COMMISSION REGULATION (EU) No 1247/2009

of 17 December 2009

imposing a provisional anti-dumping duty on imports of certain molybdenum wires originating in the People's Republic of China

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1] ('the basic Regulation'), and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 23 February 2009, the European Commission (Commission) received a complaint concerning imports of certain molybdenum wires, originating in the People's Republic of China ('the PRC' or 'the country concerned').

(2) The complaint was lodged pursuant to Article 5 of the basic Regulation by the European Association of Metals (EUROMETAUX) ('the complainant') on behalf of a producer representing a major proportion, in this case more than 25 %, of the total Community production of molybdenum wires.

(3) The complaint contained *prima facie* evidence of dumping and of material injury caused by such dumping which was considered sufficient to justify the opening of a proceeding.

(4) On 8 April 2009, a proceeding was initiated by the publication of a notice of initiation in the *Official Journal of the European Union* [2].

1.2. Parties concerned by the proceeding

(5) The Commission officially advised the exporting producers in the PRC, importers, traders, users and associations in the Community known to be concerned, the authorities of the PRC, the complainant Community producer and other Community producers known to be concerned by the initiation of the proceeding. 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. All interested parties who so requested and showed that there were particular reasons why they should be heard were granted a hearing.

(6) In order to allow exporting producers to submit a claim for market economy treatment ('MET') or individual treatment ('IT'), if they so wished, the Commission sent claim forms to the Chinese exporting producers known to be concerned and to the authorities of the PRC. Only one group of companies, consisting of Jinduicheng Molybdenum Co., Ltd. and its related company Jinduicheng Molybdenum Mining Guangming Co., Ltd. ('Jinduicheng group'), came forward and requested IT.

(7) In view of the apparent high number of exporting producers in the PRC and importers in the Community, the Commission indicated in the notice of initiation that sampling might be applied in accordance with Article 17 of the basic Regulation.

(8) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all known exporting producers in the PRC and importers in the Community were asked to make themselves known to the Commission and to provide, as specified in the notice of initiation, basic information on their activities related to the product concerned.

(9) Given the limited number of responses to the sampling exercise, it was decided that sampling was not necessary for the Chinese exporting producers or for the Community importers.

(10) Specific questionnaires were sent to all parties known to be concerned, namely the known exporting producers in the PRC, the Community producers, importers, traders and users in the Community. Replies were received from one group of exporting producers in the PRC, the complainant Community producer, one importer/trader and one user.

[1] OJ L 56, 6.3.1996, p. 1.
[2] OJ C 84, 8.4.2009, p. 5.

(11) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, resulting injury and Community interest and carried out verifications at the premises of the following companies:

(a) *Exporting producers in the PRC*

Jinduicheng Group:

— Jinduicheng Molybdenum Co., Ltd, Xi'an,

— Jinduicheng Molybdenum Mining Guangming Co., Ltd, Zibo;

(b) *Producer in the Community*

— Plansee Metall GmbH, Reutte, Austria;

(c) *User in the Community*

— Praxair Surface Technologies Srl, Fornovo Taro, Italy.

(12) In view of the need to establish a normal value for exporting producers in the PRC, none of which requested MET, a verification to establish normal value on the basis of data from an analogue country, the USA in this case, took place at the premises of the following company:

— Global Tungsten & Powders Corp, Towanda.

1.3. **Investigation period**

(13) The investigation of dumping and injury covered the period from 1 April 2008 to 31 March 2009 ('investigation period' or 'IP'). The examination of the trends relevant for the assessment of injury covered the period from March 2005 to the end of the investigation period ('period considered').

2. **PRODUCT CONCERNED AND LIKE PRODUCT**

2.1. **Product concerned**

(14) The product concerned is molybdenum wire, containing by weight at least 99,95 % of molybdenum, of which the maximum cross-sectional dimension exceeds 1,35 mm but does not exceed 4,0 mm, originating in the PRC ('the product concerned' or 'molybdenum wire'), currently falling within CN code ex 8102 96 00.

(15) Molybdenum wire is mainly used in the automotive sector for metal coating by thermal spraying of motor parts that are subject to heavy wear, such as piston rings, synchroniser rings or transmission components, to increase their abrasion resistance.

2.2. **Like product**

(16) No differences were found between the product concerned and the molybdenum wire produced by the Community industry and sold on the Community market. Given that the PRC is an economy in transition and that no exporter requested MET, as mentioned in recital (6), normal value had to be established on the basis of information obtained in a market economy third country, the USA. According to the information available, molybdenum wire produced and sold on the US domestic market as well as molybdenum wire exported from the USA to other markets, has the same basic physical and chemical characteristics as the molybdenum wire produced in the PRC and exported to the Community.

(17) It is therefore provisionally concluded that all types of molybdenum wire are alike within the meaning of Article 1(4) of the basic Regulation.

3. **DUMPING**

3.1. **Market economy treatment (MET)**

(18) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in the PRC, normal value shall be determined in accordance with paragraphs 1 to 6 of the said Article for those exporting producers which were found to meet the criteria laid down in Article 2(7)(c) of the basic Regulation.

(19) However, as explained in recital (6) above, the Jinduicheng group only requested Individual Treatment ('IT'). These criteria were therefore not investigated.

3.2. **Individual treatment (IT)**

(20) As a general rule, pursuant to Article 2(7)(a) of the basic Regulation, a country-wide duty, if any, is established for countries falling under that Article, except in those cases where companies are able to demonstrate that they meet all criteria set out in Article 9(5) of the basic Regulation and therefore qualify to be granted IT.

(21) Briefly, and for ease of reference only, these criteria are set out in a summarised form below:

(a) In the case of wholly or partly foreign owned firms or joint ventures, exporters are free to repatriate capital and profits;

(b) Export prices and quantities, and conditions and terms of sales are freely determined;

(c) The majority of the shares belong to private persons. State officials appearing on the board of Directors or holding key management positions shall either be in minority or it must be demonstrated that the company is nonetheless sufficiently independent from State interference

(d) Exchange rate conversions are carried out at the market rate.

(e) State interference is not such as to permit circumvention of measures if individual exporters are given different rates of duty.

(22) As regards criterion (c), it was found that the mother company, Jingduicheng Molybdenum Co., Ltd, was state-owned. Indeed, it emerged that during the IP only 20 % of the shares belonged to private persons and that these shares only represented 2,4 % of the voting rights. The remaining 80 % of the shares, with 97,6 % of the voting rights, belonged to state-owned enterprises.

(23) On the basis of the above findings, it was provisionally established that the Jinduicheng group could not be granted IT as set forth in Article 9(5) of the basic Regulation.

3.3. **Normal value**

(24) It was envisaged in the notice of initiation using the USA as an analogue country. A US producer, Global Tungsten & Powders Corp ('Global Tungsten'), agreed to co-operate and provided all the necessary information for the purpose of establishing normal value for the PRC. The Jinduicheng group contested this choice and proposed producers located in Mexico and India. However, the companies which were contacted in these countries either denied to cooperate, as in the case of India, or indicated that they did not produce the like product. Hence, the USA was confirmed as a suitable analogue country for the purpose of establishing normal value for the PRC.

(25) Pursuant to Article 2(7)(a) of the basic Regulation, it should be noted since that the analogue country producer made only marginal sales on the domestic US market, it was found unreasonable to use such sales data for the purposes of determining or constructing normal value. Consequently, the normal value for the PRC was provisionally established on the basis of export prices from the USA to other third countries, including the Community.

3.4. **Export price**

(26) As explained in recital (9), only one group of companies, the Jinduicheng group, representing between 60 to 75 % [1] of imports from the PRC to the Community, co-operated with the investigation. On this basis, the level of co-operation was deemed to be low. As a consequence, export prices for all Chinese exporters were provisionally established on the basis of the figures reported by the cooperating group, complemented with Eurostat import data, duly adjusted as explained in recital (34) below.

3.5. **Comparison**

(27) The comparison between normal value and export price was made on an ex-works basis. For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. On this basis, allowances for transport costs, ocean freight and insurance costs, handling, loading and ancillary costs and indirect taxation have been made where applicable and justified.

3.6. **Dumping margin**

(28) As explained in recital (23) above, the Jinduicheng group did not fulfil the requirements for IT as set forth in Article 9(5) of the basic Regulation. As a consequence, a country-wide dumping margin was established for the PRC.

(29) The country-wide level of dumping for the PRC was provisionally established at 68,4 % of the CIF Community frontier price, duty unpaid.

[1] Based on a comparison of the total exports of the Jinduicheng group with adjusted Eurostat data of the relevant CN code. For reasons of confidentiality, the proportion of its exports from the total quantity imported from the PRC is given in a range.

4. INJURY

4.1. Community production

(30) The investigation established that there are two producers in the Community which manufacture the like product for the non-captive market. One producer expressed its neutral position regarding this proceeding and supplied general data on its production and sales. The other producer, on whose behalf the complaint was lodged, co-operated fully with the investigation and submitted a full questionnaire reply. Therefore, in order to protect the business confidential information of that producer, all the figures related to sensitive data provided below have been indexed or given in a range. Bracketed figures relate to negative figures.

(31) In view of the above, the volume of Community production for the purpose of Article 4(1) of the basic Regulation was calculated by adding to the production of the fully cooperating Community producer the production volume provided by the other Community producer.

4.2. Definition of the Community industry

(32) The investigation showed that the production of the Community producer that fully co-operated in the investigation represented more than 80 % of the molybdenum wire produced in the Community during the IP. It was therefore considered that this company qualified to constitute the Community industry within the meaning of Articles 4(1) and 5(4) of the basic Regulation.

(33) Since that Community producer uses a fiscal year from 1 March to 28 February of the following year, all the data below are presented for fiscal years ('FY') rather than for calendar years (e.g. FY2005 covers the period from 1 March 2004 to 28 February 2005). However, data used for the IP, as stated in recital (13), covers the period from 1 April 2008 to 31 March 2009. The data concerning imports has been established on the same basis.

4.3. Community consumption

(34) Community consumption was established by adding to the sales volume of the known producers in the Community all imports from third countries extracted from Eurostat. It is recalled that the CN code under which the product concerned is declared includes also products other than the product concerned. In the absence of specific import statistics for the product concerned, Eurostat data was adjusted in accordance with the method suggested in the complaint. This method was found to be reliable to obtain data relating to the product concerned.

(35) The data described in table 1 below shows that demand of the product concerned in the Community decreased by 10 % over the period considered. It increased by 4 % until 2008, after which it dropped as a consequence of the economic crisis, affecting in particular the automotive sector.

Table 1

Community consumption	2005	2006	2007	2008	IP
Tonnes	397	405	412	411	358
Index	*100*	*102*	*104*	*104*	*90*

Source: Eurostat, complaint data and questionnaire replies.

4.4. Imports into the Community from the PRC

4.4.1. *Volume and market share of the imports from the PRC*

(36) For the reasons stated in recital (34) above, the volume of Chinese imports of the product concerned during the period considered was based on data from Eurostat, adjusted in accordance with the method suggested in the complaint. On that basis, the evolution of Chinese imports has been the following:

Table 2

	2005	2006	2007	2008	IP
Volumes (tonnes)	36	65	69	116	97
Index	*100*	*181*	*192*	*322*	*269*
Market share					
Index	*100*	*176*	*184*	*310*	*297*
Prices (EUR/tonne)	46 712	62 644	56 236	53 019	50 892
Index	*100*	*134*	*120*	*114*	*109*

Source: Eurostat, complaint data.

(37) The dumped imports from the PRC increased significantly from 36 tonnes in 2005 to 116 tonnes in 2008, i.e. more than three times. Following a peak in 2008, these imports decreased in the IP in line with the evolution of Community consumption. Nevertheless, the market share of the dumped imports in the Community market almost tripled between 2005 and the IP.

(38) The average import price from the PRC was at its lowest level in 2005. It peaked in 2006 and then progressively decreased by 19 % between 2006 and the IP.

4.4.2. *Price undercutting*

(39) For the purposes of analysing price undercutting, the weighted average sales prices of the Community industry to unrelated customers on the Community market, adjusted to ex-works level, were compared to the weighted average prices of the imports from the PRC to the first independent customer, established on a CIF basis, with an appropriate adjustment for post-importation costs and customs duties.

(40) The comparison showed that during the IP import prices from the PRC undercut the Community industry's prices, when expressed as a percentage of the latter, by 30 to 35 %.

4.5. **Economic situation of the Community industry**

4.5.1. *Preliminary remarks*

(41) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Community industry included an evaluation of all economic indicators for an assessment of the state of the Community industry from 2005 to the end of the IP.

4.5.2. *Production, production capacity and capacity utilisation*

Table 3

	2005	2006	2007	2008	IP
Production *Index*	100	98	96	73	67
Capacity *Index*	100	100	100	100	100
Capacity utilisation *Index*	100	98	96	73	67

Source: Questionnaire reply.

(42) As shown in the above table, the production of the Community industry progressively decreased by 33 % over the period considered in line with a significant increase of Chinese imports by more than three times during the same period. In a first step, between 2005 and 2008 production of the Community industry was reduced by 27 %. This declining trend was confirmed between 2008 and the IP when production went down by an additional 8 %.

(43) Since production capacity remained stable, capacity utilisation followed the same declining trend as production during the period considered.

4.5.3. *Sales volume, market share, growth and average unit prices in the Community*

(44) The figures below represent the Community industry's sales to independent customers in the Community in indexed form.

Table 4

	2005	2006	2007	2008	IP
Sales volume in the Community market *Index*	100	99	92	75	68
Market share *Index*	100	97	89	72	76
Average sales prices *Index*	100	86	96	95	92

Source: Questionnaire reply.

(45) The sales volume of the Community industry to independent customers on the Community market decreased significantly by 32 % during the period considered. This decrease was far higher than the decrease in consumption (– 10 %) during the same period. As a consequence the Community industry also lost significant market share in the same period.

(46) Average ex-works sales price of the Community industry to unrelated customers on the Community followed a declining trend over the period considered. During this period, a slight increase was observed in 2007 compared to 2006, in line with the increase in the raw material prices in that particular year, after which the sales prices decreased again. Overall, the Community industry had to decrease its average sales prices on the Community market by 8 %.

4.5.4. *Stocks*

(47) The figures below represent the volume of stocks at the end of each period.

Table 5

	2005	2006	2007	2008	IP
Stocks *Index*	100	179	72	253	233

Source: Questionnaire reply.

(48) Stocks increased significantly by 133 % during the period considered, reflecting the industry's increasing difficulty in selling its products in the Community market. The observed decrease in stocks between 2006 and 2007 followed the trend of the Community consumption during the same period.

4.5.5. *Employment, wages and productivity*

(49) The evolution of employment, labour costs and productivity of the Community industry were as follows.

Table 6

	2005	2006	2007	2008	IP
Employment — full-time equivalent (FTE) *Index*	100	109	100	73	68
Labour cost (EUR/FTE) *Index*	100	106	109	106	106
Productivity *Index*	100	90	96	100	98

Source: Questionnaire reply.

(50) The Community industry sharply decreased its number of employees between 2005 and the IP. This was the result of both a decline in output and the efforts carried out by the Community industry to rationalise production and boost productivity. The results of this rationalisation process within the Community industry was thus reflected in the productivity which was rather stable during the period considered.

(51) Average wage levels showed an increase in the beginning of the period considered but then decreased between 2007 and the IP.

4.5.6. *Profitability and cash flow*

(52) The levels of profits and cash flow from the sale of molybdenum wire by the Community industry showed a negative trend during the period considered, with the exception of the year 2007.

Table 7

	2005	2006	2007	2008	IP
Profitability *Index*	(100)	(214)	190	(117)	(151)
Cash flow *Index*	(100)	(344)	838	(41)	(97)

Source: Questionnaire reply.

(53) Profitability deteriorated significantly over the period considered, in particular between 2007 and the IP, when it reached its lowest level. The investigation indicated that the improved profitability in 2007 was linked to the positive development in Community consumption, the rationalisation efforts of the Community industry and the fact that the Community industry managed to increase its sales prices in that year.

(54) The trend of the cash flow, which is the ability of the industry to self-finance its activities, reflected to a large extent the evolution of profitability. Overall, the investigation showed that cash flow deteriorated over the period considered.

4.5.7. *Investments, return on investments and ability to raise capital*

(55) At the beginning of the period considered, the Community industry invested significantly in the product concerned sector. However, starting in 2006, investments had to be reduced.

(56) The investigation showed that the Community industry's ability to raise capital was following the same trend as its profitability.

Table 8

	2005	2006	2007	2008	IP
Investments *Index*	100	41	6	5	6
Return on investments *Index*	(100)	(102)	158	(87)	(106)

Source: Questionnaire reply.

4.5.8. *Magnitude of the actual margin of dumping*

(57) The dumping margin found, indicated above in recital (32), was significantly above the *de minimis* level. Furthermore, given the volume and the price of the dumped imports in particular during the IP, the impact of the actual margin of dumping on the Community market could not be considered to be negligible.

4.6. **Conclusion on injury**

(58) Between 2005 and the IP, the volume of dumped imports of the product concerned from the PRC increased by over 150 %, reaching a market share of 27,0 % by the end of the period considered. During IP, the low-priced dumped imports from the PRC were substantially undercutting the sales prices of the Community. The weighted average price undercutting was as high ranging between 30 and 35 % during the IP.

(59) During the same period while the Community consumption decreased by 10 %, the sales volume of the Community industry decreased by 32 %. Its market share fell by 17 percentage points and its sales prices had to be reduced by 8 % to limit the erosion in sales and market share.

(60) As a consequence, the situation of the Community industry substantially deteriorated during the period considered. Production decreased by 33 %, as did capacity utilisation, reaching a very low level in the IP and the level of stock more than doubled. The deteriorating situation of the Community industry in the period considered was also confirmed by the negative development in profitability, cash flow, employment and investments.

(61) In the light of the foregoing, it was provisionally concluded that the Community industry suffered material injury within the meaning of Article 3 of the basic Regulation.

5. CAUSALITY

5.1. Introduction

(62) In accordance with Articles 3(6) and 3(7) of the basic Regulation, it was examined whether the dumped imports of the product concerned originating in the PRC caused injury to the Community industry to a degree that enabled it to be classified as material. Known factors other than the dumped imports, which could at the same time be injuring the Community industry, were also examined to ensure that possible injury caused by these other factors was not attributed to the dumped imports.

5.2. Effect of the dumped imports

(63) The deterioration in the economic situation of the Community industry coincided with the surge of the dumped imports from the PRC. Their volume increased by over 150 % between 2005 and the IP and their market share almost tripled during the period considered. In that period, sales volumes of the Community industry decreased considerably by 32 %. At the same time a significant part of market share was lost and almost all the other injury indicators, such as production, capacity utilisation, investments, profitability, cash flow, employment showed significant declining trends during the period considered.

(64) Even if the prices of the dumped imports increased at the beginning of the period considered, they continuously and significantly decreased by 19 % in the remainder of the period. Despite the fact that the Community industry decreased its prices by 8 %, dumped imports from the PRC remained constantly below the prices of the Community industry, undercutting them by 30 to 35 % during the IP.

(65) In the context of a negative economic situation, in particular during the IP, linked to the economic crisis which affected in particular the automotive industry, the sales volumes of the Community industry decreased considerably three times more than the Community consumption. This resulted in a significant drop in market share which was entirely gained by the Chinese imports. At the same time production and capacity utilisation also declined sharply and stocks rose dramatically by over 100 %.

(66) It was therefore considered that in the negative economic context, the high volume of low-priced dumped imports from the PRC had a significant negative impact on the economic situation of the Community industry during the IP.

5.3. Effect of other factors

(67) The other factors examined in the causality analysis were the development of the Community consumption, the evolution of the costs of the Community industry, and in particular the raw material (Moly-oxide) prices, its export performance and the imports from other third countries throughout the period considered.

5.3.1. *Development of demand*

(68) The investigation showed that the demand in the Community market decreased by 10 % during the period considered. In a first step consumption rose by 4 % between 2005 and 2008 and then, in the context of the economic crisis and its impact on the automotive sector, it decreased by 14 % between 2008 and the IP.

(69) As explained in recital (65) above, when the import volumes from the PRC increased dramatically during the period considered, the sales volumes of the Community industry decreased considerably more (– 32 %) than the Community consumption (– 10 %). The entire market share lost by the Community industry was gained by the Chinese imports. Hence, the negative evolution of consumption cannot explain the dramatic deterioration in the economic situation of the Community industry during the IP.

5.3.2. *Prices of raw material in the Community market*

(70) During the period considered the Community industry managed to decrease its unit cost by 6 %. It should be noted that the price of Moly-oxide, the main raw material used in the production of the product concerned, showed a declining trend over the period considered. Therefore the negative economic situation and the financial losses incurred during the IP cannot be attributed to increased costs but rather to the decrease in sales prices (– 8 %) in the period.

5.3.3. *Export performance of the Community industry*

(71) The investigation of injury focused on the analysis of the situation of the Community industry in the Community market, which is the core market of that industry. The analysis of its export performance as a factor that could have caused injury showed that the export sales made by the Community industry remained relatively modest during the period considered. They represented less then 10 % of its total sales during the IP.

Table 9

	2005	2006	2007	2008	IP
Export sales volumes *Index*	100	88	105	50	45
Average export sales prices *Index*	100	89	86	93	91

Source: Questionnaire reply.

(72) Even if there was a declining trend of the export sales during the period considered in line with the negative worldwide situation in the automotive sector as from 2008, the Community market has always been the core market of the Community industry. Hence, any negative impact of the decrease in the export volumes on the economic situation of the Community industry could only be negligible.

5.3.4. *Imports from other third countries*

(73) The number of producers of molybdenum wire is very limited worldwide. Apart from the PRC, the main source of imports into the Community is the USA. In addition there were negligible imports from India and Japan during the period considered.

(74) Based on export data submitted by the sole US producer of the like product, who co-operated in the investigation, US imports of the product concerned represented between 15 to 20 % of the Community market during the IP but overall these imports decreased by 21 % over the period considered. The main decrease, which was as high as 17 %, occurred between 2008 and the IP. For reasons of confidentiality the data in table 9 below is presented in an indexed form.

Table 10

USA	2005	2006	2007	2008	IP
Imports (tonnes) *Index*	100	67	81	96	79
Market share *Index*	100	66	78	92	88
Average import price *Index*	100	91	81	87	84

Source: Data sole US exporter.

(75) The investigation also showed that during the IP, the US import prices were not only significantly higher than the dumped Chinese import prices but were in the same range with the sales prices of the Community industry, which suggests that the US import prices may also have been affected by the Chinese dumped imports. Any negative impact of the US imports on the Community market would therefore not be such as to break the causal link between the dumped imports from the PRC and the injury of the Community industry.

5.3.5. *Other producer in the Community*

(76) Based on the information available, it appeared that the other Community producer had limited sales in the Community market. Accordingly, the presence of that producer in the Community market could not be the cause of the injury suffered by the Community industry.

5.4. **Conclusion on causation**

(77) The injury suffered by the Community industry mainly materialised in the form of losses in production, sales volumes and market share. The loss of economies of scale due to the low capacity utilisation led to an overall negative economic situation of the Community industry. The investigation also showed that the price pressure exerted by dumped imports forced the Community industry to reduce its prices by 8 % and thus weakened it financial situation in particular during the IP.

(78) The deterioration of the situation of the Community industry coincided with a sharp increase in import volumes from the PRC at prices constantly undercutting the prices of the Community industry. This explains why Chinese imports gained considerable market share on the Community market.

(79) The examination of the other known factors which could have caused injury to the Community industry showed that none of them could have had a significant negative impact on that industry and could not break the causal link between dumped imports and the injurious situation of the Community industry, in particular during the IP.

(80) Based on the above analysis, which has properly distinguished and separated the effects of all known factors on the situation of the Community industry from the injurious effects of the dumped imports, it was provisionally concluded that the imports from the PRC have caused material injury to the Community industry within the meaning of Article 3(6) of the basic Regulation.

6. **COMMUNITY INTEREST**

6.1. **Preliminary remark**

(81) Pursuant to Article 21 of the basic Regulation, it was examined whether compelling reasons existed that could lead to the conclusion that it would not be in the Community interest to impose anti-dumping measures on imports from the country concerned. The Commission sent questionnaires to all importers, traders and users which were mentioned in the complaint. Replies to the questionnaire were received from one trader and one user.

(82) On the basis of the information received from the cooperating parties, the following provisional conclusions were reached.

6.2. **Interest of the Community industry**

(83) Molybdenum wire is a crucial product in the whole business of the complainant producer. It is essentially a volume business where sufficient volumes are necessary to support the production of more value-added products in the same production chain, used for example in the lighting industry. The volume business is essentially needed to keep down the unit fixed costs.

(84) In view of the above, the non-imposition of anti-dumping duties would have a further negative impact on the molybdenum wire business and could lead to a situation where the Chinese imports would push the Community industry out of the market with regard to molybdenum wire.

(85) It is considered that the imposition of the proposed measures would allow the Community industry to increase production volumes, regain part of the market lost to the benefit of dumped imports and thus to recover from injurious dumping.

(86) In conclusion, the imposition of provisional anti-dumping measures would allow the Community industry to secure the viability of its molybdenum wire business and consequently the entire sector which depends on the existence of this core product.

6.3. **Interest of importers, traders and users in the Community**

(87) Despite the fact that numerous parties were contacted, including associations of importers and users and individual companies, the level of co-operation has been very low.

(88) The investigation showed that there are traders which source molybdenum wire either from the Community industry or the Chinese producers and resell it directly to the automotive industry. Some other operators provide services to the automotive industry. It is noteworthy that not a single user within the automotive industry came forward in the investigation. This appeared to support the claim of the Community industry that the share of the cost of the product concerned in the total costs of the automotive industry is extremely low.

(89) Questionnaires were sent to the three known importers mentioned in the complaint. Whilst one importer explicitly stated that it did not want to participate in the investigation, another importer did not show any reaction to our solicitation. Only one trader, located in Germany, came forward and provided co-operation.

(90) Questionnaires were also sent to the 18 users mentioned in the complaint. However only one user, located in Italy, which accounted for between 35 to 50 % of imports of molybdenum wire from the PRC during the IP, co-operated in the investigation.

(91) As to importers and traders' interests, according to the data provided by the co-operating trader, it sourced its molybdenum wires exclusively from Community producers. Hence, the imposition of the proposed measures should not affect its activities.

(92) The low interest shown by Community importers and traders of the product concerned for this investigation would suggest that the imposition of the proposed provisional anti-dumping measures would not have a significant impact on their activities.

(93) Concerning the co-operating user located in Italy, the investigation showed that it imported large volumes of molybdenum wires from the PRC. This company provides coating services mainly for the automotive industry. The business involving the product concerned represents between 15 and 25 % of its total turnover.

(94) The imposition of the proposed anti-dumping duty is thus likely to increase the costs of the coating division of that user. However this would not have a significant impact on the overall profit of the company. In the worst case scenario, assuming that this user would not be able to pass any of the cost increase to its customers, the profit achieved during the IP at the level of the division would become slightly negative, and at company level, the profit achieved during the IP would be reduced by a few percentage points.

(95) Based on the above it is clear that the imposition of anti-dumping measures would have a negative impact on the coating division of this specific user which is exclusively sourcing its products from the PRC. However, given that this user has a strong position in this niche business, in terms of reliability and supply security towards its customers, it should be in a position to pass at least part of the cost increase to its customers and/or to purchase molybdenum wires from other sources. This would partly reduce the negative impact of the proposed measures.

(96) Taken the above into consideration, it was provisionally concluded that, on balance, the effect of the anti-dumping measures, will not have a significant negative impact on the overall situation of users of the product concerned in the Community.

6.4. **Competition and trade distorting effects**

(97) The investigation showed that there is a limited number of operators producing and selling the product concerned worldwide. Therefore it was examined whether there is any risk that the imposition of anti-dumping measures could lead to trade distorting effects in the Community market and in particular to shortages of supply. Even if it is likely that the imports of Chinese molybdenum wires would decrease with the imposition of anti-dumping measures, it seems that there would be no risk of a shortage on the Community market since the investigation showed that the Community industry has free capacity to meet the market demand. In addition some alternative sources of supply exist, such as the imports from the USA.

(98) Given that the proposed anti-dumping duty would re-establish a level playing field, it could be expected that the Chinese exporting producers would be able to continue to sell the molybdenum wire in the Community, albeit at non-injurious prices.

(99) On the other hand, if anti-dumping measures are not imposed, as explained in recital (86) above, the Community industry will not be able to sustain further losses in production and sales volumes in its core market. Its survival in a sector which goes beyond the like product would therefore be at stake. Given the fact that the Community industry supplies over 50 % of the Community market, its disappearance would very likely lead to a shortage of molybdenum wire in the Community market, at least until the point when the imports would have replaced the sales of the Community industry.

6.5. **Conclusion on Community interest**

(100) In view of the above, it was provisionally concluded that overall, based on the information available concerning the Community interest, there are no compelling reasons against the imposition of provisional measures on imports of molybdenum wire originating in the PRC.

7. **PROVISIONAL ANTI-DUMPING MEASURES**

7.1. **Injury Elimination Level**

(101) In view of the conclusions reached with regard to dumping, resulting injury, causation and Community interest, provisional measures should be imposed in order to prevent further injury being caused to the Community industry by the dumped imports from the PRC.

(102) For the purpose of determining the level of these duties, account was taken of the dumping margins found and the amount of duty necessary to eliminate the injury sustained by the Community industry.

(103) When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measures should allow the Community industry to cover its costs of production and to obtain a profit before tax that could be reasonably achieved by an industry of this type in the sector under normal conditions of competition, i.e. in the absence of dumped imports, on sales of the like product in the Community. It is recalled that the year 2007 was a year during the period considered when the Community industry made a profit. Hence, the pre-tax profit margin used for this calculation was in the range of 0-5 %, based on the profit achieved in the abovementioned year. On this basis, a non-injurious price was calculated for the Community industry for the like product.

(104) The necessary price increase was then determined on the basis of a comparison of the weighted average import price, adjusted for the post importation costs and customs duties, as established for the price undercutting calculations, with the non-injurious price of products sold by the Community industry on the Community market. Any difference resulting from this comparison was then expressed as a percentage of the total imported value.

7.2. **Provisional measures**

(105) In the light of the foregoing, it is considered that, in accordance with Article 7(2) of the basic Regulation, a provisional anti-dumping duty should be imposed on imports originating in the PRC at the level of the lower of the dumping and the injury margins, in accordance with the lesser duty rule. In this case, the duty rate should accordingly be set at the level of the injury margin found.

(106) The proposed anti-dumping duty is the following:

PRC	Injury elimination margin	Dumping margin	Anti-dumping duty rate
All companies	64,3 %	68,4 %	64,3 %

8. **DISCLOSURE**

(107) The above provisional findings will be disclosed to all interested parties which will be invited to make their views known in writing and request a hearing. Their comments will be analysed and taken into consideration where warranted before any definitive determinations are made. Furthermore, it should be stated that the findings concerning the imposition of anti-dumping duties made for the purposes of this Regulation are provisional and may have to be reconsidered for the purposes of any definitive findings,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of molybdenum wire, containing by weight at least 99,95 % of molybdenum, of which the maximum cross-sectional dimension exceeds 1,35 mm but does not exceed 4,0 mm, originating in the People's Republic of China, currently falling within CN code ex 8102 96 00 (TARIC code 8102 96 00 10).

2. The rate of the provisional anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, of the product described in paragraph 1 shall be 64,3 %.

3. The release for free circulation in the Community of the product referred to in paragraph 1 shall be subject to the provision of a security equivalent to the amount of the provisional duty.

4. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

Without prejudice to Article 20 of Regulation (EC) No 384/96, interested parties may request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted, make their views known in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

Pursuant to Article 21(4) of Regulation (EC) No 384/96, the parties concerned may comment on the application of this Regulation within one month of the date of its entry into force.

Article 3

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

Article 1 of this Regulation shall apply for a period of six months.

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

Done at Brussels, 17 December 2009.

For the Commission
The President
José Manuel BARROSO