This document is meant purely as a documentation tool and the institutions do not assume any liability for its contents

►B

COUNCIL IMPLEMENTING REGULATION (EU) No 1008/2011

of 10 October 2011

imposing a definitive anti-dumping duty on imports of hand pallet trucks and their essential parts originating in the People's Republic of China as extended to imports of hand pallet trucks and their essential parts consigned from Thailand, whether declared as originating in Thailand or not, following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009

(OJ L 268, 13.10.2011, p. 1)

Amended by:

		Official Journal		
		No	page	date
►M1	Council Implementing Regulation (EU) No 372/2013 of 22 April 2013	L 112	1	24.4.2013

▼B

COUNCIL IMPLEMENTING REGULATION (EU) No 1008/2011

of 10 October 2011

imposing a definitive anti-dumping duty on imports of hand pallet trucks and their essential parts originating in the People's Republic of China as extended to imports of hand pallet trucks and their essential parts consigned from Thailand, whether declared as originating in Thailand or not, following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community ([1]) (the basic Regulation), and in particular Articles 9(4) and 11 paragraphs (2), (5) and (6) thereof,

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

Whereas:

A. **PROCEDURE**

1. **Measures in force**

(1) The Council, following an anti-dumping investigation ('the original investigation'), by Regulation (EC) No 1174/2005 ([2]), imposed, a definitive anti-dumping duty on imports of hand pallet trucks and their essential parts currently falling within CN code ex 8427 90 00 and ex 8431 20 00 originating in the People's Republic of China ('the definitive anti-dumping measures'). The measures took the form of an *ad valorem* duty ranging between 7,6 % and 46,7 %.

(2) The Council, following an *ex officio* product scope interim review, by Regulation (EC) No 684/2008 ([3]), clarified the product scope of the original investigation.

(3) Following an *ex officio* anti-circumvention investigation of the anti-dumping measures, the Council, by Regulation (EC) No 499/2009 ([4]), extended the definitive anti-dumping duty applicable to 'all other companies' imposed by Regulation (EC) No 1174/2005 to hand pallet trucks and their essential parts consigned from Thailand whether declared as originating in Thailand or not.

([1]) OJ L 343, 22.12.2009, p. 51.
([2]) OJ L 189, 21.7.2005, p. 1.
([3]) OJ L 192, 19.7.2008, p. 1.
([4]) OJ L 151, 16.6.2009, p. 1.

▼B

2. **Request for an expiry review**

(4) Following the publication of a notice of impending expiry ([1]) of the definitive anti-dumping measures in force, the Commission received on 21 April 2010 a request for the initiation of an expiry review of these measures pursuant to Article 11(2) of the basic Regulation. The request was lodged by two Union producers: BT Products AB and Lifter SRL ('the applicants') representing a major proportion, in this case almost the total Union production of hand pallet trucks and their essential parts.

(5) The request was based on the grounds that the expiry of the measures would be likely to result in a continuation or recurrence of dumping and injury to the Union industry.

3. **Initiation of an expiry review**

(6) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review, the Commission announced on 20 July 2010, by a notice published in the *Official Journal of the European Union* ([2]) ('the Notice of initiation'), the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

4. **Investigation**

4.1. *Investigation period*

(7) The investigation of continuation or recurrence of dumping covered the period from 1 July 2009 to 30 June 2010 ('the review investigation period' or 'RIP'). The examination of the trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2007 to the end of the review investigation period ('the period considered').

4.2. *Parties concerned by the investigation*

(8) The Commission officially advised the applicants, exporting producers, importers, users known to be concerned, and the representatives of the exporting country of the initiation of the expiry review. 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.

(9) All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

([1]) OJ C 70, 19.3.2010, p. 29.
([2]) OJ C 196, 20.7.2010, p. 15.

▼B

(10) In view of the apparent large number of unrelated importers, it was considered appropriate, in accordance with Article 17 of the basic Regulation, to examine whether sampling should be used. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, the above parties were requested, pursuant to Article 17 of the basic Regulation, to make themselves known within 15 days of the initiation of the reviews and to provide the Commission with the information requested in the Notice of initiation. However, no unrelated importers came forward to cooperate. Sampling was therefore not necessary.

(11) The Commission sent questionnaires to all parties known to be concerned and to those who made themselves known within the deadlines set in the Notice of initiation. Replies were received from the two groups of Union producers which are the applicants. None of the known exporting producers in the People's Republic of China (PRC) cooperated in the review. None of the importers came forward during the sampling exercise and no other importers or users supplied the Commission with any information or made themselves known in the course of the investigation.

(12) The Commission sought and verified all the information it deemed necessary for a determination of the likelihood of continuation or recurrence of dumping and resulting injury and of the Union interest. Verification visits were carried out at the premises of the following interested parties:

Union producers

— Lifter SRL, Casole d'Elsa, Italy,

— BT Products AB, Mjölby, Sweden.

B. **PRODUCT CONCERNED AND LIKE PRODUCT**

(13) The product concerned by this review is the same as the one in the original investigation and clarified by the product scope interim review, namely hand pallet trucks and their essential parts, i.e. chassis and hydraulics, originating in the PRC, currently falling within CN codes ex 8427 90 00 and ex 8431 20 00. For the purpose of this Regulation, hand pallet trucks shall be trucks with wheels supporting lifting fork arms for handling pallets, designed to be manually pushed, pulled and steered, on smooth, level, hard surfaces, by a pedestrian operator using an articulated tiller. The hand pallet trucks are only designed to raise a load, by pumping the tiller, to a height sufficient for transporting and do not have any other additional functions or uses such as for example (i) to move and to lift the loads in order to place them higher or assist in storage of loads (highlifters); (ii) to stack one pallet above the other (stackers); (iii) to lift the load to a working level (scissorlifts); or (iv) to lift and to weigh the loads (weighing trucks).

▼B

(14) The investigation confirmed that, as in the original investigation, the product concerned and the products manufactured and sold on the domestic market in the PRC, as well as those manufactured and sold in the EU by the Union producers, have the same basic physical and technical characteristics as well as the same uses and are, therefore, considered to be like products within the meaning of Article 1(4) of the basic Regulation.

C. **LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING**

(15) In accordance with Article 11(2) of the basic Regulation, it was examined whether the expiry of the existing measures would be likely to lead to a continuation or recurrence of dumping.

1. **Preliminary remarks**

(16) Nineteen known Chinese exporting producers were contacted upon initiation. Only one company, Crown Equipment (Suzhou), initially came forward and agreed to be included in the sample, but withdrew its cooperation subsequently. Consequently, none of the exporting producers in the PRC cooperated with the investigation and findings on the likelihood of continuation or recurrence of dumping had to be based on facts available, in particular information submitted by the applicants, including information in the review request, Eurostat data, as well as official export statistics of the PRC.

2. **Dumping of imports during the RIP**

2.1. *Analogue country*

(17) In accordance with the provisions of Article 2(7)(a) of the basic Regulation, normal value had to be determined on the basis of the price or constructed normal value obtained in an appropriate market economy third country (the analogue country), or the price from the analogue country to other countries, including the Union, or, where those are not possible, on any other reasonable basis, including the price actually paid or payable in the Union for the like product, duly adjusted if necessary to include a reasonable profit margin.

(18) In the original investigation, Canada served as an analogue country for the purposes of establishing normal value. Given that production in Canada had ceased, Brazil was envisaged as analogue country in the notice of initiation of the present review. However, none of the known Brazilian exporting producers agreed to cooperate. Alternatively, cooperation was sought from 27 Indian producers and two Taiwanese producers, but similarly no cooperation could be obtained. Interested parties have not put forward any other suggestions for an analogue country.

▼B

(19) One non-cooperating exporter claimed that the Commission did not demonstrate that the use of analogue country data was impossible in the current case. The suggestions given by the company have been checked. In some cases companies proposed by the non-cooperting exporter appeared not to be a producer of the product concerned. The company also suggested that Vietnam could have been used as an analogue country. However, Vietnam could not be taken into account because it is not considered as a market economy country. As explained in recitals 17 and 18 above, the Commission contacted a large number of companies in three potential analogue countries: Brazil, India and Taiwan. Despite these efforts no cooperation was obtained. Without any analogue country cooperation, in compliance with Article 2(7)(a) of the basic Regulation, the normal value had to be based on the price actually paid or payable in the European Union for the like product, duly adjusted if necessary to include a reasonable profit margin. Therefore the claim had to be rejected.

2.2. *Normal value*

(20) In view of lack of cooperation from an analogue country in the present review, the price actually paid or payable in the Union for the like product duly adjusted if necessary to include a reasonable profit margin, was used as a basis to establish normal value. The same methodology was used for both the company that received MET in the original investigation as well as for the companies not granted MET in the original investigation.

2.3. *Export price*

(21) In view of the fact that no cooperation was obtained from the Chinese exporting producers, the export price was established on the basis of facts available. Different sources of information were consulted in order to establish the export price: Eurostat data, offers of Chinese exporting producers as submitted by the applicants and export invoices collected from Member States' customs authorities.

2.4. *Comparison*

(22) The weighted average normal value was compared with the weighted average export price, on an ex-works basis, at the same level of trade. In accordance with Article 2(10) of the basic Regulation, and for the purpose of ensuring a fair comparison, differences in factors affecting price and price comparability were taken into account. Adjustments were made for ocean and domestic freight in the exporting country, as well as insurance.

2.5. *Dumping margin*

(23) In accordance with Article 2(11) of the basic Regulation, the dumping margin was established on the basis of a comparison of the weighted average normal value with the weighted average export price. This comparison showed the existence of significant dumping during the RIP ranging from 97 % to 224 %. The significant difference in dumping margins is due to the different data used for establishing the export price.

▼B

3. **Development of imports should measures be repealed**

(24) Further to the analysis of the existence of dumping during the RIP, the likelihood of continuation of dumping should measures be repealed was investigated. Given the fact that no exporting producer in the PRC cooperated in this investigation, the conclusions below rely on facts available in accordance with Article 18 of the basic Regulation, namely information provided in the review request as well as data provided by the applicants, Eurostat data and official export statistics of the PRC.

(25) In this respect, the following elements were analysed: development of imports from the PRC, spare capacity of the exporters and attractiveness of the Union market, Chinese domestic prices and export prices to third countries.

3.1. *Development of imports from the PRC*

(26) The Chinese exporting producers continued to supply significant volumes of hand pallet trucks to the Union market following the imposition of the measures in 2005. The volume of imports from the PRC into the EU during the RIP, nearly 400 000 units, corresponding to 99 % of total EU imports, considerably exceeded the levels noted prior to the imposition of measures (ranging from 118 000 units in 2000 to 280 000 units in the original IP).

3.2. *Spare capacity of the exporters*

(27) In the absence of other sources of information concerning production and capacity in the PRC, the analysis was made in accordance with Article 18 of the basic Regulation on the basis of information submitted by the applicants. The market information contained in the review request, which has not been challenged by the interested parties, points to a huge capacity in the PRC. Already the production levels in 2008 and 2009, respectively 1,5 million units and 800 000 units, were more than twice the size of the entire Union market. In addition, only a limited fraction of Chinese production (14 % in 2008 and 23 % in 2009) was sold on the Chinese domestic market.

(28) The levels of production clearly point to the conclusion that in the absence of measures, significant additional quantities of Chinese hand pallet trucks could be directed to the Union market.

3.3. *Attractiveness of the Union market, Chinese domestic prices and export prices to third countries*

(29) The Union market remains to be attractive for the Chinese exporting producers in terms of prices. Imports from the PRC entered the EU at roughly one third of the prices charged by the Union industry to its unrelated EU customers.

▼B

(30) Based on the Chinese export statistics, it was found that during the RIP the Union was the destination for 40 % of all Chinese exports of hand pallet trucks. The USA is the second largest export market for Chinese hand pallet trucks, accounting for 20 % of all Chinese exports, while the remaining volumes are fragmented among different destinations.

(31) Chinese export prices to the EU are overall in line with the average Chinese export prices to all third countries except the USA. However, it can be concluded that at least part of the Chinese exports to third countries other than the EU or the USA (40 % of total Chinese exports) could potentially be redirected to the EU should measures be repealed. Such a development is likely not only because higher prices could be achieved in the absence of measures but notably because of the fragmentation of those third country exports. Given the importance of the Union market and already established sales channels, it would be easier to handle one export destination instead of different countries.

(32) Chinese export prices to the EU are considerably higher than Chinese export prices to the USA (17 % more expensive during the RIP). Given the non-cooperation from Chinese exporters, it cannot be determined to what extent this price difference can be explained by differences in the product mix. Nevertheless, on the basis of the export data available, it cannot be excluded that hand pallet trucks currently exported to the USA at lower prices would be (partly) redirected to the Union market should measures be repealed. Such a development could be explained by the reasons mentioned in recital 31 above.

(33) The above price comparisons demonstrate that the EU remains a highly attractive destination for the Chinese exporting producers, which would in all likelihood continue to export large quantities of hand pallet trucks at low prices.

3.4. *Conclusion of the likelihood of continuation or recurrence of dumping*

(34) The foregoing analysis demonstrates that Chinese imports continued to enter the Union market at dumped prices with very high dumping margins. Given most notably the analysis of price levels on the EU and other third country markets as well as capacities available in the PRC, it can be concluded there is a likelihood of continuation of dumping should measures be removed.

D. **DEFINITION OF THE UNION INDUSTRY**

1. **Union production**

(35) Within the Union, the like product is manufactured by the two groups of companies which are the applicants, as well as by a third Union producer of hand pallet trucks. The output of these companies constitutes the total Union production of the like product within the meaning of Article 4(1) of the basic Regulation.

▼B

2. **Union industry**

(36) Since these producers account for the total Union production of hand pallet trucks and their essential parts, they are deemed to constitute the Union industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation and will hereinafter be referred to as the 'Union industry'.

(37) One non-cooperating exporter claimed that that the Commission has used an inaccurate definition of the Union industry because it included a non-cooperating Union producer under the definition of Union industry and in the scope of its injury analysis. They argued that this was done in violation of Article 5(4) of the basic Regulation. However, pursuant to Article 4(1) of the basic Regulation, the Union industry includes Union producers of the like product as a whole. The non-cooperating producer therefore forms part of the Union industry according to the basic Regulation. As explained in recital 42, data for the non-cooperating Union producer have only been included with respect to the analysis of sales volumes to unrelated customers and market shares of the Union industry. It is also noted that in case the non-cooperating Union producer was excluded from the analysis, the findings of the investigation would remain unchanged.

E. **SITUATION ON THE UNION MARKET**

1. **Preliminary remark**

(38) Given that no Chinese exporting producer of the product concerned cooperated in this investigation, data relating to imports of the product concerned into the European Union originating in the PRC ('the country concerned') are based on Eurostat figures.

2. **Consumption in the Union market**

(39) Union consumption was established on the basis of the sales volumes of the Union industry on the Union market and import data from Eurostat.

(40) Between 2007 and the RIP, Union consumption decreased by 40 %, with the main decrease occurring between 2008 and 2009.

Table 1

	2007	2008	2009	RIP
Total EU consumption (pieces)	783 330	654 843	385 410	468 557
Index (2007 = 100)	*100*	*84*	*49*	*60*

▼B

3. **Volume, market share and prices of imports from the PRC**

(41) The volume of imports originating in the PRC has decreased by 37 % over the period considered and reached a level of 387 907 pieces during the RIP. However, notwithstanding the significant decrease in Union demand, the market share of Chinese imports increased over the period considered since Chinese imports did not decrease at the same rate as Union consumption. The market share of imports from the country concerned therefore significantly increased between 2007 and the RIP, when it reached around 83 %. The average price of the Chinese imports have slightly varied over the period considered.

Table 2

	2007	2008	2009	RIP
Volume of imports from the country concerned (pieces) (*)	612 222	522 573	300 222	387 907
Index (2007 = 100)	*100*	*85*	*49*	*63*
Market share of imports from the country concerned (*)	78 %	80 %	78 %	83 %
Price of imports from the country concerned (EUR/piece) (*)	96	92	100	97
Index (2007 = 100)	*100*	*96*	*104*	*101*

(*) Data from Eurostat. In 2007 and 2008, a part of Chinese products were declared with Thai origin, until the imposition of anti-circumvention measures on imports from Thailand in 2008. Therefore, those Thai imports were added to the imports from the country concerned, slightly affecting the 2007 and 2008 data in Table 2 above.

4. **Economic situation of the Union industry**

(42) Pursuant to Article 3(5) of the basic Regulation, the Commission examined all relevant economic factors and indices having a bearing on the state of the Union industry. For confidentiality reasons (only two producers — the applicants — cooperated in the review) only indices are disclosed below. As concerns the total EU sales volume to unrelated customers as well as the market share of the Union industry shown in Tables 6 and 7 below, in order to be consistent with Tables 1 and 2 above (consumption and Chinese market share), the data are based on all three Union producers, i.e. including the two applicant groups and the third manufacturer not cooperating in the review (the sales volume figures of the latter are based on the information submitted by the applicants).

▼B

4.1. *Production*

(43) In the RIP, production decreased by 35 % compared to 2007.

Table 3

	2007	2008	2009	RIP
Production (pieces)				
Index (2007 = 100)	*100*	*84*	*55*	*65*

4.2. *Capacity and capacity utilisation rates*

(44) Production capacity remained stable between 2007 and the RIP. While capacity utilisation was already at a low level in 2007, the decrease in production between 2007 and the RIP led to a further significant decrease of capacity utilisation by 20 percentage points between 2007 and the RIP where capacity utilisation was at a very low level.

Table 4

	2007	2008	2009	RIP
Production capacity (pieces)				
Index (2007 = 100)	*100*	*100*	*100*	*100*
Capacity utilisation				
Index (2007 = 100)	*100*	*84*	*55*	*65*

4.3. *Stocks*

(45) The level of closing stocks of the Union industry increased by 56 % between 2007 and the RIP.

Table 5

	2007	2008	2009	RIP
Closing stock (pieces)				
Index (2007 = 100)	*100*	*131*	*59*	*156*

4.4. *Sales volume*

(46) The sales by the Union industry on the Union market to unrelated customers decreased by 50 % over the period considered with the largest decrease between 2008 and 2009.

▼B

Table 6

	2007	2008	2009	RIP
EU Sales volume to unrelated customers (pieces)				
Index (2007 = 100)	*100*	*79*	*55*	*50*

4.5. *Market share*

(47) The market share held by the Union industry declined from an already low level in 2007 by further 16 % between 2007 and the RIP. Two of the four Union producers of the original investigation have stopped manufacturing hand pallet trucks. Both events can be seen as developing from the increased pressure that the Chinese dumped imports have been exercising on the Union market, which pressure was felt even more by the Union industry in a situation of strongly decreasing consumption.

Table 7

	2007	2008	2009	RIP
Market share of the Union industry				
Index (2007 = 100)	*100*	*95*	*111*	*84*

4.6. *Growth*

(48) Between 2007 and the RIP, the Union consumption decreased by 40 %. The Union industry lost 3,2 percentage points of market share, whilst the imports concerned gained 5 percentage points of market share.

4.7. *Employment*

(49) The level of employment of the Union industry declined by 17 % between 2007 and the RIP. This shows the efforts made by the Union industry to rationalise production in a situation of strongly decreasing demand.

Table 8

	2007	2008	2009	RIP
Employment product concerned (persons)				
Index (2007 = 100)	*100*	*84*	*76*	*83*

▼B

4.8. *Productivity*

(50) Productivity of the Union industry's workforce, measured as output per person employed per year, decreased by 22 % between 2007 and the RIP.

Table 9

	2007	2008	2009	RIP
Productivity (pieces per employee)				
Index (2007 = 100)	*100*	*103*	*74*	*78*

4.9. *Sales prices and factors affecting domestic prices*

(51) Unit sales prices of the Union industry slightly increased by 4 % between 2007 and the RIP.

Table 10

	2007	2008	2009	RIP
Unit price EU market (EUR/piece)				
Index (2007 = 100)	*100*	*101*	*103*	*104*

4.10. *Wages*

(52) Between 2007 and the RIP, the average wage per employee decreased by 29 %. This also shows the succesfull efforts made by the Union industry to contain costs, despite the problems caused by the drastic reduction in the volume of production.

Table 11

	2007	2008	2009	RIP
Annual labour cost per employee (thousand EUR)				
Index (2007 = 100)	*100*	*91*	*63*	*71*

4.11. *Investments*

(53) Between 2007 and the RIP, the annual flow of investments in the product concerned made by the Union industry decreased sharply by 91 %.

▼B

Table 12

	2007	2008	2009	RIP
Net investments (EUR)				
Index (2007 = 100)	*100*	*58*	*27*	*9*

4.12. *Profitability and return on investments*

(54) Profitability of the Union industry decreased substantially by 66 % between 2007 and the RIP.

(55) The return on investments ('ROI') decreased also significantly, by 57 % during the period considered.

Table 13

	2007	2008	2009	RIP
Net profit of EU sales to unrelated customers (% of net sales)				
Index (2007 = 100)	*100*	*68*	*–2*	*34*
ROI (net profit in % of net book value of investments)				
Index (2007 = 100)	*100*	*80*	*–2*	*43*

4.13. *Cash flow and ability to raise capital*

(56) The net cash-flow from operating activities is reported in table 14 below. There were no indications that the Union industry encountered difficulties in raising capital, mainly due to the fact that some of the producers are incorporated in larger groups.

Table 14

	2007	2008	2009	RIP
Cash flow (EUR)				
Index (2007 = 100)	*100*	*84*	*65*	*73*

4.14. *Magnitude of dumping margin*

(57) Given the volume, market share and prices of the imports from the PRC, the impact on the Union industry of the actual margins of dumping cannot be considered to be negligible.

▼B

4.15. *Recovery from the effects of past dumping*

(58) The indicators examined above show that, notwithstanding the imposition of the anti-dumping measures in 2005, the economic and financial situation of the Union industry has remained substantially fragile, because of the overwhelming presence of low priced chinese goods in the Union market. This already precarious situation has turned into a clearly injurious picture during 2009 and the RIP, when a substantial decrease in Union consumption has highlighted the full extent of the negative pressure exerced by the dumped chinese imports. During that period in fact, the Union industry has seen its production and sales volumes decrease at a higher rate than the Union consumption and has therefore experienced a substantial additional loss in market shares. Over the same period, and despite the measures, the market share of Chinese imports has further increased and Chinese products have continued to be imported at prices substantially lower than the prices of the Union industry. During the RIP, profits further decreased for the Union industry. Therefore, the Union industry was not able to recover from the effects of dumping and its situation has even further deteriorated during the RIP.

4.16. *Conclusions*

(59) Between 2007 and the RIP, and notwithstanding the existence of the anti-dumping measures, a number of important indicators developed negatively: profitability decreased by 4,9 percentage points, production and sales volumes decreased by 35 % and 50 % respectively, capacity utilisation went down by 35 % and was followed by a decrease in employment. Although a part of these negative developments may be explained by the strong decrease in consumption, which declined by 40 % over the period considered, the Union industry's further decrease in market share (down by 4 percentage points between 2007 and the RIP) and the constant increase in market share of imports from the PRC is a clear sign of the increasing pressure resulting from the dumped Chinese imports. Given the quasi monopoly already reached by the Chinese imports in the Union market, any further increase of Chinese imports, also because of their significantly low prices, may reduce the level of production utilisation of the Union industry under the minimum necessary to ensure its sustainability. In this respect, it is recalled that two Union producers have been forced to leave the hand pallet truck business in the course of the period considered, as already mentioned at recital 47 above.

(60) In its comments to the disclosure one Chinese exporting producer claimed that certain indicators including production, sales volume, profitability, capacity utilisation, employment show in fact no negative development for the Union industry. However, the company had only looked at the development between 2009 and the RIP while for the assessment of injury the overall development of the Union industry during the period considered, i.e. between 2007 and the RIP needs to be assessed. As explained above (see recitals 43 to 49), all the injury indicators mentioned by the Chinese exporter developed in a negative direction during the period considered.

▼B

(61) Moreover, the same exporter claimed that the Commission did not distinguish between the injurious effects caused by the dumped imports and other effects, in particular the slump of demand as a result of the economic crisis. However, while it is true that Union consumption decreased by 40 % over the period considered, Chinese exporters managed to significantly gain market share at the same time at the expense of the Union industry. In addition, as explained in recital 58 above, it is recalled that the impact of dumped imports was actually more injurious during the period of weak demand.

It is therefore concluded that, despite the existence of the antid-umping measures, the Union industry has suffered material injury during the RIP.

5. **Impact of dumped imports and other factors**

5.1. *Impact of the dumped imports*

(62) Despite a decrease in consumption in the European Union over the period considered, the volume of imports from the country concerned did not decrease at the same rate, thereby resulting in the Chinese imports further increasing their market share. In the absence of cooperation from Chinese exporting producers, price undercutting and underselling were calculated on the basis of best facts available, which included various sources of information i.e. Eurostat data, offers from Chinese exporting producers as submitted by the applicants, and export invoices collected from Member States' customs authorities. The imports from the country concerned were found to clearly undercut the prices of the Union industry by between 43 % and 78 %, depending on the source of information used.

5.2. *Imports from other countries*

(63) Imports from other countries are at a very low level and dropped further by 79 % between 2007 and the RIP. The market share of imports from other countries decreased during the RIP as well. For confidentiality reasons (two producers are constituting the Union industry) only indices are disclosed below.

Table 15

	2007	2008	2009	RIP
Volume of imports from other countries (pieces)				
Index (2007 = 100)	*100*	*60*	*6*	*21*
Market share of imports from the other countries				
Index (2007 = 100)	*100*	*71*	*12*	*34*

▼B

6. **Conclusion**

(64) As shown under recital 41 the imports from the country concerned have increased in terms of market share over the period considered, and this despite a significant drop in Union consumption. This has increased the market share held by Chinese imports to 83 % of Union consumption during the RIP. This increased pressure in terms of volumes, despite an overall shrinking demand, has been coupled with significantly low Chinese import prices to the Union, which considerably undercut the prices of the Union industry. It is therefore concluded that there is a causal link between the dumped imports from the PRC and the material injury suffered by the Union industry during the RIP.

F. **LIKELIHOOD OF CONTINUATION OF INJURY**

1. **Preliminary remarks**

(65) As already seen, the imposition of anti-dumping measures has not allowed the Union industry to recover from the injury suffered.

2. **Likely development of Chinese exports in case measures are repealed**

(66) As mentioned at recital 27 above, huge production capacities are available in the PRC. The production levels in 2008 and 2009, respectively 1,5 million units and 800 000 units, were already more than twice the size of the entire Union market. In addition, only a limited fraction of Chinese production (14 % in 2008 and 23 % in 2009) was sold on the Chinese domestic market. In the absence of measures, therefore, significant additional quantities of Chinese hand pallet trucks could be directed to the Union market.

(67) As mentioned above at recital 31, Chinese export prices to the EU are overall in line with the average Chinese export prices to all third countries. However, it can be concluded that at least part of the Chinese exports to third countries other than the EU or the USA (40 % of total Chinese exports) could potentially be redirected to the EU should measures be repealed. Such a development is likely not only because higher prices could be achieved in the absence of measures but notably because of the fragmentation of those third country exports. Given the importance of the Union market and already established sales channels, it would be easier to handle one export destination instead of bulk of different countries.

3. **Conclusion**

(68) In the light of the findings mentioned at recitals 66 and 67 above, it is concluded that there is likelihood that the material injury found during the RIP will continue should the measures be repealed. This is likely to lead to a further deterioration of the economic and financial situation of the Union industry, which could even jepodarsie its existence in the medium term.

▼B

G. UNION INTEREST

1. Introduction

(69) In accordance with Article 21 of the basic Regulation, it was examined whether the maintenance of the existing anti-dumping measures would be against the interest of the Union as a whole. The determination of the Union interest was based on an appreciation of the various interests involved, i.e. those of the Union industry, of importers, and of users.

(70) It should be recalled that, in the original investigation, the adoption of measures was considered not to be against the Union interest. Furthermore, the fact that the present investigation is a review, thus analysing a situation in which anti-dumping measures have already been in place, allows the assessment of any undue negative impact on the parties concerned by the current anti-dumping measures.

(71) On this basis it was examined whether, despite the conclusions on the likelihood of a continuation of injurious dumping, it could be clearly concluded that it is not in the Union interest to maintain measures in this particular case.

2. Interest of the Union industry

(72) The Union industry has consistently lost market share while imports from the country considered have substantially increased in market share over the period considered. Two of the original four Union producers have stopped the production of the product investigated. Moreover, the Union industry has suffered material injury during the period considered. Without the existence of the measures, the Union industry would likely be in an even worse situation.

3. Interest of importers and users

(73) None of unrelated importers and users that were contacted came forward to cooperate. It is recalled that, in the original investigation, it was found that the impact of the imposition of measures would not be significant for the users. Despite the existence of measures for five years, importers/users in the Union continued to source their supply mainly from the PRC. No indications were brought forward either that there have been difficulties in finding other sources. Moreover, it is recalled that in the original investigation cooperating users remained neutral as to the imposition of measures and it was concluded that hand pallet trucks were of a minor importance in their business. No indications of the contrary were found in the course of this review. It is therefore concluded that the maintenance of the anti-dumping measures is not likely to have a serious effect on importers/users in the Union. In fact, without measures the Chinese dumped imports could monopolise the Union hand pallet trucks market.

4. Conclusion

(74) Given the above, it cannot be clearly concluded that the maintenance of the current anti-dumping measures would not be in the Union interest.

▼B

H. **ANTI-DUMPING MEASURES**

(75) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend that the existing measures be maintained. They were also granted a period to submit comments subsequent to that disclosure. The submissions and comments were duly taken into consideration where warranted.

(76) In its comments to the disclosure, the Union industry stressed that the dumping and undercutting levels found in the review are much higher than in the original investigation and that there was increasing pressure from dumped Chinese imports. The Union industry therefore submitted that the Commission should also consider reassessing the level of the anti-dumping duties. In view of these comments, and also in view of the findings of this review, consideration is being given to the possibility of opening a full interim review limited to dumping.

(77) It follows from the above that, as provided for by Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of hand pallet trucks and their essential parts originating in the PRC should be maintained. It is recalled that these measures consist of an *ad valorem* duty at different rates.

(78) It is recalled that the measures subject to the current review were extended by Regulation (EC) No 499/2009 to imports of the same product, consigned from Thailand whether originating in Thaliand or not. No new element was brought forward in this respect in the framework of this review. The definitive anti-dumping duty of 46,7 % and applicable 'for all other companies' to imports originating in the PRC should therefore be extended to imports of the same product consigned from Thailand, whether declared as originating in Thailand or not.

(79) The individual company anti-dumping duty rates specified in this Regulation are solely applicable to imports of the product concerned produced by these companies and thus by the specific legal entities mentioned. Imports of the product concerned manufactured 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'.

(80) Any claim requesting the application of these individual 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 instance, that name change or that change in the production and sales entities. If appropriate, the Regulation will then be amended accordingly by updating the list of companies benefiting from individual duty rates,

[1] European Commission, Directorate-General for Trade, Directorate H, 1049 Brussels, BELGIUM.

▼B

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of hand pallet trucks and their essential parts, i.e. chassis and hydraulics, currently falling within CN codes ex 8427 90 00 (TARIC codes 8427 90 00 11 and 8427 90 00 19) and ex 8431 20 00 (TARIC codes 8431 20 00 11 and 8431 20 00 19), originating in the People's Republic of China. For the purpose of this Regulation, hand pallet trucks shall be trucks with wheels supporting lifting fork arms for handling pallets, designed to be manually pushed, pulled and steered, on smooth, level, hard surfaces, by a pedestrian operator using an articulated tiller. The hand pallet trucks are only designed to raise a load, by pumping the tiller, to a height sufficient for transporting and do not have any other additional functions or uses such as for example (i) to move and to lift the loads in order to place them higher or assist in storage of loads (highlifters); (ii) to stack one pallet above the other (stackers); (iii) to lift the load to a working level (scissorlifts); or (iv) to lift and to weigh the loads (weighing trucks).

▼M1

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

Company	Rate of duty (%)	TARIC additional code
Zhejiang Noblelift Equipment Joint Stock Co. Ltd, 58, Jing Yi Road, Economy Development Zone, Changxing, Zhejiang Province, 313100, PRC	70,8	A603
All other companies	70,8	A999

▼B

3. The definitive anti-dumping duty applicable to 'all other companies', as set out in paragraph 2, is hereby extended to imports of hand pallet trucks and their essential parts, i.e. chassis and hydraulics, as further defined in paragraph 1, currently falling within CN codes ex 8427 90 00 and ex 8431 20 00 (TARIC codes 8427 90 00 11 and 8431 20 00 11) and consigned from Thailand, whether declared as originating in Thailand or not.

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

Article 2

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

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