COMMISSION REGULATION (EU) No 1042/2010

of 16 November 2010

imposing a provisional anti-dumping duty on imports of coated fine paper originating in the People's Republic of China

THE EUROPEAN COMMISSION,

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 Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 18 February 2010, the European Commission (the 'Commission') announced by a notice published in the *Official Journal of the European Union* [2] (Notice of initiation), the initiation of an anti-dumping proceeding concerning imports into the Union of coated fine paper originating in the People's Republic of China ('PRC' or the 'country concerned').

(2) The anti-dumping proceeding was initiated following a complaint lodged on 4 January 2010 by CEPIFINE, the European association of fine paper manufacturers, ('the complainant') on behalf of producers representing a major proportion, in this case more than 25 % of the total Union production of coated fine paper. The complaint contained *prima facie* evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

1.2. Parties concerned by the proceeding

(3) The Commission officially advised the complainant, other known Union producers, the known exporting producers in the PRC and an association of producers (a paper association), the representatives of the country concerned, known importers and known users of the initiation of the proceeding. The Commission also advised producers in the United States of America (USA) and an association of producers (a paper association) and, at a later stage, a producer in Thailand of the initiation of the proceedings, as the USA and Thailand were each envisaged as a possible analogue country. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out 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.

(4) In view of the apparent high number of exporting producers, Union producers and unrelated importers, sampling was envisaged in the Notice of initiation in accordance with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and if so, to select samples, all known exporting producers and their known paper association, all known Union producers and unrelated importers 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 (as defined in Section 2.1 below) during the period from 1 January 2009 to 31 December 2009. The authorities of the PRC were also consulted.

(5) As explained in recital 28 below, two Chinese exporting producer groups provided the requested information and agreed to be included in a sample. On the basis of the above it was decided that sampling was not necessary for exporting producers in the PRC.

(6) In order to allow the known exporting producers in the PRC to submit a claim for market economy treatment (MET) or individual treatment (IT), if they so wished, the Commission sent claim forms to the exporting producers known to be concerned and to the authorities of the PRC. As explained in recitals 33 and 53 below, one group of exporting producers in the PRC requested MET pursuant to Article 2(7) of the basic Regulation or IT should the investigation establish that it did not meet the conditions for MET, while the other group of exporting producers in the PRC requested IT.

(7) As explained in recital 29 below, it was decided that sampling was not necessary for Union producers.

(8) As explained in recital 30 below, it was decided that sampling was not necessary for unrelated importers.

[1] OJ L 343, 22.12.2009, p. 51.
[2] OJ C 41, 18.2.2010, p. 6.

(9) The Commission sent questionnaires to all parties known to be concerned and to all other parties that requested so within the deadlines set out in the Notice of initiation, namely the complainant, other known Union producers, the known exporting producers in the PRC and an association of producers (a paper association), the representatives of the country concerned, known importers, known users, known producers in the USA, an association of producers (a paper association) in the USA and a producer in Thailand.

(10) Replies to the questionnaires and other submissions were received from two groups of Chinese exporting producers, the complainant association (the European association of fine paper manufacturers or 'CEPIFINE'), the four complainant Union producers and one additional Union producer, 16 unrelated importers and traders, 17 users and 3 printing and paper associations and from one producer in the USA which was envisaged as analogue country.

(11) The Commission sought and verified all the information it deemed necessary for the purpose of the analysis of MET/IT and for a provisional determination of dumping, resulting injury and Union interest. Verification visits were carried out at the premises of the following companies.

(a) Union producers and association

— CEPIFINE, Brussels, Belgium,

— Sappi Fine Paper Europe, Brussels, Belgium,

— LECTA Group (CARTIERE DEL GARDA SpA, Riva del Garda, Italy CONDAT SAS, Le Plessis Robinson, France and TORRASPAPEL, S.A., Barcelona, Spain), Barcelona, Spain,

— Burgo Group SpA, Altavilla Vicentina, Italy and its related companies Burgo Distribuzione srl, Milan, Italy and Ebix sa, Barcelona, Spain,

— Papierfabrik Scheufelen GmbH, Lenningen, Germany.

(b) Exporting producers in the PRC

(1) Sinar Mas Paper (China) Investment Co. Ltd, the holding company of the Asia Pulp & Paper Group (APP).

— Gold East Paper (Jiangsu) Co., Ltd, Zhenjiang City, Jiangsu Province, PRC,

— Gold Huasheng Paper (Suzhou Industrial Park) Co., Ltd, Suzhou City, Jiangsu Province, PRC,

— Ningbo Zhonghua Paper Co., Ltd, Ningbo City, Zhejiang Province, PRC,

— Ningbo Asia Pulp & Paper Co., Ltd, Ningbo City, Zhejiang Province PRC,

(2) Chenming Paper Group (Chenming).

— Shangdong Chenming Paper Holdings Limited, Shouguang City, Shandong Province, PRC,

— Shouguang Chenming Art Paper Co., Ltd, Shouguang City, Shandong Province, PRC.

(c) Companies related to the exporting producers in the PRC

— Gold East (Hongkong) Trading Co., Ltd, Hong Kong,

— Chenming (HK) Limited, Hong Kong,

— Asia Pulp & Paper Italia SRL, Padova, Italy.

(d) Importers in the Union

— Cartaria Subalpina, Turin, Italy,

— Middleton Paper, Walsall, UK,

— Paperlinx, Northampton, UK.

(12) In view of the need to establish a normal value for the exporting producer in the PRC in the absence of MET, a verification visit 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:

— S.D. Warren Company d/b/a Sappi Fine Paper North America, Boston, Massachusetts, USA.

1.3. **Investigation period and period considered**

(13) The investigation of dumping and injury covered the period from 1 January 2009 to 31 December 2009 (the 'investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2006 to the end of the IP (the period considered).

2. **PRODUCT CONCERNED AND LIKE PRODUCT**

2.1. **Product concerned**

(14) The product concerned is coated fine paper which is paper or paperboard coated on one or both sides (excluding kraft paper or kraft paperboard), in either sheets or rolls, and with a weight of 70 g/m2 or more but not exceeding 400 g/m2 and brightness of more than 84 (measured according to ISO 2470-1), originating in the PRC ('the product concerned' or 'CFP') currently falling within CN codes ex 4810 13 20, ex 4810 13 80, ex 4810 14 20, ex 4810 14 80, ex 4810 19 10, ex 4810 19 90, ex 4810 22 10, ex 4810 22 90, ex 4810 29 30, ex 4810 29 80, ex 4810 99 10, ex 4810 99 30 and ex 4810 99 90.

(15) CFP is high quality paper and paperboard generally used for printing of reading material such as magazines, catalogues, annual reports, yearbooks. The product concerned includes both sheets and rolls suitable for use in sheet-fed (cut star) printing machines. Rolls suitable for use in sheet-fed presses (cutter rolls) are designed to be cut into pieces before printing, and are thus considered to be substitutable and directly competitive with sheets.

(16) The product concerned does not include rolls suitable for use in web-fed presses. Rolls suitable for use in web-fed presses are defined as those rolls which, if tested according to the ISO test standard ISO 3783:2006 concerning the determination of resistance to picking – accelerated speed method using the IGT tester (electric model), give a result of less than 30 N/m when measuring in the cross-direction of the paper (CD) and a result of less than 50 N/m when measuring in the machine direction (MD). Also, in contrast to rolls used in sheet-fed printing machines, rolls for use in web-fed presses are normally directly fed into the printing machines and are not cut beforehand.

(17) One party claimed that the product scope of the investigation was too narrowly defined and that rolls of CFP suitable for web-fed printing should have been included. It was claimed that web-fed rolls and the ones included in the scope of the present investigation (cutter rolls and sheets) shared the same basic technical and physical characteristics and were not distinguishable from one another. Furthermore it was claimed that both were used for high quality printing and that they were therefore to some extent interchangeable.

(18) However, in contrast to the above claim the investigation confirmed that there are indeed distinct technical and physical characteristics such as humidity and stiffness between paper used in web-fed and the one used in sheet-fed printing. The investigation further confirmed that the technical characteristics listed in recital 16 above are unique to rolls suitable for use in web-fed presses. Due to these differences paper used in web-fed or the one used in sheet-fed printing cannot be used in the same type of printing machine and they are therefore not interchangeable. It is noted that all parties agreed that the two types of paper are distinct as regards their surface strength and tensile strength.

(19) Furthermore, the party in question claimed that customers view CFP in the form of sheets, cutter rolls and web rolls as a single market and thus distribution channels are the same. The different technical characteristics are only reflected in minor price differences among these product groups.

(20) However, the investigation revealed that the two types of rolls are also non-interchangeable from an economic point of view because rolls for web-fed printing are used for mass-volume printing jobs and are generally made to order and require just-in-time delivery therefore these products are not stocked by intermediaries but are shipped directly to the final users, i.e. they are also sold through a different distribution channel than rolls used in sheet-fed printing. The different production process and the different economies of scale in the printing process are reflected in distinct price differences.

(21) On this basis, these claims were rejected.

(22) The same party claimed that the resistance to picking was not a suitable technical characteristic for differentiating between products as this test would be of a general nature and test results may moreover be affected by the moisture content of the paper tested. The party further claimed that on the basis of some other tests undertaken for a sample of CFP for web-fed printing (including products produced by the Union industry) it can be seen that these products would not fall into the current product definition which would show that the criterion of 'resistance to picking' for distinguishing CFP used in web-fed and sheet-fed printing is unsuitable. Firstly, no evidence was submitted with regard to the claim that the moisture content of the paper may render test results for ISO test standard ISO 3783:2006 unreliable. Secondly, as far as the testing of samples of CFP for web-fed printing is concerned, such tests were not made by an independent expert and the reliability and objectivity of such tests were therefore considered insufficient to base any conclusions thereon. Therefore, the resistance to picking was provisionally found to be a reliable technical characteristic to distinguish between CFP used in web-fed and the one used in sheet-fed printing.

(23) During the course of the investigation, certain parties also claimed that multi-ply paper and multi-ply paperboard (as defined in the next recital) should be excluded from the scope of the investigation. They claimed that multi-ply paper and multi-ply paperboard had different physical characteristics such as multiple plies, higher stiffness and lower density and that the final use of these products was different as these are usually used for folding carton and packaging applications. These parties finally claimed that single-ply and multi-ply paper and paperboard would be easily distinguished by their physical appearance.

(24) Multi-ply paper and multi-ply paperboard, as defined in the Harmonised System Explanatory Notes to subheading 4805, are products obtained by pressing together two or more layers of moist pulps of which at least one characteristics different from the others. These differences may arise from the nature of pulps used (e.g. recycled waste), the method of production (e.g. mechanical or chemical) or, if the pulps are of the same nature and have been produced by the same method, the degree of processing (e.g. unbleached, bleached or coloured).

(25) The investigation showed that multi-ply paper and paperboard has indeed some different physical and technical characteristics; more specifically it has several layers of pulp giving it an increased rigidity. Multi-ply paper and paperboard is produced by a different production method requiring a different paper machine than the one used for the production of CFP, as in the production process several layers of pulp are layered into a single product. Finally, multi-ply paper and paperboard serves different purposes (mainly packaging) compared to CFP that is used for high quality printing of promotional material, magazines, etc. Multi-ply paper and paperboard as defined in recital 24 is therefore provisionally considered as not being the product concerned. Consequently, the CN codes mentioned covering imports of multi-ply paper and multi-ply paperboard are provisionally excluded from the scope of the investigation.

(26) Finally, one Chinese producer claimed that so called 'paperboard' should be excluded from the scope of the investigation as it does not fall under the definition of fine paper (whether coated or not) because of alleged differences in its weight, thickness and rigidity. It was found that the term 'paperboard' is generally used for paper with high substances making the paper in general heavier, i.e. 'paperboard' is commonly defined as paper with a basis weight of above 224 g/m2. However, the investigation revealed that the difference in weight does not have a significant impact on the remaining physical and technical characteristic and end uses which would it make distinguishable from the product concerned. It is also noted that, as outlined in recital 14, all CFP with a weight of 70 g/m2 or more but not exceeding 400 g/m2 were explicitly included in the definition of the product concerned. Therefore paperboard is provisionally considered as being the product concerned.

2.2. **Like product**

(27) The product concerned, the product produced and sold on the domestic market of the PRC, and on the domestic market of USA, which served provisionally as the analogue country, as well as the product manufactured and sold in the Union by the Union producers were found to have the same basic physical and technical characteristics as well as the same basic uses. They are therefore provisionally considered as alike within the meaning of Article 1(4) of the basic Regulation.

3. **SAMPLING**

3.1. **Sampling for exporting producers in the PRC**

(28) Only two exporting producers groups in the PRC came forward and replied to the request for sampling data in the Notice of initiation. One group (Chenming) represents 2 related exporting producers while the other group (APP) represents 4 related exporting producers. The cooperating exporting producers represent the total exports of the product concerned from the PRC to the Union. In these circumstances, the Commission decided that sampling was not necessary for exporting producers in the PRC.

3.2. **Sampling of Union producers**

(29) In view of the potentially large number of Union producers sampling was envisaged in the Notice of initiation in accordance with Article 17(1) of the basic Regulation. However, after examination of the information submitted and given that only four Union producers came forward within the deadlines set in the Notice of initiation, it was decided that sampling was not necessary. The four cooperating producers were considered to be representative (covering 61 % of total production) of the Union industry as defined in recital 77 below. The information provided by the cooperating companies was verified on-spot and was used for the micro indicators as explained in recital 90.

3.3. **Sampling of unrelated importers**

(30) In view of the potentially large number of importers, sampling was envisaged for importers in the Notice of initiation in accordance with Article 17(1) of the basic Regulation. However, after examination of the information submitted and given the low number of importers which indicated their willingness to cooperate, it was decided that sampling was not necessary.

4. **DUMPING**

4.1. **General methodology**

(31) The general methodology set out below has been applied to the cooperating exporting producers in the PRC.

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

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

(1) business decisions and costs are made in response to market conditions, without significant state interference, and costs reflect market values;

(2) firms have one clear set of accounting records which are independently audited, in line with international accounting standards (IAS) and applied for all purposes;

(3) there are no significant distortions carried over from the former non-market economy system;

(4) legal certainty and stability is provided by bankruptcy and property laws;

(5) currency exchanges are carried out at the market rate.

(33) Only one exporting producers group (i.e. APP) in the PRC requested MET pursuant to Article 2(7)(b) of the basic Regulation. The party submitted 33 MET claim forms referring to its four related exporting producers and a series of other related companies involved in the product concerned i.e. pulp mills, chemical companies, forestry companies (upstream producers) and domestic trading companies.

(34) Account taken of the high number of MET claims, it was considered appropriate, for the purpose of the preliminary investigation, to limit the on-spot verification visits to the four exporting producers of the group.

(35) The Commission sought all the information deemed necessary and verified all the information submitted in the MET claims at the premises of the four related exporting producers.

(36) It was considered that MET should not be granted because none of them met the first, second and third criteria as laid down in Article 2(7)(c) of the basic Regulation.

(37) As far as criterion 1 is concerned, discrepancies with respect to business decisions and costs were established. It was found that on numerous occasions there was no evidence on payments made for the transfer of companies' shares. Furthermore contributions either from state-owned shareholders or related parties in fixed assets, land and expenditures converted into shares were not independently evaluated. Finally in one case shares passed from one state-owned shareholder to one of the APP group companies at non-market price. With respect to costs, the investigation established that, account taken of the methodology used by the group to record raw material inputs, there is lack of evidence on the cost of major raw material inputs. Consequently, it was concluded that the four related exporting producers have not shown that they fulfil criterion 1.

(38) With respect to criterion 2, it was established that fundamental International Accounting Standards (IAS) principles and in particular IAS 1 were disregarded (i.e. accrual principle, off-setting, lack of prudence and fair representation of transactions) both in the accounts and in their audit, which put into question the reliability of the companies' accounts. Consequently, it was concluded that the four related exporting producers have not shown that they fulfil criterion 2.

(39) As far as criterion 3 is concerned, the investigation revealed the existence of significant distortions with respect to land use rights (LUR) relevant to the four related exporting producers. Such distortions point to the conclusion that the LUR are not granted and maintained in accordance with market economy conditions. It was also established on spot that significant distortions exist in loan attribution to the four related exporting producers from the Chinese banking/financial sector. Most of the loans were given by banks with significant shareholding by the State while clear indications exist that general state industrial policies were taken into consideration by financial institutions when establishing the group's creditworthiness which resulted in providing loans to companies that were in a bad financial situation. Account taken of all the above, it was consequently concluded that the four related exporting producers have not shown that they fulfil criterion 3.

(40) APP and the Union producers were given the opportunity to comment on the above findings.

(41) The Union producers agreed with the above findings. They also disputed arguments made by the Chinese exporting group as to being granted MET because the Commission is simultaneously conducting an anti-subsidy investigation.

(42) The Chinese exporting group did not agree with the above findings.

(43) With respect to Criterion 1, it was submitted that share transfers of the group's companies and payments made thereon are irrelevant for this criterion as the criterion requires companies to take business decisions in response to market signals. In this respect it is noted that the deficiencies identified in the MET assessment (i.e. lack of evidence on payments on share transfers, unreasonably low amounts paid to state-owned shareholders for share transfers, no independent evaluation of contributed assets) do have an impact on business decisions. Indeed, the fact that a company can avoid payments on share transfers, use under/over evaluated assets in its share capital and perform with state-owned companies share transfers that do not have an economic explanation or justification, has a direct impact on its financial position and its ability to take decisions in response to market signals.

(44) With respect to raw materials it was argued that the Commission should have investigated whether the purchases of inputs made by the Chinese group's upstream raw material suppliers were made at market values. It was also submitted that the Commission's findings are incorrect. In this respect it is noted that the investigation established it is practically impossible to trace back what the group pays for any type of raw material procurements.

(45) With respect to Criterion 2 it was argued that the Chinese accounting standards (GAAP) have been recognised by the EU as being equivalent to the IFRS/IAS. In this respect it is noted that the MET assessment is carried out in line with IAS and not the Chinese accounting standards. In any event, and in particular in view of the claimed equivalence between the two sets of standards, it would have been normal to expect that the deficiencies found in this respect should have been highlighted by the auditor. APP disputed that its companies breach the elements of the IAS rules mentioned in the MET assessment (accrual principle, faithful representation of transactions principle and offsetting). Nevertheless the comments provided did not undermine the findings of the investigation.

(46) With respect to Criterion 3 and in particular to the LUR it was argued that this criterion refers to significant distortions carried over from the non-market system and not to state intervention of a sort that is common in market economy countries. It was thus submitted that the distortions identified with respect to LUR allocation is not specific to the PRC but exists also in Europe as these are restrictions imposed by authorities in charge of attracting investors and ensuring that investments comply with the applicable regulatory requirements. In this respect it is noted that in any event it is not the purpose of the investigation to determine whether any distortions might exist in the Union. Furthermore the investigation established that land allocation was directly linked to a strict set of rules (both is respect to conditions and lease rates) flowing directly from the former non-market system. These rules describe a centrally planed system which is not in accordance with market economy principles.

(47) With respect to loans it was submitted that the Commission's findings are speculative. In this respect it is noted that the investigation established a clear link between the group's ability to achieve bank financing and the fulfilment of objectives set up by the Chinese centrally planed economic system. It was also submitted that the distortions spotted by the Commission may at most be subsidies. It was thus argued that since there is the parallel anti-subsidy investigation these alleged subsidies cannot be a ground for rejecting MET. In this respect it is noted that the MET assessment established that distortions exist in loan attribution by the Chinese banking/financial sector. This is a distortion carried over from the non-market economy system and has no link with whether or not the impact of such acts could be considered as countervailable subsidies.

(48) During the course of the provisional investigation APP submitted representations arguing that the Chinese exporting producers group must be granted MET so as to avoid double counting with the parallel anti-subsidy investigation. It was argued that state subsidisation forms part of the MET assessment, has an impact to the MET findings and thus will be dealt in the parallel anti-subsidy investigation. To corroborate these claims the party also made reference to the principle of proportionally and to the right to good administration.

(49) This claim must be rejected for the following reasons. First, it is noted that the criteria on MET are clearly set out in the basic Regulation and listed under recital 32 above. The fact that there is currently an anti-subsidy investigation does not deprive the investigating authority from its obligation to ensure that the conditions for granting MET are fulfilled. Second, the issue of 'double counting' of anti-dumping and countervailing duties is regulated by the provisions of the relevant EU legislation, notably Article 14(1) of the basic Regulation and 24(1), second subparagraph of Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community [1], and is not dependent on whether or not the exporter in question is granted MET. In any event as the proposed provisional anti-dumping duty for all Chinese co-operating parties is based on the injury elimination level and not on the dumping margin, any claim on double counting is invalid.

(50) Two out of the four related exporting producers were found to produce only the multi-ply paperboard, mentioned in recital 23 above. In this respect it is recalled that it was provisionally concluded that multi-ply paperboard should be excluded from the product scope of the current investigation. Thus, should the provisional findings with respect to product scope be confirmed, the MET findings with respect to these two related exporting producers will not be relevant for this proceeding.

(51) In line with the EU's practice, if one related company associated with the production and sale of the product concerned does not qualify for MET, MET cannot be granted to the group of related companies. Therefore, it is concluded that APP companies cannot be granted MET.

4.3. **Individual treatment (IT)**

(52) 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

[1] OJ L 188, 18.7.2009, p. 93.

criteria set out in Article 9(5) of the basic Regulation to be granted IT. Briefly, and for ease of reference only, these criteria are set out below:

— in the case of wholly or partly foreign owned firms or joint ventures, exporters are free to repatriate capital and profits,

— export prices and quantities, and conditions and terms of sale are freely determined,

— the majority of the shares belong to private persons. State officials appearing on the Boards 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,

— exchange rate conversions are carried out at the market rate, and

— state interference is not such as to permit circumvention of measures if individual exporters are given different rates of duty.

(53) Both Chinese exporting producers groups (i.e. APP and Chenming) claimed IT.

(54) On the basis of the information available and verified during the verification visits, it was found that both APP's and Chenming's cooperating exporting producers fulfilled the requirements foreseen in Article 9(5) of the basic Regulation.

(55) Account taken of the above, it is provisionally established that the relevant cooperating exporting producers could be granted IT.

4.4. **Normal value**

4.4.1. *Analogue country*

(56) According to Article 2(7)(a) of the basic Regulation, normal value for the exporting producers not granted MET has to be established on the basis of the price or constructed value in a market economy third country (analogue country).

(57) In the Notice of initiation the Commission indicated its intention to use the USA as an appropriate analogue country for the purpose of establishing normal value for the PRC and invited the interested parties to comment thereon.

(58) One group of cooperating exporting producers in the PRC sent comments expressing scepticism with regard to the use of USA as an appropriate analogue country and proposed Thailand as an alternative. With respect to the USA it was argued that one of the producers in the USA is likely to be a related company to one of the EU complainants. It was also submitted that the US producers are involved in parallel proceeding against the same Chinese product, that the US producers are heavily subsidised and that they have outdated equipment.

(59) The Commission asked all the parties concerned for comments on the party's proposal. The Union producers disagreed with the use of Thailand as an appropriate analogue country and contested the arguments of the Chinese party with respect to the US producers. The Thai company mentioned in the Chinese party's submission was contacted but submitted a written refusal to cooperate with the investigation. No other exporting producer of the product concerned in Thailand was known.

(60) The Commission sought cooperation from producers in the USA. Letters and relevant questionnaires were sent to three known companies mentioned in the complaint and a relevant association of paper producers. Of the companies contacted, only one producer submitted the necessary information for the determination of normal value and agreed to cooperate with the investigation.

(61) The investigation established that the USA has a competitive market for the like product. The fact that the USA imposed anti-dumping and countervailing duties on imports of paper products from PRC cannot be deemed a reason against using the USA as an analogue country, as there is a sufficient level of competition in that country. With respect to the claims made on subsidisation and outdated equipments in the USA it is noted that these had to be rejected since no concrete evidence was presented to support such claims and there is no relevant verifiable information. With respect to the relationship between the US cooperating producer and one Union producers company it is noted that what matters in this respect is that the links between the cooperating producer in the possible analogue country and the Union company do not influence the data on normal value. The investigation did not show any such influence with regard to the information obtained in the USA.

(62) The investigation further revealed that the production volume of the cooperating US producer constitutes considerably more than 5 % of the volume of Chinese exports of the product concerned to the Union, hence the production was representative in terms of volume. As for the quality, technical specifications and standards of the like product in the USA, no major overall differences were found when compared to Chinese products. Therefore, the US market was deemed sufficiently representative for the determination of normal value for the PRC.

(63) In view of all the above it was provisionally concluded that the USA constitutes an appropriate analogue country in accordance with Article 2(7)(a) of the basic Regulation.

4.4.2. *Determination of normal value*

(64) Pursuant to Article 2(7)(a) of the basic Regulation, normal value was established on the basis of verified information received from the producer in the analogue country as set out below.

(65) The domestic sales of the US producer of the like product were found to be representative in terms of volume compared to the product concerned exported to the Union by the sole cooperating exporting producer in the PRC.

(66) An examination was also made as to whether the domestic sales could be regarded as having been made in the ordinary course of trade, by establishing for each product type the proportion of profitable sales to independent customers on the domestic market during the investigation period. Since the volume of profitable sales of the like product per product type represented 80 % or less of the total sales volume of that type, or the weighted average price of that type was below the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of the prices of profitable domestic sales during the IP.

(67) It is noted that the cooperating US producer produced and sold in the US market all the types of the like product during the IP.

4.5. **Export price**

(68) With respect to APP, it is noted that, two out of the four related exporting producers were found to produce only multi-ply paperboard, mentioned in recital 23 above. In this respect it is recalled that it was provisionally concluded that multi-ply paperboard should be excluded from the product scope of the current investigation. Thus the export price data provided from these two companies was excluded from the dumping calculations.

(69) The exporting producers made export sales to the Union either (i) through related trading companies located outside the Union or (ii) through a related trading company located inside the Union.

(70) Where export sales to the Union were made through related trading companies outside the Union, the export price was established on the basis of the prices of the product when sold by the related trading companies to the Union, i.e. to an independent buyer, in accordance with Article 2(8) of the basic Regulation on the basis of prices actually paid or payable.

(71) Where export sales to the Union were made through the one related trading company inside the Union, export prices were constructed in accordance with Article 2(9) of the basic Regulation on the basis of the prices at which the imported product was first resold to independent customers in the Union. Allowance was made for all costs incurred between importation and resale, including selling, general and administrative costs and the profit realised in the Union by the importing company during the IP. With respect to profit margin, the actual profit of the related trader could not be used since the relationship between the exporting producer and the related trader made these prices unreliable. The relevant profit margin was thus set at a reasonable rate, much lower than the profit rate stated under recital 155, that one would normally expect to achieve in this type of trading operations.

4.6. **Comparison**

(72) The comparison between normal value and export price was made on an ex-works basis.

(73) 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. For the investigated exporting producers in the PRC, adjustments for differences in transport and insurance costs, credit costs, year-end rebates, commissions, quality claims and bank handling charges have been made where applicable and justified.

4.7. **Dumping margin**

(74) Pursuant to Article 2(11) and (12) of the basic Regulation, the dumping margin for the cooperating exporting producers in the PRC was established on the basis of a comparison of a weighted average normal value by product type with a weighted average export price by product type as established above.

(75) On the basis of the above methodology the provisional dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Exporting producer	Dumping margin
Gold East Paper (Jiangsu) Co., Ltd, Zhenjiang City, Jiangsu Province, PRC	43,9 %
Gold Huasheng Paper (Suzhou Industrial Park) Co., Ltd, Suzhou City, Jiangsu Province, PRC	43,9 %
Shangdong Chenming Paper Holdings Limited, Shouguang City, Shandong Province, PRC	63 %
Shouguang Chenming Art Paper Co., Ltd, Shouguang City, Shandong Province, PRC	63 %

(76) Based on information available from the complaint and the cooperating Chinese exporting producers, there are other known producers of the product concerned in the PRC. Nevertheless, given the fact that the reported export volume was found to be higher than the import data derived from Eurostat, the level of cooperation was considered high and the country-wide dumping margin for the PRC was established using the dumping margin established for the cooperating companies with the highest individual duty rate, i.e. 63 %.

5. UNION PRODUCERS

5.1. Union production

(77) During the IP, the like product was manufactured by 14 known and some other very small producers in the Union. The data provided by CEPIFINE is estimated to be covering 98 % of the production of Union producers. On this basis, the total Union production was estimated to be around 5 270 000 tonnes during the IP. The Union producers accounting for the total Union production constitute the Union industry within the meaning of Article 4(1) of the basic Regulation.

(78) The coated fine paper industry is energy and capital intensive. For this reason economies of scale apply that explain the concentration of the production within a few large players, complemented by smaller producers that focus on the geographically close markets. Five similarly large producers cover most of the Union market with production facilities spread over Europe. The large part of CFP is a commodity-type product and is mainly traded through paper merchants and wholesalers. These distribution channels are characterised by a high degree of concentration of buying power and price transparency through price quotations.

(79) As mentioned in recital 17 above, one interested party claimed that CFP suitable for web-fed printing should have been included in the scope of the present investigation. On this basis, the party argued that the complainant Union industry would not have enough standing in the present proceeding. Based on the conclusions outlined above in recitals 20 and 22, however, i.e. that CFP suitable for web-fed printing and CPF for sheet-fed printing are two different products, this claim had to be rejected.

6. INJURY

6.1. Union consumption

(80) Consumption was established on the basis of the following:

— Eurostat for imports from third countries duly adjusted on the basis of information provided by the Union producers for products not covered by the proceeding. The investigation has found, based on evidence provided, that these assumptions were reasonable and justified,

— the verified total export volume of the cooperating exporting producers in the PRC to the Union market, as the reported export volume was found to be higher than the import data derived from Eurostat,

— the total sales on the Union market of all Union producers based on the information provided by CEPIFINE.

(81) On this basis, total Union consumption was established as follows:

Table 1

Union consumption

Union consumption	2006	2007	2008	2009/IP
Tonnes	5 308 275	5 508 183	5 384 770	4 572 057
Index	*100*	*104*	*101*	*86*

Source: verified questionnaire replies, Eurostat adjusted and data provided by CEPIFINE.

(82) Overall, Union consumption decreased by 14 % during the period considered. It was found that the consumption first increased by 4 % between 2006 and 2007, after which it dropped by 18 % between 2007 and the IP. The decline in consumption in 2008 and the IP was the result of a lower demand, especially in the first half of 2009, due to the economic downturn.

6.2. **Imports into the Union from the PRC**

(83) As mentioned above in recital 80, the verified total sales volume of the product concerned of the Chinese cooperating exporters on the Union market was found to be higher than the import volumes reported by Eurostat. Since it was considered that the verified information is more accurate than the available statistics, total import volume from the PRC was established on the basis of the verified information provided by the cooperating companies. The sales volumes of the cooperating companies that were found to have been exporting only multi-ply paperboard during the period considered, were excluded from the total imports, because it was provisionally concluded, as explained in recital 24, that multi-ply paper and paperboard should not be considered as the product concerned. Since the import data relating to the product concerned only refer to two companies, it was considered appropriate for confidentiality reasons to show them in indexed form.

Table 2

Total dumped imports from the PRC

Total imports from the PRC	2006	2007	2008	2009/IP
Volumes (index)	100	218	212	283
Market share (index)	100	210	209	329
Prices (EUR/tonne)	677	661	657	621
Index	*100*	*98*	*97*	*92*

Source: Questionnaire replies.

(84) The volume of total imports from the PRC increased dramatically, almost tripling over the period considered. As a result, their market share increased significantly from approx. 1 % in 2006 to over 4 % in the IP. This has to be seen against the background of a decreasing consumption which dropped by 14 % during the same period. Average prices of the dumped imports from the PRC showed a decrease of 8 % during the period considered.

6.2.1. *Price undercutting*

(85) For the purposes of analysing price undercutting, the weighted average sales prices per product type of the Union producers to unrelated customers on the Union market, adjusted to an ex-works level, were compared to the corresponding weighted average prices of the imports from the PRC to the first independent customer on the Union market, established on a CIF basis with appropriate adjustments for the existing duties and post-importation costs.

(86) As explained in recital 28, cooperation from the Chinese exporters was very high and considered to be covering the total export volume from the PRC to the Union during the IP. Given the fact that two Chinese exporting producers who originally came forward were found not to be exporting the product concerned to the Union market, as explained in recital 50, their imports have not been taken into account for the purpose of the price undercutting analysis.

(87) The comparison showed that during the IP, the dumped product concerned originating in the PRC sold in the Union undercut the Union producers' sales prices on average by 5,6 %. The level of the undercutting margin is to be seen against the background of the high level of price transparency supported by price quotations that characterises the CFP distribution market.

6.3. **Economic situation of the Union industry and the cooperating Union producers**

6.3.1. *Preliminary remarks*

(88) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Union producers included an evaluation of all economic indicators for an assessment of the state of the Union producers from 2006 to the end of the IP.

(89) The macroeconomic elements (production, capacity, capacity utilisation, sales volume, market share, growth and magnitude of dumping margins) were assessed at the level of the whole Union production, on the basis of the information provided by CEPIFINE.

(90) The analysis of microeconomic elements was carried out at the level of the Union producers (average unit prices, employment, wages, productivity, stocks, profitability, cash flow, investments, return on investments, ability to raise capital) on the basis of their information, duly verified.

(91) One party claimed that one of the cooperating producers failed to fully cooperate as it would be related to another producer in the European Union through: 1. shareholding; and 2. a joint venture consisting of exclusive sales and raw material supply agreements. The investigation on the other hand confirmed that the number of shares hold by the EU producer in question was minor and below the threshold set in Article 143 of the IPCCC ([1]). Furthermore, the agreements between the two companies did not include any elements that would have led to a consideration that the relationship between the companies would be extending beyond a normal business relationship between a buyer and a seller.

6.3.2. *Data relating to the Union industry (macroeconomic indicators)*

6.3.2.1. Production, production capacity and capacity utilisation

Table 3

Production, production capacity and capacity utilisation

	2006	2007	2008	2009/IP
Production (tonnes)	6 483 462	6 635 377	6 381 324	5 164 475
Index	*100*	*102*	*98*	*80*
Capacity (tonnes)	7 032 734	7 059 814	6 857 226	6 259 129
Index	*100*	*100*	*98*	*89*
Capacity Utilisation	92 %	94 %	93 %	83 %
Index	*100*	*102*	*101*	*90*

Source: Data provided by CEPIFINE.

(92) As shown in the above table, the production volume of the Union industry decreased by 20 % over the period considered. It should be noted that although Union consumption increased by around 1 % between 2006 and 2008, the production of the Union industry fall by 2 % during that period, while it decreased significantly between 2008 and the IP, following the drop in the Union consumption.

(93) Since 2000, Union producers have undertaken major restructuring efforts aiming at addressing structural overcapacity. Through consolidations and mill closures the Union industry decreased its CFP production capacity by approximately 770 000 tonnes between 2006 and the IP, i.e. by 11 %.

(94) Despite the drop in total capacity, utilisation rates still declined from 92 % in 2006 to 83 % in the IP. The main decrease occurred in the period between 2008 and the IP. It is noted that high capacity utilisation is an important factor in the long-term viability of the paper producing producers because of high investment in fixed assets. Therefore, the capacity utilisation rate during the IP was considered to be low.

6.3.2.2. Sales volume and market share

(95) The sales figures in the table below relate to the volume sold to the first independent customer on the Union market.

Table 4

Sales volume and market share

	2006	2007	2008	2009/IP
Sales volume (tonnes)	4 921 141	4 999 524	4 875 841	4 008 354

([1]) Commission Regulation (EC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EC) No 2913/92 establishing the Community Customs Code, OJ L 253, 11.10.1993, p. 1.

	2006	2007	2008	2009/IP
Index	*100*	*102*	*99*	*81*
Market share	93 %	91 %	91 %	88 %
Index	*100*	*98*	*98*	*95*

Source: Data provided by CEPIFINE.

(96) While Union consumption grew by 4 % between 2006 and 2007 (see recital 81 above), the sales volume of the product concerned by the Union industry to independent customers on the Union market only increased by 2 % during that same period. This means that the Union industry could not benefit fully from the increased consumption in that period. Moreover, between 2008 and the IP, whereas Union consumption decreased by 15 %, the sales volume of all Union producers decreased even more, by 18 %. Consequently the Union industry's sales volume, after a small increase in 2007, decreased continuously and significantly which translated in a loss in market share of 5 percentage points during the period considered.

6.3.2.3. Growth

(97) When looking at the development over the period considered, the drop of 19 % in the sales volume of the Union industry was far more pronounced than the decrease of 14 % in Union consumption. As a consequence, the market share of the Union industry also decreased significantly by 5 percentage points during the same period.

6.3.2.4. Magnitude of dumping margins

(98) The provisional dumping margins for the PRC, specified above in the dumping section, are significant. Given the volumes and the prices of the dumped imports, the impact of the actual margins of dumping cannot be considered to be negligible.

6.3.3. *Data relating to the cooperating Union producers (microeconomic indicators)*

6.3.3.1. Average unit prices of the cooperating Union producers

(99) Average ex-works sales prices of the cooperating Union producers to unrelated customers on the Union market increased in 2007, afterwards they decreased and by 2009 returned to almost the same level as in the beginning of the period considered. Overall, the prices of coated fine paper remained stable over the years.

Table 5

Prices of the Union producers

Prices of the Union producers	2006	2007	2008	2009/IP
Average price (EUR/tonne)	692	717	691	695
Index	*100*	*104*	*100*	*100*

Source: Questionnaire replies.

6.3.3.2. Stocks

(100) Stocks represented around 10 % of the production volume in the IP. The cooperating Union producers increased its stock levels by 14 % during the period considered, in particular between 2006 and 2007 and later between 2008 and the IP. Notably, this coincided with the surge in the low-priced dumped imports from the PRC.

Table 6

Stocks

Stocks	2006	2007	2008	2009/IP
Stocks (tonnes)	278 265	298 547	296 387	318 489
Index	*100*	*107*	*107*	*114*

Source: Questionnaire replies.

6.3.3.3. Employment, wages and productivity

Table 7

Employment

Employment	2006	2007	2008	2009/IP
Employment — full-time equivalent (FTE)	7 756	7 487	7 207	6 197
Index	*100*	*97*	*93*	*80*
Labour cost (EUR/FTE)	54 053	54 948	57 026	58 735
Index	*100*	*102*	*105*	*109*
Productivity (unit/FTE)	453	478	486	457
Index	*100*	*106*	*107*	*101*

Source: Questionnaire replies.

(101) Due to the mill closures and consolidation of the cooperating Union producers, the number of employees was reduced substantially by 11 % (almost 900 jobs) during the period considered. It is noted that above employment figures for the IP are inflated by the number of employees acquired by one of the cooperating Union producers at the beginning of the IP. The fall in employment equalled 20 % if the effect of the acquisition on this indicator is disregarded.

(102) Efficiency gains have been achieved by raising and maintaining a high output per employee even at a time of significant layoffs in 2007 and 2008. The return in the productivity level to the 2006 level by the IP should be seen in light of the general nature of downsizing activities, where the decrease in the number of employees follows the drop in production only after a certain delay. Labour costs increased steadily, totalling a 10 % increase over the period considered.

6.3.3.4. Profitability, cash flow, investments, return on investment

Table 8

Profitability

	2006	2007	2008	2009/IP
Profitability	– 1,13 %	– 0,21 %	– 2,60 %	2,03 %

	2006	2007	2008	2009/IP
Change (100 = 2006)		+ 0,92 %	– 1,47 %	+ 3,16 %
Cash flow (EUR thousand)	260 047	211 036	172 570	336 753
Index	*100*	*81*	*66*	*129*
Investments (EUR thousand)	151 900	151 027	127 845	98 220
Index	*100*	*99*	*84*	*65*
Return on investments	– 0,73 %	– 0,54 %	– 2,73 %	0,39 %
Change (100 = 2006)		+ 0,19 %	– 2,00 %	+ 1,12 %

Source: Questionnaire replies.

(103) The cooperating Union producers incurred losses in the years 2006 to 2008 and the financial situation only turned positive in 2009 when the world price of pulp, the main raw material decreased significantly as a result of the economic downturn. The drop in the price of pulp in 2009 was 19 % on the average price in 2008 which was considered an abnormally large drop and which contributed directly to the improved financial situation in the IP.

(104) The trend shown by the cash flow, which is the ability of the producers to self-finance its activities, reflects to a large extent the evolution of profitability. Consequently, the cash flow shows an exceptional increase in the IP due to the falling pulp prices. Return on investments showed negative development in line with the negative profit results achieved by the cooperating Union producers until 2008 and a positive trend in the IP due to the exceptional cost savings on pulp prices.

(105) Following the above, the ability of the cooperating Union producers to invest became limited as the cash flow significantly deteriorated during the period considered, except for the IP. As a consequence, the investments dropped by 35 % during the period considered and were limited to the installation of cogeneration plants that helped the Union producers to mitigate the effect of continuously raising energy costs.

6.3.3.5. Ability to raise capital

(106) The paper industry in general is characterised by high indebtedness linked to the significant investment in fixed assets. As a consequence of the losses incurred in most of the period considered, the ability of the co-operating Union producers to raise capital and to finance its activities at reasonable finance costs was also undermined. This was the case in particular in 2008 when one of the cooperating Union producers had to be refinanced at a significant risk premium while the smallest cooperating producer went into insolvency in 2008 and was taken over by another Union producer.

6.4. **Conclusion on injury**

(107) The investigation has shown that most of the injury indicators such as production volume (– 20 %), capacity utilisation (– 10 %), sales volume to unrelated customers on the Union market (– 19 %), market share (– 5 percentage points) deteriorated during the period considered. In addition, the injury indicators related to the financial performance of the cooperating Union producers such as return on investment and profitability were seriously affected until 2008. The sudden increase of the profitability in the IP was due purely to the temporary and exceptional drop of world pulp prices in the IP. It is noted that even during the IP the profit-ability rate was very low and was not considered to be altering the conclusion that the cooperating Union producers were in a very weak financial position.

(108) The investigation also showed that the above injury picture can be mainly explained by the fact that despite its restructuring efforts and productivity improvements the cooperating Union producers were not able to raise their CFP prices above cost-covering level. This is mainly due to the price undercutting practiced by the Chinese exporters during the IP which has a significant effect in a market where price transparency is high. During the IP, the cooperating Union producers managed to reduce their cost of production through further productivity improvement and due to the decrease of pulp prices which mainly occurred in the second half of the IP. As demand and supply became more balanced on the market following the efforts of the producers to tackle structural overcapacity by means of consolidation and capacity closures, CFP prices could be kept at a stable level. However, the cooperating Union producers were

not in a position to increase their sales prices to a level that would have profitability rates necessary for long-term viability.

(109) As mentioned above in recital 17, one party claimed that CFP used in web-fed printing should have been included in the scope of the present investigation. On this basis, the party claimed that the exclusion of this product from the determination of material injury and the analysis of trends would have distorted the injury picture. However, based on the conclusions presented in recitals 20 and 22, i.e. that CFP used in web-fed and sheet-fed printing are different products, this claim was rejected.

(110) The same party claimed that the acquisition of one Union producer by one of the cooperating Union producers in 2008 was evidence that this cooperating Union producer was in rather good health. It is first noted that material injury is assessed on the basis of the situation of the Union industry and not based on the particular situation of a single producer. As concluded in recital 107 above, most injury indicators have shown a negative trend evidencing the deterioration of the Union industry's situation over the period considered. The acquisition was furthermore considered as part of the restructuring efforts of the Union industry during the period considered. In any case, it is noted that when analysing macro indicators such as production volume, capacity, sales volume and market share the acquisition had a neutral effect since macro indicators are assessed with respect to all Union producers constituting the Union industry as defined in recital 77. In other words these factors should remain overall unchanged in case of a change in the ownership.

(111) Considering the above, it is provisionally concluded that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.

7. CAUSALITY

7.1. Introduction

(112) In accordance with Article 3(6) and (7) of the basic Regulation, it was examined whether the material injury suffered by the Union industry has been caused by the dumped imports from the country concerned. Furthermore, known factors other than the dumped imports, which might have injured the Union industry, were examined to ensure that any injury caused by those other factors was not attributed to the dumped imports.

7.2. Effect of the dumped imports

(113) It is to be noted that the Union CFP market is characterised by a high degree of concentration of buying power and price transparency through price quotations. Furthermore CFP is a commodity-type product and does not allow for significant price differences among different sources. A major part of the products is sold through merchants that force the Union industry to keep prices in line with low priced and dumped imports. Therefore the prices of imported CFP, out of which 35 % originated in the PRC in the IP, have in general a significant effect on price levels on the Union market.

(114) The investigation showed that dumped imports from the PRC increased dramatically (+ 183 %) over the period considered. The dumped imports from the PRC first doubled from 2006 to 2007, while prices were in 2007 2 % lower than the year before. In 2008 imports from China remained stable while average prices fall by 1 more %. Chinese import volumes (+ 71 %) and market share (+ 120 %) increased again dramatically in the IP with falling prices (– 5 %) undercutting the prices of the cooperating Union producers by 5,6 % thereby exerting price pressure on the Union market and preventing the Union producers to raise their prices to profitable levels.

(115) It is recalled that during the period considered the Union consumption decreased by about 14 %. The Union industry faced a significant drop in their sales volume (19 %). However this decrease of sales was much more pronounced than the drop in demand and led to a loss of market share of 5 percentage points. At the same time the market share of Chinese imports increased by 3 percentage points. This shows that the Union industry's market share has largely been taken over by the dumped imports from the PRC.

(116) It is therefore considered that the continued pressure exercised by the low-priced dumped imports from the PRC on the Union market did not allow the Union industry to adapt its sales prices to the increased raw material costs, in particular in 2008, when pulp prices peaked. This led to the loss in market share and the loss in profitability of the Union industry.

(117) In view of the above it was provisionally concluded that the surge of the low-priced dumped imports from the PRC had a considerable negative impact on the economic situation of the Union industry.

7.3. **Effect of other factors**

7.3.1. *Development of the consumption on the Union market*

(118) As mentioned in recital 82 above, the Union consumption of CFP first increased in 2007, after which it decreased in 2008 and the IP. During the period considered, all Union industry lost market share. One of the cooperating exporters in the PRC claimed that the decrease in sales volume and market share of the Union industry was due to the decrease in consumption which had been caused by the economic crisis and the expansion of electronic media.

(119) Although it cannot be disregarded that this negative evolution of the Union consumption, for whatever reason, between 2007 and the IP has had a negative impact on the situation of the Union industry in terms of sales volumes and production, it is noteworthy that the Chinese exporters managed at the same time and especially from 2008 to 2009 to increase their sales volumes and market share through the price pressure exerted on the market by the dumped imports. Accordingly, it is considered that the deterioration of the economic situation of the Union industry is mainly caused by the surge in the dumped imports from the PRC and the undercutting practised by the Chinese exporters and not by decreasing consumption. Even though the contraction in demand contributed to the injury, it could not break the causal link between the material injury suffered and the increase in dumped imports.

7.3.2. *Prices of raw material*

(120) The average cost of production of the cooperating Union producers slightly increased (2 %) between 2006 and 2008 and fell by 5 % in the IP. The investigation showed that the cost of production of the cooperating Union producers to produce CFP followed in general a similar trend as the evolution of the prices of the pulp, one of the main raw materials in paper production. The average price of pulp increased by 8 % between 2006 and 2008 after which it decreased sharply from the end of 2008 till the last month of the IP. The price of pulp was on average 19 % lower in 2009 than in the previous year.

(121) In the absence of injurious dumping, it could be expected that prices are regularly adapted to reflect the development of the various components of the cost of production. Up until 2008, this did, however, not take place. Indeed, the Union producers was forced to keep its sales prices low even when pulp prices were increasing in 2008 in order to compete against the low-priced dumped imports from the PRC, which led to a significant drop in its profitability in that period. In the IP, the situation ameliorated due to the abnormal decrease in prices of pulp – while prices of CFP could be kept stable at the same time. However even in this exceptional period the still very low profit levels did not allow the cooperating Union producers to recover from continued dumping practices. Indeed, despite the decrease in raw material costs the price levels could still not be increased to levels to achieve solid profit margins necessary for this capital intensive producers.

(122) Accordingly, it is provisionally concluded that the dumped imports from the PRC which undercut the cooperating Union producers' prices depressed the prices on the Union market and prevented the cooperating Union producers from increasing its sales prices to cover its costs or to achieve a reasonable profitability. Given that the raw material prices were significantly decreasing in the IP, it was concluded that they could not have had an impact on the material injury suffered by the Union industry during that same period.

7.3.3. *Export performance of the Union industry*

(123) Export performance was also examined as one of the known factors other than the dumped imports, which could at the same time have injured the Union industry, to ensure that possible injury caused by these other factors was not attributed to the dumped imports. The analysis showed that the export sales to unrelated parties made by the cooperating Union producers represented an important part of their sales (around 27 %) during the period considered. Even though export sales volumes also decreased in the period considered by 9 %, the loss of volumes was less pronounced as the loss of sales volumes on the Union market (19 %). Hence, it was considered that the decrease in export volume cannot explain the level of injury suffered by the cooperating Union producers. Since exports play an important role in keeping capacity utilisation high to cover the high fixed costs of investments into machinery, it was considered that although the export performance was deteriorating it had an overall positive effect. Accordingly, it is considered that even if the decrease in export activities may have contributed to the overall deterioration of the situation of the Union industry, these were on the other hand mitigating the losses suffered on the Union market and thus are not such as to break the causal link established between the dumped imports from the PRC and the injury suffered by the Union industry.

(124) One party claimed that the Union industry suffered a significant decline in exports because of the strength of the Euro versus the US dollar and that the injury caused by this factor should not be attributed to imports from the PRC. As concluded above, the deterioration of the export performance of the Union industry, regardless of the causes for such deterioration, is not the main reason for the injury suffered by the producers and thus does not break the causal link established in recital 117.

7.3.4. *Imports from other third countries*

(125) The trends in import volumes and prices from other third countries between 2006 and the IP were as follows:

Table 9

Imports from third countries

	2006	2007	2008	2009/IP
Switzerland				
Imports (tonnes)	194 748	191 636	226 736	172 233
Index	*100*	*98*	*116*	*88*
Market share	3,7 %	3,5 %	4,2 %	3,8 %
Index	*100*	*95*	*115*	*103*
Price (EUR/tonne)	787	782	758	793
Index	*100*	*99*	*97*	*105*
Indonesia				
Imports (tonnes)	19 834	30 714	27 178	49 877
Index	*100*	*155*	*137*	*251*
Market share	0,4 %	0,6 %	0,5 %	1,1 %
Index	*100*	*149*	*135*	*292*
Price (EUR/tonne)	855	818	845	681
Index	*100*	*96*	*99*	*80*
South Korea				
Imports (tonnes)	45 154	65 251	46 498	46 068
Index	*100*	*145*	*103*	*102*
Market share	0,9 %	1,2 %	0,9 %	1,0 %
Index	*100*	*139*	*102*	*118*
Price (EUR/tonne)	562	669	664	618
Index	*100*	*119*	*118*	*110*
All other countries				
Imports (tonnes)	58 623	70 984	62 844	100 711
Index	*100*	*121*	*107*	*172*
Market share	1,1 %	1,3 %	1,2 %	2,2 %
Index	*100*	*117*	*106*	*199*
Price (EUR/tonne)	962	860	914	824
Index	*100*	*89*	*95*	*86*

Source: Eurostat.

(126) The main other third countries exporting CFP to the Union market are Switzerland, Indonesia and South Korea. From the trends of import volumes it can be seen that the increase of the imports from the PRC was more pronounced than from any of the other third countries. In case of imports from Switzerland, these were sold always at significantly higher prices than imported products from the PRC. The market share of Swiss products remained relatively stable, except for the year 2008 when they increased temporarily to above 4 % before falling back to close to the 2006 level in the IP. CFP imported from Switzerland constituted mainly the production of one company owned by one of the cooperating Union producers and the higher unit prices may be linked to different product mixes and sales structures. As far as imports from Indonesia are concerned, these were also entering the Union at higher prices than the Chinese products, with the exception of the IP where prices fell, very likely in large part due to the decrease in pulp prices. The resulting increase of imports, which however remained in volume terms at a low level in the IP, led to a market share which also remained at a low level in that period. Imports from South Korea entered the Union in low quantities throughout the period considered and market share remained stable. Even though Korean import prices were comparable to import prices from the PRC, Korean prices were not showing a continuously decreasing trend as the Chinese imports did over the whole period considered. Imports from all other countries had significantly higher prices than the imports from the PRC and import volumes were low.

(127) On the basis of the above, it is provisionally concluded that the imports from these third countries did not contribute to the material injury suffered by the Union industry.

7.3.5. *Structural overcapacity*

(128) One cooperating exporter in the PRC argued that the injury suffered by the Union industry was caused by the Union industry's overcapacity. The reduction in capacity and consolidation of the Union industry were therefore not a consequence of the Chinese imports but should be seen as a measure against the overcapacity. However, the investigation showed that losses were incurred by the Union industry in the period considered, especially in 2008, despite the restructuring of the producers because, as outlined above in recitals 113 to 117, the Union industry was still not able to raise its prices to levels above costs. This situation was mainly caused by the price pressure exerted by the dumped imports undercutting Union industry prices. This argument had therefore to be rejected.

7.4. **Conclusion on causation**

(129) The above analysis demonstrated that there was a substantial increase in the volume and market share of the low-priced imports originating in the PRC over the period considered. In addition, it was found that these imports were made at dumped prices which were below the prices charged by the Union industry on the Union market for similar product types.

(130) This increase in volume and market share of the low-priced dumped imports from the PRC coincided with an overall decrease of the demand on the Union market during the period between 2006 and the IP and also with the negative development in the market share of the Union producers during the same period. At the same time a negative development in the main indicators of the economic and financial situation of the Union industry was observed as outlined in recital 107.

(131) The examination of the other known factors which could have caused injury to the Union industry revealed that these factors are not such as to break the causal link established between the dumped imports from the PRC and the injury suffered by the Union industry.

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

8. UNION INTEREST

8.1. **Preliminary remark**

(133) In accordance with Article 21 of the basic Regulation, it was examined whether, despite the provisional conclusion on injurious dumping, compelling reasons existed for concluding that it was not in the Union interest to adopt provisional anti-dumping measures in this particular case. For this purpose, and in accordance with Article 21(1) of the basic Regulation, the likely impact of possible measures on the Union producers, importers, merchants and distributors and users of the product concerned and also the likely consequences of not taking measures were considered on the basis of all evidence submitted.

8.2. **Union industry**

(134) The Union industry as a whole is composed of 14 known producers estimated to represent around 98 % of the Union CFP production according to CEPIFINE. The producers are located in different Member States of the Union, employing directly over 11 000 people in relation to the product concerned.

(135) Two of the known producers opposed the initiation of the investigation but provided no further information and did not cooperate with the investigation. On the basis of the information available, however, and in particular on the basis of the data made available by CEPIFINE which showed a deterioration of the situation of the Union industry, it can be reasonably assumed that these two companies were also negatively affected by the dumped imports. The non-cooperation was therefore not seen as an indication that their situation would be different from the one of the remaining Union producers.

(136) The Union industry has suffered material injury caused by the dumped imports from the PRC. It is recalled that most injury indicators showed a negative trend during the period considered. In particular injury indicators related to the financial performance of the cooperating Union producers, such as profitability and return on investments, despite a slight improvement in the IP, were seriously affected. In the absence of measures, a further deterioration in the Union industry's economic situation appears very likely.

(137) It is expected that the imposition of provisional anti-dumping duties will restore effective and fair trade conditions on the Union market, allowing the Union industry to align the prices of CFP to reflect the costs of the various components. It can be expected that the imposition of provisional measures would enable the Union industry to regain at least part of the market share lost during the period considered, with a further positive impact on its economic situation and profitability.

(138) It was therefore concluded that the imposition of provisional anti-dumping measures on imports of CFP originating in the PRC would be in the interest of the Union industry.

8.3. **Importers and traders**

(139) Questionnaires were sent to fourteen known unrelated importers and traders in the Union that were listed in the complaint. During the investigation several other traders (called also merchants in the industry) made themselves known. Finally nineteen companies co-operated in the investigation, even though some of these respondents provided only partial information. Importers were found to be acting also as traders on the market therefore all these parties will hereinafter be referred to as 'traders'.

(140) The investigation showed that all traders purchased CFP from several sources and mainly from Union producers. Five traders did not purchase or only occasionally purchased the imported CFP from the PRC. The seven companies that provided quantitative information about their purchases of the product concerned represented in total 47 % of the total imports from the PRC. Imports, including imports from the PRC represented only a limited share of their total business and any negative impact of the proposed measures is thus likely to be negligible. All traders stated that CFP produced in the Union and the PRC were largely of a similar quality and were interchangeable. Furthermore the investigation confirmed that there exist a large number of other import sources and traders could revert to these other sources of supply, at least in the longer term.

(141) Two importing traders were relying mainly on Chinese sources for their purchases of CFP. Both companies stated that they would have difficulties in sourcing products from Union producers because there would be traditional sales channels due to minimum order volumes required by producers and distribution agreements to be respected. This did, however, not directly affect the availability of CFP from Union producers as they had sufficient spare capacity available. This argument had therefore to be rejected.

(142) Concerning the possibility to pass on possible cost increases to their customers, all cooperating traders referred to the strong price transparency on the Union market and stated that they would only be able to increase their sales prices to the final customers in case the price level in the Union, in general, would increase. On this basis, and given that the intended effect of anti-dumping duties is, inter alia, to increase the price level in the Union to cost-covering levels, it is expected that importers would therefore be able to pass any price increases caused by the anti-dumping duty at least partly on to their customers. It should also be noted that as mentioned above, it was found that Chinese imports constitute only a very small part of the overall business of traders and that therefore, the effect of the anti-dumping duty, in general would be negligible. Finally it is also considered that importers achieve a higher profitability on their resales of CFP sourced from the producers in the PRC; therefore they would also be able to make less profit by absorbing at least a partial cost increase.

(143) Therefore, the imposition of provisional measures should overall not have a significant negative impact on the importers and traders.

8.4. **Users**

(144) Questionnaires were sent to eight known users in the Union that were listed in the complaint. During the investigation several other users made themselves known. Altogether 17 companies provided a full or partial questionnaire reply. These companies are located throughout the Union and represent the printing and publishing sectors. Since market conditions and cost structures were found to be different for printers and publishers, the impact of measures was analysed separately for each group.

8.4.1. *Printers*

(145) Altogether nine printers, most of them SMEs provided basic information. According to the information thus available, it was established that in general the share of the CFP in relation to the total cost of production of a printed material was relatively high, i.e. around 40 % on average. Most cooperating printers only started to use Chinese paper recently, several of them only after the IP. It was confirmed that CFP produced in the Union and the PRC are of similar quality and that there is a strong price competition between traders.

(146) All printers stated that any price increase would have a significant negative effect on their profitability. It was claimed that the printing industry is already under pressure due to structural overcapacity and any increase in purchase prices of CFP would put further pressure on this producers. In this regard, it is noted that given the small quantities of Chinese CFP used by printers (who still source the majority of the CFP needed from Union producers) the direct impact of any duty was considered negligible. As far as a general price increase in the Union market is concerned, it was considered that since this price increase would impact on all economic players this would have a neutral effect.

(147) Some printers claimed that anti-dumping duties would result in shortages of supply on the market and prolonged delivery times. The investigation showed that Union producers and intermediaries are capable of serving the market with the required supplies. Based on the above, and in particular given that this claim was not supported by evidence, the claim was rejected.

8.4.2. *Publishers*

(148) Regarding the publishing sector, six questionnaire replies were received from companies. Only one company had a minor purchase of Chinese-origin CFP in the IP. Four of the companies provided quantitative data concerning their use of CFP.

(149) Overall, it was found that on average the products where CFP is used represented 16 % of the total turnover of these companies and that the average profit achieved in this business was around 12 %. Furthermore, it was found that the six companies purchased CFP mainly from the Union producers, while only one of them used CFP imported from the PRC. Another one started to buy Chinese products only after the IP. Therefore, and in particular on the basis of the low volumes of Chinese-origin CFP used in this sector, the imposition of provisional measures on imports from the PRC is unlikely to seriously affect the publishing sector overall. In addition, these companies were found to be profitable and could pass on price increases to the final customer more easily because the use of customer-directed and customer-nominated paper whereby the paper used in the production is purchased by the customer itself is more common. Finally, publishers have stronger purchasing power because of economies of scale.

(150) Three associations of the printing industry provided written submissions. Two opposed the imposition of duties, claiming that any price increases would lead to higher costs and consequently to loss of competitiveness and jobs in downstream industries. They claimed that there is a strong cross-elasticity between printed products and electronic media products which means that any price increases would lead to the shrinkage of this segment. The investigation found that there exist several segments in paper products in terms of expected growth and that the segment of high quality printing paper, in which CFP is primarily used, is still growing. As regards the claim that losses would shift to the downstream market, this claim is vague and was not supported by any substantiating information or evidence. Furthermore, the investigation did not bring to light any significant impact on the publisher producers which purchased paper mainly from other sources than the PRC. Therefore, the claim was rejected.

(151) Taking the above into consideration, even if some of the users are likely to be negatively impacted by the measures on imports from the PRC, the impact on the users in the two distinctive sectors appears to be limited overall. Therefore, it was provisionally concluded that, on the basis of the information available, the effect of the anti-dumping measures against imports of CFP originating in the PRC will most likely not have a significant negative impact on the users of the product concerned.

8.5. **Conclusion on Union interest**

(152) In view of the above, it is provisionally concluded that overall, based on the information available concerning the Union interest, there are no compelling reasons against the imposition of provisional measures on imports of CFP originating in the PRC.

9. **PROVISIONAL ANTI-DUMPING MEASURES**

9.1. **Injury elimination level**

(153) In view of the conclusions reached with regard to dumping, injury, causation and Union interest, provisional anti-dumping measures should be imposed in order to prevent further injury being caused to the Union producers by the dumped imports.

(154) For the purpose of determining the level of these measures, account was taken of the dumping margins found and the amount of duty necessary to eliminate the injury sustained by the Union producers.

(155) When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measures should allow the Union producers to cover its costs of production and to obtain a profit before tax that could be reasonably achieved by an producers 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 Union. As claimed by the complainant, it is provisionally considered that a profit margin of 8 % on turnover could be regarded as an appropriate minimum which the Union producers could have expected to obtain in the absence of injurious dumping.

(156) On this basis, a non-injurious price was calculated for the Union producers for the like product. The non-injurious price was obtained by adding the abovementioned profit margin of 8 % to the cost of production.

(157) The necessary price increase was then determined on the basis of a comparison, per product type, of the weighted average import price of the exporting producers in the PRC, with the non-injurious price of the product types sold by the Union producers on the Union market during the IP. Any difference resulting from this comparison was then expressed as a percentage of the average CIF import value of the compared types.

9.2. **Provisional measures**

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

(159) Consequently, the injury elimination margins and the dumping margins and the proposed rates of the provisional anti-dumping duty for the PRC, expressed on the CIF Union border price, customs duty unpaid, are as follows:

Exporting producer	Dumping margin	Injury margin	Provisional AD duty rate
Gold East Paper (Jiangsu) Co., Ltd, Zhenjiang City, Jiangsu Province, PRC	43,9 %	19,7 %	19,7 %
Gold Huasheng Paper (Suzhou Industrial Park) Co., Ltd, Suzhou City, Jiangsu Province, PRC	43,9 %	19,7 %	19,7 %
Shangdong Chenming Paper Holdings Limited, Shouguang City, Shandong Province, PRC	63 %	39,1 %	39,1 %
Shouguang Chenming Art Paper Co., Ltd, Shouguang City, Shandong Province, PRC	63 %	39,1 %	39,1 %
All other companies	63 %	39,1 %	39,1 %

(160) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the countrywide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the country concerned and produced by the companies and thus by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.

(161) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting-up of new production or sales entities) should be addressed to the Commission [1] forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, that name change or that change in the production and sales entities. If appropriate, the Regulation will accordingly be amended by updating the list of companies benefiting from individual duty rates.

(162) In order to ensure a proper enforcement of the anti-dumping duty, the residual duty level should not only apply to the non-cooperating exporting producers but also to those producers which did not have any exports to the Union during the IP.

10. **FINAL PROVISION**

(163) In the interest of sound administration, a period should be fixed within which the interested parties which made themselves known within the time limit specified in the Notice of initiation may make their views known in writing and request a hearing. Furthermore, it should be stated that the findings concerning the imposition of duties made for the purposes of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive duty,

[1] European Commission, Directorate-General for Trade, Directorate H, Office Nerv-105 B-1049 Brussels.

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on coated fine paper, which is paper or paperboard coated on one or both sides (excluding kraft paper or kraft paperboard), in either sheets or rolls, and with a weight of 70 g/m2 or more but not exceeding 400 g/m2 and brightness of more than 84 (measured according to ISO 2470-1), currently falling within CN codes ex 4810 13 20, ex 4810 13 80, ex 4810 14 20, ex 4810 14 80, ex 4810 19 10, ex 4810 19 90, ex 4810 22 10, ex 4810 22 90, ex 4810 29 30, ex 4810 29 80, ex 4810 99 10, ex 4810 99 30 and ex 4810 99 90 (TARIC codes 4810 13 20 20, 4810 13 80 20, 4810 14 20 20, 4810 14 80 20, 4810 19 10 20, 4810 19 90 20, 4810 22 10 20, 4810 22 90 20, 4810 29 30 20, 4810 29 80 20, 4810 99 10 20, 4810 99 30 20 and 4810 99 90 20) and originating in the People's Republic of China.

The provisional anti-dumping duty does not concern rolls suitable for use in web-fed presses. Rolls suitable for use in web-fed presses are defined as those rolls which, if tested according to the ISO test standard ISO 3783:2006 concerning the determination of resistance to picking – accelerated speed method using the IGT tester (electric model), give a result of less than 30 N/m when measuring in the cross-direction of the paper (CD) and a result of less than 50 N/m when measuring in the machine direction (MD). The provisional anti-dumping duty does also not concern multi-ply paper and multi-ply paperboard.

2. The rate of the provisional anti-dumping duty applicable to the net, free-at-Union-frontier price, before duty, of the products described in paragraph 1 and manufactured by the companies listed below shall be as follows:

Company	AD duty rate	TARIC additional code
Gold East Paper (Jiangsu) Co., Ltd, Zhenjiang City, Jiangsu Province, PRC; Gold Huasheng Paper (Suzhou Industrial Park) Co., Ltd, Suzhou City, Jiangsu Province, PRC	19,7 %	B001
All other companies	39,1 %	B999

3. The release for free circulation in the Union 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 Council Regulation (EC) No 1225/2009, 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 1 month of the date of entry into force of this Regulation.

Pursuant to Article 21(4) of Council Regulation (EC) No 1225/2009, the parties concerned may comment on the application of this Regulation within 1 month of the date of its entry into force.

Article 3

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

Article 1 of this Regulation shall apply for a period of 6 months.

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

Done at Brussels, 16 November 2010.

For the Commission
The President
José Manuel BARROSO