 30 (additional Taric code : 8478) originating in the People's Republic of China. The provisional duty was extended for a period for two months by Council Regulation (EC) No 82/95 (6).

B. Definitive duty

(2) Paragraph 9 of Article 8 of Regulation (EC) No 3283/94 states that in case of withdrawal of an undertaking, a definitive duty shall be imposed on the basis of the facts established within the context of the investigation which led to the undertaking, provided that such investigation was concluded with a final determination on dumping and injury. The investigation leading to the acceptance of the undertakings from CNIEC and Minmetals was concluded with a final determination of dumping and injury caused thereby, together with a determination that the imposition of anti-dumping measures was in the interest of the Community (7). Had it not been for the acceptance of the undertakings offered by these two Chinese exporters, an anti-dumping duty at the following rates would have been imposed on them :

tungsten ores and concentrates :

CNIEC : 37,0 %

Minmetals : 42,4 %

(1) OJ No L 349, 31. 12. 1994, p. 1. Regulation as amended by Regulation (EC) No 355/95 (OJ No L 41, 23. 2. 1995, p. 2).
(2) OJ No L 264, 27. 9. 1990, p. 55.
(3) OJ No L 264, 27. 9. 1990, p. 57.
(4) OJ No L 264, 27. 9. 1990, p. 59.
(5) OJ No L 248, 23. 9. 1994, p. 8.
(6) OJ No L 14, 20. 1. 1995, p. 1.
(7) See Council Regulations (EEC) No 2735/90, (EEC) No 2736/90 and (EEC) No 2737/90, OJ No L 264, 27. 9. 1990, pages 1, 4 and 7 respectively.

tungstic oxide and tungstic acid :

CNIEC :	35,0 %
Minmetals :	35,0 %

tungsten carbide and fused tungsten carbide :

CNIEC :	33,0 %
Minmetals :	33,0 %.

The Council considers that, given the withdrawal of the undertakings, the exemption for CNIEC and Minmetals from the anti-dumping duty applicable to imports of the above tungsten products from the People's Republic of China should be revoked and the duty rates indicated above applied.

C. Collection of the provisional duty

(3) The withdrawal of the undetakings by CNIEC and Minmetals was a voluntary decision on their part, taken with full knowledge of the consequences that should normally result from it. Taking into account that the imports covered by the provisional duty were no longer controlled by undertakings, the Council considers it necessary to collect the amounts secured by way of the provisional anti-dumping duty in their entirety,

HAS ADOPTED THIS REGULATION :

Article 1

Paragraphs 2 and 3 of Article 1 of Regulation (EEC) No 2735/90 shall be replaced by the following paragraph :

'2. The rate of duty shall be 42,4 % of the net, free-at-Community-frontier price, before duty (Taric additional code : 8433), except for tungsten ores and concentrates exported by China National Non-Ferrous Import and Export Corporation (CNIEC), for which a rate of 37,0 % shall apply (Taric additional code : 8432)'.

Article 2

Paragraph 3 of Article 1 of Regulation (EEC) No 2736/90 shall be deleted.

Article 3

Paragraph 3 of Article 1 of Regulation (EEC) No 2737/90 shall be deleted.

Article 4

The amounts secured by way of the provisional anti-dumping duty pursuant to Regulation (EC) No 2286/94 shall be definitively collected in their entirety.

Article 5

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities.*

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

Done at Brussels, 20 March 1995.

For the Council

The President

E. ALPHANDÉRY