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COMMISSION REGULATION (EU) No 258/2011

of 16 March 2011

imposing a provisional anti-dumping duty on imports of ceramic tiles originating in the People's Republic of China

(OJ L 70, 17.3.2011, p. 5)

Corrected by:

►C1 Corrigendum, OJ L 143, 31.5.2011, p. 48 (258/2011)

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imposing a provisional anti-dumping duty on imports of ceramic tiles originating in the People's Republic of China

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union ('the 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:

A. PROCEDURE

1. Initiation

(1) On 19 June 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 with regard to imports into the Union of ceramic tiles originating in the People's Republic of China ('China' or 'the country concerned').

(2) The anti-dumping proceeding was initiated following a complaint lodged by the European Ceramic Tile Manufacturers' Federation (CET) ('the complainants') on behalf of 69 producers representing more than 30 % of the total Union production of ceramic tiles. 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.

2. Parties concerned by the proceeding

(3) The Commission officially advised the complainants, other known Union producers, the known exporting producers in China, the representatives of China, and known importers and users of the initiation of the proceeding. The Commission also advised producers in the United States ('the USA'), Nigeria, Brazil, Turkey, Indonesia and Thailand, as these countries were 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 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.

[1] OJ L 343, 22.12.2009, p. 51.
[2] OJ C 160, 19.6.2010, p. 20.

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(4) In view of the apparent high number of exporting producers in China, unrelated importers and Union producers, sampling was envisaged in the Notice of initiation for the determination of dumping and injury 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 a sample, all known exporting producers in China, importers and Union producers 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 during the period from 1 April 2009 to 1 March 2010. The authorities of China were also consulted.

2.1. *Sampling of Chinese exporting producers*

(5) One hundred and five valid responses were received to the sampling exercise from exporting producers in China, covering 47 % of imports during the investigation period, as defined in recital 24 below. Therefore, the cooperation is considered to be low.

(6) In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of exporting producers based on the largest representative volume of exports of the product concerned to the Union which could reasonably be investigated within the time available. The sample selected consisted of three groups, representing 10 individual producers, which accounted for 14,4 % of the total volume of exports from China to the Union and 31,3 % of the total volume of the cooperating exporters during the IP. In accordance with Article 17(2) of the basic Regulation, the parties concerned and the Chinese authorities were consulted on the selection of sample. A number of comments were received in relation to the proposed sample. Comments considered appropriate were taken into account in the selection of the final sample.

2.2. *Sampling of Union producers*

(7) The European Ceramic Tile Manufacturers' Federation (CET) confirmed in a letter sent to the Commission that all complaining companies agreed to be considered for the inclusion in the sample. Including other companies which came forward, the Commission was thus provided with information from 73 Union producers.

(8) In the sampling exercise the high fragmentation of the ceramic tiles sector has been taken into consideration. In order to ensure that the results of large companies did not dominate the injury analysis but that the situation of the small companies, collectively accounting for the largets share of the Union production, was properly reflected, it was considered that all segments, i.e. small, medium-sized and large companies should be represented in the sample.

(9) Three segments have been distinguished based on the volume of yearly production:

— Segment 1: large companies – production in excess of 10 million m^2,

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— Segment 2: medium-sized companies – production between 5 and 10 million m^2,

— Segment 3: small companies – production below 5 million m^2.

(10) In the analysis of micro-economic indicators, the results of the sampled companies in the specific segment have been weighted in accordance with the share of that segment in the total Union production (using the specific weight of each segment in the total ceramic tile sector). According to the information collected during the investigation, the producers in Segments 1 and 2 account each for around one quarter of total Union production while in segment 3, producers account for around half of the total Union production. More than 350 companies belong to the segment of small companies. More than 40 companies belong to the medium-sized segment and more than 20 to the segment of large companies.

(11) Ten companies were sampled. They are the largest of each of the three segments, taking into account sales, production and geographical location. One sampled company belongs to the segment of large companies, four to the segment of medium-sized companies and five to the segment of small companies. The selected companies are based in six Member States (Italy, Spain, Poland, Portugal, Germany and France) which together account for over 90 % of the total Union production. This sample represented 24 % of total production by the cooperating producers and 7 % of the total Union production.

(12) During the investigation, one sampled company from Poland decided to discontinue its cooperation with the investigation. The Commission could not obtain cooperation from any other producer based in Poland.

(13) Notwithstanding the withdrawal of the Polish producer, the representativeness of the sample remained high according to all the criteria mentioned in recitals 8 and 10. It has been thus decided that the proceeding could continue with a sample of nine producers from five Member States.

(14) Complainants requested their names to be kept confidential. The Commission accepted the request.

2.3. *Sampling for importers*

(15) The Commission received 24 replies from importers. Three large importers were excluded from the sampling exercise: two related to Chinese exporters and one related to a Union producer (the imports are marginal compared to the total sales of that producer).

(16) The unrelated cooperating importers represent around 6 % of the total imports from China.

(17) Seven companies were sampled, representing 95 % of the imports made by the unrelated cooperating companies. One of these companies was as well a user of the product concerned. The sample was also representative in terms of geographical spread. The sample thus covers Member States which account for more than 49 % of the imports into the Union, which corroborated its representativeness.

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2.4. *Questionnaires replies and verifications*

(18) In order to allow sampled exporting producers in China to submit a claim for market economy treatment ('MET') or individual treatment ('IT'), if they so wished, the Commission sent claim forms to the sampled exporting producers. One group of exporting producers requested MET pursuant to Article 2(7) of the basic Regulation or IT should the investigation establish that they did not meet the conditions for MET. The other groups of exporting producers only requested IT.

(19) Claims for individual examination were received from eight non-sampled companies or groups of related companies. The examination of these claims at provisional stage would have been too burdensome to be carried out. A decision whether individual examination will be granted to any of these companies will be taken at definitive stage.

(20) The Commission sent questionnaires to the sampled exporting producers, as well as to the non-sampled exporting producers that had stated their intention to request individual examination as per Article 17(3) of the basic Regulation, to the sampled Union producers, the cooperating unrelated importers and to all known users in the Union.

(21) Questionnaire replies were received from three sampled groups of exporting producers, from eight non-sampled exporting producers or groups of exporting producers, from nine sampled Union producers and from five importers not related to an exporting producer. Submissions were also received from the European association of producers (Cerame-Unie), national associations of producers, importers, associations of importers and users.

(22) The Commission sought and verified all the information deemed necessary for the purpose of analysis of MET/IT and for a provisional determination of dumping, resulting injury and Union interest and carried out verifications at the premises of nine Union sampled producers and the following companies:

(a) *Exporting producers in China*

— Becarry Group, composed of:

  — Foshan Becarry Ceramics Co., Ltd

  — Heyuan Becarry Ceramics Co., Ltd

  — Heyuan Hairi Ceramic Co., Ltd

  — Shandong Yadi Ceramics Co., Ltd

— Xinruncheng Group, composed of:

  — Guangdong Xinruncheng Ceramics Co. Ltd

  — Foshan City Nanhai Chongfa Ceramics Co. Ltd

— Wonderful Group, composed of:

  — Dongguan City Wonderful Ceramics Industrial Park Co., Ltd

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— Guangdong Jiamei Ceramics Co., Ltd

— Qingyuan Gani Ceramics Co. Ltd

— Foshan Gani Ceramics Co. Ltd

— Giavelli S.r.l., a related Italian importer

(b) *Traders in China*

— Foshan Changwei Enterprise Co., Ltd

(c) *Traders in Hong Kong*

— Cayenne Trading International Ltd

— Great Prosperity Development Ltd

— Good East Development Ltd

(d) *Unrelated importers*

— Enmon GmbH, Germany

(e) *National associations of producers*

— Confindustria Ceramica (Italy)

— Spanish Ceramic Tile Manufacturer's Association (ASCER)

— APICER (Portugal).

(23) In view of the need to establish a normal value for the exporting producers in China to which MET might not be granted, a verification to establish normal value on the basis of data from the USA as analogue country took place at the premises of two producers. These producers claimed confidentiality regarding their identity.

3. **Investigation period**

(24) The investigation of dumping and injury covered the period from 1 April 2009 to 31 March 2010 ('investigation period' or 'IP'). The examination of the trends relevant for the assessment of injury covered the period from 1 January 2007 to the end of the investigation period ('period considered').

B. **PRODUCT CONCERNED AND LIKE PRODUCT**

1. **Product concerned**

(25) The product concerned is glazed and unglazed ceramic flags and paving, hearth or wall tiles; glazed and unglazed ceramic mosaic cubes and the like, whether or not on a backing ('ceramic tiles' or the 'product concerned'), currently falling within CN codes 6907 10 00, 6907 90 20, 6907 90 80, 6908 10 00, 6908 90 11, 6908 90 20, 6908 90 31, 6908 90 51, 6908 90 91, 6908 90 93 and 6908 90 99.

(26) Ceramic tiles are mainly used in the construction industry to cover walls and floors.

2. **Like product**

(27) One party claimed that the product imported from China and that produced by the Union industry were not comparable.

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(28) It is recalled that the Commission based the price comparisons on product types distinguished on the basis of product control numbers ('PCN') based on eight characteristics.

(29) The party in question presented its arguments during a hearing before the Hearing Officer. According to the arguments the lack of comparability was due to different technology, material, polishing and design used for production of Union and Chinese tiles. Technologically advanced lines produced high quality tiles with screen printing and several colours. The company explained that there were different printing technologies for screen printing, roto-printing and inkjet printing.

(30) Despite requests for detailed submission elaborating on all these aspects of product comparability, the party failed to substantiate its claims. Also the argument on improving the comparability has not been supported by any evidence. Further, the party itself acknowledged that the product types that would be covered by adding the four suggested criteria, would represent only 0,5 % of the tiles' market. As stated in the report produced by the Hearing Officer, which summarized the position of the company concerned, the remaining 99,5 % products falling under the same PCNs were similar.

(31) As mentioned above the party did not substantiate the need to introduce the additional criteria nor their potential impact on prices. Hence, in view of the negligible market share of the product types concerned and the explicit acknowledgment by the party that 99,5 % of the tiles were comparable under the PCN concerned, the claim to add additional criteria to the PCN structure had to be provisionally rejected.

(32) It is concluded that the product concerned, the product produced and sold on the domestic market of China and on the domestic market of the 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.

C. **DUMPING**

1. **Market Economy Treatment ('MET')**

(33) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in China, normal value shall be determined in accordance with paragraphs 1 to 6 of the said Article for those 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 summarised form below:

1) business decisions are made in response to market signals, without significant State interference, and costs reflect market values;

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

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

4) bankruptcy and property laws guarantee stability and legal certainty; and

5) exchange rate conversions are carried out at market rates.

(34) Two groups of exporting producers in China requested MET in accordance with Article 2(7) of the basic Regulation.

(35) It was found that the parties (two producers; one Chinese trader and one Hong Kong trader) allegedly forming one of these groups were not in fact related. In these circumstances, the MET claims of the two Chinese producers (Becarry Group and Shandong Yadi Ceramics Co. Ltd) were treated separately.

(36) Regarding the other group of companies, namely the Wonderful Group, which consisted of two producer groups related to each other through ownership by the same holding company, only one of the related groups requested MET, while the second one requested only individual treatment (IT). Since MET criteria must, however, be requested and fulfilled for all companies within the same group, this MET claim was incomplete and was therefore not considered. MET could thus not be granted to the group.

(37) Concerning the Becarry Group, as far as criterion 1 is concerned the investigation established that the producer had an export sales restriction in its business licence which was applied in practice. It was therefore considered that sales decisions were not taken freely but were subject to significant State interference. Furthermore, for several companies within the group, it could not establish whether and who paid the initial capital into the company. With regard to criterion 2, the accounting showed several serious shortcomings which were not mentioned in the audit report. Finally, regarding criterion 3 it was also found that there were several distortions carried over from the non-market economy system as major assets were not correctly recorded or depreciated in the accounts and no proof of payment could be provided that the company had paid for its land use right.

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(38) Regarding Shandong Yadi Ceramics Co. Ltd, with respect to criterion 1 the investigation found that the company could not demonstrate whether and who paid the initial capital into the company when it was established. It could thus not be excluded that some funds were provided by the State. As far as criterion 2 is concerned, the accounting records showed serious shortcomings not mentioned in the audit report and therefore the accounts were not considered to be audited in line with international accounting standards. Finally, with regard to criterion 3 there were also several distortions carried over from the non-market economy system as no proof of payment could be provided that the company paid for its land use rights or proof of payment for certain assets.

(39) The Commission disclosed the results of the MET findings to the exporting producers concerned, to the Chinese authorities and the complainants, and invited them to submit comments.

(40) Following the disclosure of the MET findings, comments were received from the two sampled exporting producers which were not granted MET. However, these comments were not such as to change the findings in this regard as they only attempted to rebut part of the findings, and did not submit any additional evidence in support of the comments.

2. **Individual Treatment ('IT')**

(41) 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 the criteria set out in Article 9(5) of the basic Regulation. 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 none the less 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.

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(42) The sampled exporting producers which requested MET – Becarry Group and Shandong Yadi Ceramics Co. Ltd – also claimed IT in the event they would not be granted MET. The Wonderful Group and the Xinruncheng Group also claimed IT.

(43) Regarding Becarry Group, it was found that sales were not freely determined due to the export sales restriction mentioned in recital (37) above, and its IT claim was therefore rejected.

(44) The other exporting producers were found to meet the conditions of Article 9(5) of the basic Regulation and thus could be granted IT. Thus, on the basis of the information available, it was provisionally established that the following Chinese exporting producers which were included in the sample meet all the requirements for IT as set forth in Article 9(5) of the basic Regulation:

— Shandong Yadi Ceramics Co., Ltd

— Xinruncheng Group

— Wonderful Group.

3. **Normal value**

(a) *Choice of the analogue country*

(45) According to Article 2(7)(a) of the basic Regulation, normal value for exporting producers not granted MET shall be established on the basis of the domestic prices or constructed normal value in an analogue country.

(46) 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 China, and invited interested parties to comment thereon.

(47) A number of comments were received and several other countries were proposed to serve as an alternative, in particular Brazil, Turkey, Nigeria, Thailand, and finally Indonesia.

(48) The Commission therefore decided to seek cooperation from known producers in these countries including the USA. However, only two producers of the product concerned in the USA replied to the questionnaires. A Thai producer also submitted an incomplete reply to the questionnaire; and in any case its product range was not fully comparable to the cooperating Chinese producers.

(49) The investigation revealed that the USA was a competitive market for the product concerned. Several producers were active on the US domestic market and the import volumes were high. The investigation has further shown that the ceramic tiles originating in China and in the USA have basically the same physical characteristics and uses and that production processes were similar.

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(50) It was argued that since the US market is mainly characterized by imports, the ceramic tiles manufactured in the USA and those manufactured in China cover different segments of the market. Therefore, the domestically produced product types which would serve as a basis to establish normal value would not be comparable to the product types exported by China to the Union. However the investigation has shown that the US production covers a wide range of product types comparable to the ones produced in and exported from China, as mentioned above in recital 49.

(51) It was also argued that the USA would be a relatively minor player in the worldwide ceramic tiles market. However, circa 600 million m^2 were produced domestically in 2009 which is considered significant. For comparison, China, the world's major producer, manufactured 2 000 million m^2 in the same period.

(52) One party argued that the USA had strict quality standards and effectively created non-tariff barriers for Chinese imports. However, the investigation revealed that as mentioned above import volumes from China in the USA were high and constituted the major share of the US domestic consumption. Therefore, the argument that non-tariff barriers in the USA affect imports and thus competition was rejected.

(53) The data submitted in their reply by the two cooperating US producers were verified on spot. Only data from one producer visited was finally considered, as it was found to be reliable information on which a normal value could be based. The data from the second producer visited were found not to be reliable and had to be discarded, as this producer only reported part of its domestic sales and costs could not be fully reconciled with the accounts.

(54) It is therefore provisionally concluded that the USA is an appropriate and reasonable analogue country in accordance with Article 2(7) of the basic Regulation.

(b) *Determination of normal value*

(55) 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.

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

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(57) During the investigation period, sales on the domestic market to unrelated customers were found to be made in the ordinary course of trade for all types of the like product manufactured by the US producer. However, because of differences in quality between the like product produced and sold in the USA and the product concerned exported from China to the Union, for certain product types it was considered more appropriate to construct normal value in order to be able to take into account these differences and ensure fair comparison as described in recital 61.

(58) Normal value was constructed by adding to the cost of manufacturing of the US producer its SG&A and profit. Pursuant to Article 2(6) of the basic Regulation, the amounts for SG&A and profit were established on the basis of the actual data pertaining to production and sales in the ordinary course of trade of the like product of the US producer.

(c) *Export prices for the exporting producers*

(59) The export prices of the sampled Chinese exporters were based on the export prices actually paid or payable, to the first independent customer. Where sales were made via a related importer in the Union, prices were constructed pursuant to Article 2(9) of the basic Regulation. Adjustments were made for all costs incurred between importation and resale including sales, general and administrative expenses and profit. With respect to profit margin, the profit realised by an unrelated importer of the product concerned was used since the actual profit of the related importer was not considered reliable because of the relationship between the exporting producer and the related importer.

(d) *Comparison*

(60) The dumping margins were established by comparing the individual ex-works export prices of the sampled exporters to the domestic sales prices or to the constructed normal value (CNV) as appropriate.

(61) 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. The normal value was adjusted for differences in characteristics - mainly due to OEM branding and for quality differences for certain types not produced by the analogue country producer - for the lower cost of non-porcelain tiles. Further adjustments were made, where appropriate, in respect of ocean freight, insurance, handling and ancillary costs, packing, credit, bank charges and commissions in all cases where they were found to be reasonable, accurate and supported by verified evidence.

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4. **Dumping margins**

(a) *For the cooperating sampled exporting producers granted IT*

(62) Pursuant to Article 2(11) and (12) of the basic Regulation, the dumping margins for the sampled cooperating exporting producers granted IT were established on the basis of a comparison of a weighted average normal value established for the analogue country with each company's weighted average export price of the product concerned to the Union as established above.

(63) On this basis, the provisional dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, are:

	Provisional dumping margin
Group Xinruncheng	35,5 %
Shandong Yadi Ceramics Co., Ltd	36,6 %
Wonderful Group	26,2 %

(b) *For all other cooperating exporting producers*

(64) The dumping margin for other cooperating exporting producers in China, not included in the sample, was calculated as a weighted average of the sampled exporting producers' dumping margins, in accordance with Article 9(6) of the basic Regulation.

(65) The dumping margin for the cooperating exporting producer in China, included in the sample but not granted IT (Heyuan Becarry Ceramics Co. Ltd), was also calculated as described above in recital 64.

(c) *All other (non-cooperating) exporting producers*

(66) The country-wide dumping margin applicable to all other non-cooperating exporting producers in China was established by using the highest of the dumping margins found for a representative product type from a cooperating exporting producer.

(67) On this basis the provisional sample weighted average dumping margin and the country-wide level of dumping as a percentage of the CIF Union frontier price, duty unpaid are:

Sample Weighted Average for the cooperating exporting producers not included in the sample or not granted IT (see Annex I)	32,3 %
Residual for non-cooperating exporting producers	73,0 %

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D. **INJURY**

1. **Union production and Union industry**

(68) As mentioned in recital (8) the Union ceramic tiles industry is highly fragmented. Ceramic tiles are produced by more than 500 producers.

(69) As mentioned above, the Union industry was divided into three segments: small, medium-sized and large companies. Small companies make up half of the total Union production.

(70) Data provided by the national and European associations is estimated to cover around 75 % of Union production. These data have been cross-checked with data provided by individual producers and national associations but also with statistical sources, like Prodcom. The volume and value of remaining production has been extrapolated on the basis of the same sources of information. On that basis, the total Union production was found to amount to 895 million m^2 in the IP. All Union producers (accounting for the total Union production) constitute the Union industry within the meaning of Articles 4(1) and 5(4) of the basic Regulation and will be thereafter referred to as the 'Union industry'.

2. **Union consumption**

(71) The Union consumption was established by adding imports based on Eurostat data to the sales of Union producers on the Union market. Data concerning total Union sales of the product concerned has been based on verified data provided by both national and European associations of producers. The extrapolations were made on the basis of the associations' and Prodcom data to arrive to total Union sales.

(72) Over the period considered, i.e. between 2007 and the IP, the Union consumption decreased by 29 %, with the main decrease by 13 % between 2007 and 2008. In the IP, consumption decreased by 8 % as compared to 2009.

Table 1

Consumption

Volume (thousand m^2)	2007	2008	2009	IP
+ Total imports	157 232	140 715	115 676	119 689
+ Union production sold on the Union market	1 275 486	1 099 092	992 204	895 140
Index (2007 = 100)	*100*	*86*	*78*	*70*
= Consumption	1 432 718	1 239 807	1 107 880	1 014 829
Index (2007 = 100)	*100*	*87*	*77*	*71*
year-on-year decrease		– 13 %	– 11 %	– 8 %

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3. **Imports from China**

3.1. *Volume, market share and prices of imports of the product concerned*

(73) The volume, market share and average prices of imports from China developed as set out below. The following quantity and price trends are based on Eurostat data.

Table 2

Imports from China

Volume (thousand m^2)	2007	2008	2009	IP
Volume of imports from the country concerned	68 081	65 122	62 120	66 023
Index (2007 = 100)	*100*	*96*	*91*	*97*
Year-on-year basis		– 4 %	– 5 %	+ 6 %
Market share of imports from the country concerned	4,8 %	5,3 %	5,6 %	6,5 %
Price of imports from the country concerned (EUR/m^2)	4,7	4,9	4,4	4,5
Index (2007 = 100)	*100*	*105*	*95*	*97*
Year-on-year basis		+ 4 %	– 10 %	+ 2 %

(74) The volume of total imports from China decreased by 3 % over the period considered and amounted to around 66 million m^2 during the IP. The decreasing trend as such is in line with the decreasing trend of consumption but it is far less pronounced and occurred between 2007 and 2009. Between 2009 and the IP, the volumes of imports from China increased by 6 %. Also, when analysed from the perspective of the whole period considered, the market share of Chinese imports increased by 35 %, from 4,8 % in 2007 to 6,5 % in the IP.

(75) Prices of Chinese imports decreased by 4 % during the period considered, from 4,7 EUR/m^2 to 4,5 EUR/m^2.

3.2. *Price undercutting*

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

(77) The comparison showed that during the IP, imports of the product concerned were sold in the Union at prices which undercut those of the Union industry. When expressed as a percentage of the latter the level of undercutting ranged from 44 % to 57 %. The calculations were based on the data submitted by the sampled Union producers and sampled exporting producers from China.

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4. **Imports from third countries other than China**

(78) The volume of imports from other third countries during the period considered is shown in the table below. The quantity and price trends are based on Eurostat.

Table 3

Imports from other third countries

	2007	2008	2009	IP
Imports from other counties (thousand m^2)	89 151	75 593	53 557	53 665
Index (2007 = 100)	*100*	*85*	*60*	*60*
Market share of imports from other countries	6,2 %	6,1 %	4,8 %	5,3 %
Average price (EUR/m^2)	4,38	4,94	5,35	5,35
Index (2007 = 100)	*100*	*113*	*122*	*122*
Imports from Turkey (thousand m^2)	50 210	44 590	30 930	31 343
Turkey Market share	3,5 %	3,6 %	2,8 %	3,1 %
Average price (EUR/m^2)	4,35	4,75	5,25	5,32
Imports from countries other than China & Turkey	38 941	31 002	22 627	22 322
Index (2007 = 100)	*100*	*80*	*58*	*57*
Average price (EUR/m^2)	4,43	5,21	5,49	5,38

(79) The imports from third countries decreased by 40 % over the period considered. Thereby the market share of these imports decreased by 14 %, from 6,2 % to 5,3 %.

(80) It should be noted that average import prices from other third countries increased by 22 % during the period considered, remaining consistently higher than the average selling price of Chinese export sales (by 19 % during the IP).

5. **Situation of the Union industry**

5.1. *General*

(81) 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.

(82) The macroeconomic indicators (production, capacity, capacity utilization, sales volume, market share, growth and magnitude of dumping margins) were assessed at the level of the whole Union industry. The assessment was based on the information provided by the European and national associations, cross-checked with data provided by the producers and available official statistics.

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

5.2. *Macro-economic indicators*

5.2.1. Production, production capacity and capacity utilisation

(84) Production of the Union industry decreased substantially by 32 % over the period considered. The reduction in overall terms (over the period considered) reflected the substantial decrease in consumption (by 29 % over the period considered, see recital 72 above). However, it followed a different trend. It decreased between 2007 and 2009 by 32 %, with the largest drop of 23 % between 2008 and 2009. It then stabilized between 2009 and the IP.

Table 4

Total Union production

	2007	2008	2009	IP
Volume (thousand m^2)				
Production	1 614 668	1 434 844	1 100 052	1 094 660
Index (2007 = 100)	*100*	*89*	*68*	*68*

(85) The Union industry's production capacity decreased by 5 % between 2007 and 2008, and 2 % between 2008 and the IP. The resulting capacity utilisation showed an overall decrease of 27 % between 2007 and the IP.

Table 5

Production capacity and capacity utilisation

	2007	2008	2009	IP
Volume (thousand m^2)				
Production capacity	1 849 252	1 760 720	1 720 180	1 718 023
Index (2007 = 100)	*100*	*95*	*93*	*93*
Capacity utilisation	87 %	81 %	64 %	64 %
Index (2007 = 100)	*100*	*93*	*73*	*73*

5.2.2. Sales volumes and market share

(86) In line with the development of the production volumes, the sales of the Union industry on the Union market to unrelated customers fell at a rate comparable to that of decrease in consumption, i.e. by 30 % during the period considered. The sales of the Union industry have been following a similar trend as consumption in terms of yearly decreases.

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Table 6

Sales volume to unrelated customers

	2007	2008	2009	IP
Volume (thousand m^2)				
Sales in the Union	1 275 486	1 099 092	992 204	895 140
Index (2007 = 100)	*100*	*86*	*78*	*70*

(87) The market share held by the Union industry decreased by 1 percentage point over the period considered.

Table 7

EU Market share

	2007	2008	2009	IP
Union Market share	89 %	89 %	90 %	88 %
Index (2007 = 100)	*100*	*100*	*101*	*99*

5.2.3. Employment and productivity

(88) The employment decreased by 11 % between 2007 and 2008. During the period considered it fell by 16 %.

Table 8

Employment

	2007	2008	2009	IP
Average period				
Total employment	92 588	82 214	79 518	77 458
Index (2007 = 100)	*100*	*89*	*86*	*84*

(89) Productivity of the Union industry's workforce, measured as output per person employed per year, was stable between 2007 and 2008. However, from 2008 to the IP there was a decline in productivity of 19 % linked to the fall in production.

Table 9

Productivity

	2007	2008	2009	IP
Productivity (m^2 per year/ employee)	17 439	17 453	13 834	14 132
Index (2007 = 100)	*100*	*100*	*79*	*81*

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5.2.4. Magnitude of the dumping margin

(90) The dumping margins are specified above in the dumping section. All margins established are significantly above the *de minimis* level. Furthermore, given the volumes and the prices of dumped imports, the impact of the actual margin of dumping cannot be considered negligible.

5.3. *Micro-economic indicators*

(91) The analysis of microeconomic elements (stocks, sales prices, cash flow, profitability, return on investments, ability to raise capital, investments and wages) was carried out for the individual companies, i.e. at the level of those Union producers that were included in the sample.

5.3.1. General remark

(92) For some micro-economic indicators (sales price, cost of production, profitability and return on investments, i.e. indicators expressed in other than absolute values, i.e. only values expressed in percentages) the results of the sampled companies in the specific segment have been weighted in accordance with the share of that segment in the total Union production (using the specific weight of each segment in the total ceramic tile sector – 52 % for small companies, 24 % each for the medium-sized and large companies). As a consequence it has been ensured that the results of large companies did not dominate the injury analysis but that the situation of the small companies, collectively accounting for the largest share of the Union production, was properly reflected.

5.3.2. Stocks

(93) Although the level of closing stocks of the Union industry decreased in absolute terms by 14 % over the period considered, when expressed as percentage of production it substantially increased (by 37 %).

Table 10

	2007	2008	2009	IP
Stocks (thousand m^2)	48 554	50 871	39 689	41 887
Index (2007 = 100)	*100*	*105*	*82*	*86*
Stocks as percentage of production	43 %	49 %	55 %	59 %
Index (2007 = 100)	*100*	*114*	*128*	*137*

(94) The increase in stocks is a telling injury factor. Companies in the sector normally keep stocks of three months of production but the pressure of the Chinese dumped imports has forced them to increase their stocks up to six months of production. Indeed an even and steady yearly increase of stocks from 43 % in 2007 to 59 % in the IP was observed.

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(95) This increase of stocks is explained by the fact that Chinese exporting producers focused on sales of large batches of homogenous product whereas the Union industry offered a much larger variety of products in terms of types, colours, sizes. In order to react within a very short time to very specific orders the Union industry had to increase stocks.

5.3.3. Sales prices

(96) Unit sales prices of the Union industry increased by 10 % during the period considered.

Table 11

Unit price EU market

	2007	2008	2009	IP
Unit prices of Union sales (EUR/m^2)	8,0	8,4	8,7	8,8
Index (2007 = 100)	*100*	*104*	*108*	*110*

(97) The price increase was due to a variety of factors. First it was the need to recover increases in costs of production that during the same period increased by 14 % (see recital 106). The price increase was further due to the increasing stocks (see above recital 95) and to the changed product mix offered by the Union industry. The imports from China concentrated on large batches of homogeneous product. The Union industry had to thus focus on small batches of the product concerned where demand was more fragmented with lower quantities and a larger variety in terms of types, colours, and sizes.

(98) However, despite the increase in unit prices, the Union industry operated below target profit. In fact, the segment of small companies was loss-making.

(99) The development of prices of imports from China has been outlined in recital 75. As can be seen, these prices followed a different trend to that of the Union industry and were consistently lower. During the IP, prices from China were half of the Union industry prices.

5.3.4. Profitability, cash flow, return on investment, ability to raise capital, investments and wages

(100) As mentioned above, the increase in cost of production was higher than the increase in sales prices. With an increase in costs of 14 % occurring over the period considered, the Union industry managed to increase its prices by only 9 %. Profitability then decreased from 3,9 % in 2007 to 0,4 % in the IP. The industry achieved the lowest profit in 2009, when it was unable to cover its cost with a loss of 1,2 %. Out of three segments, the most affected segment was the one of small companies which has been registering a loss since 2008. Large and medium-sized companies, despite substantial decreases in profitability, managed to sell at modest albeit not sustainable profits.

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(101) Profits achieved by the large and medium-sized companies cannot be disclosed due to confidentiality reasons. In the segment of large companies calculation of profits has been based on data of one company, while disclosure of results of medium-sized companies would allow other companies to calculate the profits of other segments since the overall weighted profits are known.

Table 12

Profitability, cash flow, ROI, investments and wages

	2007	2008	2009	IP
Net Profit of Union sales to unrelated customers (% of net sales)	3,9 %	0,6 %	– 1,2 %	0,4 %
Cash flow (thousand EUR)	86 663	55 131	41 599	40 256
Index (2007 = 100)	*100*	*64*	*48*	*46*
ROI (net profit in % of net book value of investments)	8,3 %	4,0 %	– 0,5 %	1,1 %
Net investments (thousand EUR)	15 733	15 673	11 005	11 283
Index (2007 = 100)	*100*	*100*	*70*	*72*
Annual labour cost per employee	38 910	39 714	37 366	37 242
Index (2007 = 100)	*100*	*102*	*96*	*96*

(102) The trend of cash-flow, which is the ability of an industry to self-finance its activities, remained positive during the period considered. However, between 2007 and the IP, it decreased by around 54 %.

(103) The return on investments ('ROI') broadly followed the profitability trend over the whole period considered.

(104) Between 2007 and the IP, the annual flow of investments in the product concerned made by the Union industry decreased by 28 %.

(105) Between 2007 and the IP, the average wage per employee decreased by 4 %.

5.3.5. Cost of production

Table 13

Cost of production

	2007	2008	2009	IP
Cost of production EUR/m^2	7,7	8,3	8,8	8,8
Index	*100*	*108*	*114*	*114*

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(106) As indicated above, the cost of production increased over the period considered by 14 %. This increase was due to the increase in stocks (see above recital 95) and to the changed product mix offered by the Union industry (more variety of products in terms of types, colours, sizes) whereas the Chinese imports concentrated on large batches of homogeneous product. The Union industry had to increase its stocks in order to be able to react in a short time to very specific orders and also has to provide a larger variety of product.

6. **Conclusion on injury**

(107) The investigation has shown that the injury indicators such as production volume, capacity utilization, sales to unrelated customers and employment deteriorated during the period considered. Although it cannot be disregarded that the negative evolution of consumption has had a negative effect on the Union industry, it is noteworthy that the Chinese imports managed to increase their market share, through price pressure.

(108) In addition, the injury indicators related to the financial performance of the Union producers – such as profitability, return on investments and cash-flow were seriously negatively affected during the period considered. A telling injury factor is the substantial increase in stocks (by 37 %) over the period considered. This increase is explained by the fact that Chinese exporting producers focused on sales of large batches of homogenous product whereas the Union industry offered a much larger variety of products in terms of types, colours, sizes. The Union industry had to increase its stocks in order to be able to react in a short time to very specific orders and to provide a larger variety of products.

(109) Although the selling prices of the Union industry increased over the period considered, this is mainly due to the increase in cost of production. Overall, the profitability deteriorated over the period considered. In fact, the segment of small companies which constituted half of the Union industry was loss making since 2008. Hence, even despite the increase in sales prices, the industry was unable to reach a sufficient profit. The industry was not in a position to increase their sales prices to a level that would have profitability rates necessary for long-term viability.

(110) The analysis of price trends based on Eurostat figures showed that the price differential between the dumped imports from China and the Union industry prices increased from around 40 % in 2007 and 2008 to around 50 % in 2009 and the IP.

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(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.

E. CAUSATION

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 was caused by the dumped imports from the country concerned. Furthermore, known factors other than dumped imports, which might have caused injury to the Union industry, were examined to ensure that any injury caused by those factors was not attributed to dumped imports.

2. Impact of the imports from China

(113) The increasing market share of Chinese exporting producers over the period considered coincided in time with a decrease of the Union industry's profits and a substantial increase of its stocks.

(114) This also coincided with a decrease in Union consumption. However, while the Chinese imports decreased in volume by 9 percentage points between 2007 and 2009, in line with the shrinking consumption (although not at the same pace - consumption shrank by 23 percentage points over the same period), since 2007 the Chinese market share was steadily growing. Moreover, between 2009 and the IP, despite further decrease in consumption by 6 percentage points, Chinese imports increased by 6 percentage points.

(115) The price differential (based on Eurostat average figures) between Chinese imports and the prices of the Union industry was very significant during the whole period considered. The fact that already in 2007 it amounted to over 40 % suggests that the price strategy by the Chinese exporting producers started before the economic crisis. Also, this differential increased post-crisis reaching 50 % in the IP.

(116) The increasing market share of the Chinese imports combined with decreasing prices and the increasing price differential between Union and Chinese prices coincided in time with the deterioration of the situation of the Union industry.

3. Effects of other factors

3.1. *Impact of imports from third countries other than China*

(117) The volume of imports from third countries other than China decreased by 40 % over the period considered. The market share of those imports also slightly decreased over the same period (around 1 %). Whereas the prices of those imports were comparable with Chinese prices in 2007, the price differential increased to 18 % in 2009 and 16 % in the IP.

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(118) Turkey is the second largest exporter to the Union with a market share of 3 % in the IP. This market share remained stable (decreased slightly by 0,4 %) over the period considered. The volume of imports from Turkey decreased by 37 % over the period considered. Although the prices of Turkish imports were below those of the Union industry (by about 40 % over the period considered), the price differential between Turkish and Chinese imports increased to 16 % in 2009 and the IP following a 22 % increase in Turkish prices. On these grounds it cannot be excluded that imports from third countries other than China might have contributed to a very limited extent to the material injury suffered by the Union industry. However, they did not break the causal link established with the dumped imports from China.

4. **Impact of the high fragmentation of the Union industry**

(119) The Union tile industry is highly fragmented. However, the overall number of companies decreased during the period considered due to a consolidation process which has been ongoing over the past two decades. Most importantly, however, in those Member States with the largest share of production, where at the same time the fragmentation is more pronounced, the investigation showed that companies operate in clusters. This structure guarantees efficient allocation of resources. In fact fragmentation allows large companies to subcontract to small companies the production of certain types of products (in terms of colours, sizes, etc). With the help of the small companies the industry is able to supply many types of products in a short time. This became particularly important in light of the Chinese competition selling large batches of the homogeneous product where there is no space for flexibility in design, colours etc. In these circumstances, a causal link between fragmentation and the deterioration of the situation of the Union industry in the period considered cannot be established.

4.1. *Impact of the economic crisis*

(120) The investigation showed that the economic crisis undoubtedly impacted on the situation of the Union industry.

(121) The impact was mainly related to the downturn in the construction industry, which has been reflected in the decreasing consumption of ceramic tiles. Generally, in 2009 the decline in the overall EU construction activity amounted to 7,5 % ([1]). The more precise impact of the general economic climate on the construction industry would differ depending on the specific segment within that industry ([2]). In 2009 the decrease in construction activity has largely been concentrated in the new-house building and private non-residential building segments. In contrast, civil engineering has been affected less and the public non-residential segment even grew by 1,1 % in 2009. According to the European Construction Industry Federation these trends reflected governmental actions to uphold or even increase expenditure on public buildings and infrastructure, as part of the national stimulus packages. Similarly fiscal incentives for energy efficient solutions mitigated the impact of economic downturn on renovation and maintenance activities.

([1]) Source: www.fiec.org
([2]) Ibid.

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(122) The aforementioned developments had a positive effect on renovations and maintenance segments (positive implications for the production, sales and profitability of the down-stream industry as profit margins are higher in the retail segment). In any case those segments were affected less by the economic downturn.

(123) The following analysis demonstrates that, although the economic downturn might have impacted on the situation of the Union industry, the material injury suffered by the Union industry was indeed caused by the dumped imports from China.

(124) Firstly, the investigation showed that the construction industry started to recover from the effects of the economic downturn in the IP, whereas the indicators of the Union industry continued to show a downward trend.

(125) Secondly, an important element is the development of stocks, which in this case serves as a telling injury indicator (see above recital 93). A rather steady yearly increase in stocks has been observed. This type of even and steady increase suggests that the Union industry was in fact mainly under the constant pressure by the Chinese exporting producers. If the increase of stocks were to be attributed to the economic downturn a substantial increase in the years of the crisis would have probably been observed rather than a steady trend over the whole period considered.

(126) Finally, the analysis of the profitability figures, especially of the small companies, which accounted for almost 50 % of the Union production during the IP, shows that those companies achieved only a very modest profit of 0,3 % already in 2007 and were loss-making ever since. This suggested that their situation started to deteriorate already before the crisis.

(127) In the light of the above, it is considered that the deterioration of the economic situation of the Union industry was mainly caused by the dumped imports from China. Even though the economic crisis, and the resulting contraction in demand, might have contributed to the injury suffered by the Union industry, its impact was not such as to break the causal link established between the dumped imports from China and the material injury suffered by the Union industry.

4.2. *Claims with regard to self-inflicted injury*

(128) One importer claimed that the main cause of injury were low-priced sales by Polish tiles producers. In this respect it has to be noted that the injury analysis should be conducted at the level of the Union industry as a whole and not in relation to a part of it. The Commission nevertheless analysed the situation of the Polish market on the basis of the information available (it is recalled that the sampled Polish company decided to discontinue its cooperation and no other Polish company agreed to cooperate).

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(129) Firstly it was found that, in terms of volumes, the Polish sales onto the rest of the Union market represented a market share of less than 3 % during the IP.

(130) Secondly, had the Polish companies cooperated in the investigation and their prices were taken into account in the undercutting analysis, this would have had a very limited weight on the overall undercutting calculation. Due to the lack of cooperation on the part of the Polish company, detailed price information per PCN was not available. But even under a 'maximum impact' approach, assuming that all Polish sales would have been included in the calculation, the impact would have been marginal and would have not changed the overall picture in view of the relative low sales volumes ([1]).

(131) On this basis the impact of the Polish sales on the injury suffered by the Union industry, if any, was limited.

(132) Another claim alleging self-inflicted injury was that some Union producers would have completed their catalogues with imports of Chinese tiles and re-sold them under their own brand names. This claim was however not substantiated and in addition evidence collected during the investigation showed that those imports were marginal. Hence, it cannot be concluded that those imports by the EU producers, contributed to the injury suffered by the Union industry.

5. **Export performance for the Union industry**

(133) Export performance was also examined as one of the known factors other than the dumped imports, which could have injured the Union industry, to ensure that possible injury caused by these other factors was not attributed to the dumped imports. The analysis of Eurostat data showed that indeed the exports from the Union decreased by 44 %. However the prices of those exports increased by 32 %. For the cooperating sampled producers the decrease was less pronounced (– 24 %). The investigation also showed that the share of exports expressed as percentage of total sales of the Union industry increased from 17 % in 2007 to 19 % in 2009. Further, even though exports volumes for the cooperating Union producers decreased, that decrease was less pronounced than the fall of sales on the Union market (– 24 % for exports as compared with – 30 % for Union sales). Hence, it is considered that the decrease in export volume cannot explain the level of injury suffered by the Union industry.

([1]) In order to check volumes and prices of Polish EU sales, due to lack of cooperation from Polish producers, the Commission used a combination of available sources (i.e. Eurostat, Prodcom, standing and sampling returns from three Polish companies).

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(134) On the basis of the above, it is provisionally concluded that the export performance of the Union industry did not contribute to the material injury suffered by it.

6. **Conclusion on causation**

(135) It was thus concluded that there is a causal link between the injury suffered by the Union industry and the dumped imports from China. The economic crisis and imports from third countries other than China had an impact on the situation of the Union industry but it was not such as to break the causal link established between the dumped imports from China and the material injury suffered by the Union industry.

(136) Based on the above analysis of the effects of all known factors on the situation of the Union industry, it was therefore provisionally concluded that there is a causal link between the dumped imports from China and the material injury suffered by the Union industry during the IP.

F. **UNION INTEREST**

1. **Interest of the Union industry**

(137) There was a high level of cooperation and support from the European Association (Cerame-Unie) and the major national associations of producers. Moreover, no Union producers have declared their opposition to the initiation of the investigation or the imposition of measures. This suggests that the imposition of measures is clearly in the interest of the Union producers.

(138) The investigation showed that the Union industry is suffering material injury because of the effects of dumped imports which undercut its prices, as elaborated in recital 76 et seq.

(139) It can be expected that the Union industry would benefit from the measures which would likely prevent a further surge of dumped, low-priced imports.

(140) Should measures not be imposed, it can be expected that the increase of imports of dumped, low-priced ceramic tiles would continue, if not increase. The effect of depression of sales prices exerted by the dumped imports from China would continue to compress Union producers' sales prices and profits.

(141) As the financial situation and profitability of the Union industry is not strong enough to withstand further price pressure exerted by dumped imports that considerably undercut their prices, this would lead very likely to the progressive demise of a large number of Union producers.

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2. **Interest of importers**

(142) The cooperation of unrelated importers and users accounted for around 6 % of the total volume of imports from China. In the sampling exercise (see recital 15), seven unrelated importers (one being a user) were selected. They accounted for around 5 % of total imports from China. The cooperating importers were mainly trading tiles, with an exception of one importer for whom tiles' trade represents a small fraction of its overall business. For those cooperating importers the share of imports from China of their total purchases was very significant (above 3/4). Although it appears that there is margin to absorb a price increase of Chinese imports, since the importers' mark-up on those imports is around 50 %, they normally report profits of around 5 %.

(143) Consequently, from a simple cost perspective, should measures be imposed they would in all likelihood have an impact on the importers' business.

(144) However, the investigation revealed that it is possible for importers and users to switch to products sourced from third countries or from within the Union. This change can occur quite easily since the product under investigation is manufactured in several countries, both in the Union and outside (Turkey, United Arab Emirates, Egypt, Brazil, countries of South-East Asia, and others).

(145) One importer declared that it tried to switch suppliers, as a consequence of the initiation of the investigation, but its efforts were unsuccessful. On the other hand, another importer declared that this process was already ongoing at the time of the investigation and was successful. A third one claimed that it would expand its portfolio to non-Chinese producers and that this would be easily done.

(146) It is therefore provisionally concluded that the imposition of measures would not hamper Union importers from buying similar products from other sources. Further, the aim of the anti-dumping duties is not to seal off specific trade channels but to restore the level playing field and counter-act unfair trade practices.

(147) Finally, the rather low level of cooperation of unrelated importers could suggest that the imposition of measures would not have a significant impact on their activity.

3. **Interest of users**

(148) The Commission contacted two major users' association in the Union.

(149) The construction sector (represented by the European Construction Industry Federation) decided not to cooperate actively in the investigation. It replied to Commission's initial enquiry, but thereafter ceased to cooperate due to the lack of interest from its members.

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(150) This low level of cooperation from users would suggest that the sector does not rely heavily on Chinese imports or that, in case of measures, it would not be harmed significantly. This seems particularly true in the construction sector, where, as declared by producers during verification visits, ceramic tiles have a marginal bearing on final costs. This would appear reasonable given the cost of other materials in new constructions or renovations. Also, as mentioned above, the sources of supply could be switched relatively easily.

(151) The European Do-It-Yourself Association (EDRA) contacted the Commission on behalf of its members. This association submitted its comments at the beginning of the investigation, claiming that duties would lead to an increase in consumer prices and a switch to other sources of supply would trigger a high cost, both for distributors and customers. These claims have, however, not been substantiated.

4. **Interest of final consumers**

(152) The Commission contacted one association of consumers which replied that it was not interested in cooperating. No other consumers' association made itself known.

(153) The impact of anti-dumping duties on consumers is likely to be limited, since the mark-up applied by resellers is normally very high. Even in case of price increases, these would rather have a limited impact on consumers given that the cost increase would range between EUR 1,5 and EUR 3 per m^2 (based on average price of Chinese imports of EUR 4,5 in the IP). Individual consumers buy limited quantities of tiles and not too frequently. Further, short-term price increase might have beneficial long term effects for consumers in ensuring competition on the market. Lack of competition in the long run might lead to even higher price increase and disappearance of low priced imports.

5. **Interest of suppliers**

(154) Neither suppliers nor association of suppliers made themselves known during the investigation.

(155) The investigation revealed that the suppliers that could be mostly interested by the ongoing proceeding were the manufacturers of equipment for the production of tiles. The investigation showed that certain Chinese producers purchased such equipment from suppliers based in the Union. Nevertheless, it appeared from official data that sales from the Union to China followed a stable, slightly decreasing trend during the last decade, and that China represented a sizeable, but not an overwhelming part of their sales (around 10 %). Indeed the main customers of the suppliers were Union producers hence the suppliers are vitally interested in and depend upon the performance of the Union industry.

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(156) Moreover, the lack of cooperation from this sector suggested that suppliers do not consider that anti-dumping measures against imports of the product concerned would significantly harm their situation.

6. **Conclusion on Union interest**

(157) In view of the above, it was provisionally concluded that overall there are no compelling reasons against the imposition of provisional measures on imports of ceramic tiles originating in China.

G. **PROVISIONAL ANTI-DUMPING MEASURES**

1. **Injury elimination level**

(158) In view of the conclusions reached above with regard to dumping, resulting injury, causation and Union interest, provisional anti-dumping measures on imports of the product concerned from China should be imposed in order to prevent further injury being caused to the Union industry by the dumped imports.

2. **Provisional measures**

(159) In the light of the foregoing, it is considered that, in accordance with Article 7(2) of the basic Regulation, provisional anti-dumping measures should be imposed in respect of imports originating in China at the level of the lower of the dumping and the injury margins, in accordance with the lesser duty rule.

(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 country-wide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the People's Republic of China 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 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.

([1]) European Commission, Directorate-General for Trade, Directorate H, 1049 Brussels, Belgium.

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(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.

(163) In order to minimise the risks of circumvention due to the high difference in the duty rates, it is considered that special measures are needed in this case to ensure the proper application of the anti-dumping duties. These special measures include the following: The presentation to the Customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in the Annex to this Regulation. Imports not accompanied by such an invoice shall be made subject to the residual anti-dumping duty applicable to all other exporters.

(164) ►C1 Should the exports by one of the companies benefiting from lower individual duty rates increase significantly in volume after the imposition of the measures concerned, such an increase in volume could be considered as constituting in itself a change in the pattern of trade due to the imposition of measures within the meaning of Article 13(1) of the basic Regulation. ◄ In such circumstances and provided the conditions are met an anti-circumvention investigation may be initiated. This investigation may, inter alia, examine the need for the removal of individual duty rate(s) and the consequent imposition of a country-wide duty.

(165) The following proposed duty rates are based on dumping margins established by the investigation since they were lower than injury margins. The provisional anti-dumping duties are established as follows:

Company	Dumping margin	Provisional duty
Guangdong Xinruncheng Ceramics Co. Ltd	35,5 %	35,5 %
Shandong Yadi Ceramics Co., Ltd	36,6 %	36,6 %
Dongguan City Wonderful Ceramics Industrial Park Co., Ltd; Guangdong Jiamei Ceramics Co., Ltd; Qingyuan Gani Ceramics Co. Ltd; Foshan Gani Ceramics Co. Ltd	26,2 %	26,2 %
All other cooperating producers	32,3 %	32,3 %
All other	73,0 %	73,0 %

H. **FINAL PROVISION**

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

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HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of glazed and unglazed ceramic flags and paving, hearth or wall tiles; glazed and unglazed ceramic mosaic cubes and the like, whether or not on a backing, currently falling within CN codes 6907 10 00, 6907 90 20, 6907 90 80, 6908 10 00, 6908 90 11, 6908 90 20, 6908 90 31, 6908 90 51, 6908 90 91, 6908 90 93 and 6908 90 99, and originating in the People's Republic of China.

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

Company	Duty	TARIC additional code
Guangdong Xinruncheng Ceramics Co. Ltd	35,5 %	B009
Shandong Yadi Ceramics Co. Ltd	36,6 %	B010
Dongguan City Wonderful Ceramics Industrial Park Co. Ltd; Guangdong Jiamei Ceramics Co. Ltd; Qingyuan Gani Ceramics Co. Ltd; Foshan Gani Ceramics Co. Ltd	26,2 %	B011
Companies listed in Annex I	32,3 %	B012
All other companies	73,0 %	B999

3. The application of the individual duty rates specified for the companies mentioned in paragraph 2 shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in the Annex II. If no such invoice is presented, the duty applicable to all other companies shall apply.

4. 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.

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

Article 2

1. 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 one month of the date of entry into force of this Regulation.

▼B

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

Article 3

This Regulation shall enter into force on the day following 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.

▼B

ANNEX I

►C1 Chinese cooperating producers not sampled or not granted individual treatment ◄ (TARIC additional code B012):

1 Dongguan He Mei Ceramics Co. Ltd

2 Dongpeng Ceramic (Qingyuan) Co. Ltd

3 Eagle Brand Ceramics Industrial (Heyuan) Co. Ltd

4 Enping City Huachang Ceramic Co. Ltd

5 Enping Huiying Ceramics Industry Co. Ltd

6 Enping Yungo Ceramic Co. Ltd

7 Foshan Aoling Jinggong Ceramics Co. Ltd

8 Foshan ASGF Ceramics Co. Ltd

9 Foshan Bailifeng Building Materials Co. Ltd

10 Foshan Boli Import & Export Co. Ltd

11 Foshan Bragi Ceramic Co. Ltd

12 Foshan City Fangyuan Ceramic Co. Ltd

13 Foshan Dunhuang Building Materials Co. Ltd

14 Foshan Eminent Industry Development Co. Ltd

15 Foshan Everlasting Enterprise Co. Ltd

16 Foshan Gaoming Shuncheng Ceramic Co. Ltd

17 Foshan Gaoming Yaju Ceramics Co. Ltd

18 Foshan Guanzhu Ceramics Co. Ltd

19 Foshan Huashengchang Ceramic Co. Ltd

20 Foshan Huitao Economic & Trading Co. Ltd

21 Foshan Jiajun Ceramics Co. Ltd

22 Foshan Mingzhao Technology Development Co. Ltd

23 Foshan Nanhai Jingye Ceramics Co. Ltd

24 Foshan Nanhai Shengdige Decoration Material Co. Ltd

25 Foshan Nanhai Xiaotang Jinzun Border Factory Co. Ltd

26 Foshan Nanhai Yonghong Ceramic Co. Ltd

27 Foshan Oceanland Ceramics Co. Ltd

28 Foshan Oceano Ceramics Co. Ltd

29 Foshan Sanshui Hongyuan Ceramics Enterprise Co. Ltd

30 Foshan Sanshui Huiwanjia Ceramics Co. Ltd

31 Foshan Sanshui New Pearl Construction Ceramics Industrial Co. Ltd

32 Foshan Sheng Tao Fang Ceramics Co. Ltd

33 ►C1 Foshan Shiwan Eagle Brand Ceramic Co. Ltd ◄

34 Foshan Shiwan Yulong Ceramics Co. Ltd

35 Foshan Summit Ceramics Co. Ltd

36 Foshan Tidiy Ceramics Co. Ltd

37 Foshan VIGORBOOM Ceramic Co. Ltd

38 Foshan Xingtai Ceramics Co. Ltd

39 Foshan Yueyang Alumina Products Co. Ltd

▼B

40 Foshan Zhuyangyang Ceramics Co. Ltd

41 Fujian Fuzhou Zhongxin Ceramics Co. Ltd

42 Fujian Jinjiang Lianxing Building Material Co. Ltd

43 Fujian Minqing Jiali Ceramics Co. Ltd

44 Fujian Minqing Ruimei Ceramics Co. Ltd

45 Fujian Minqing Shuangxing Ceramics Co. Ltd

46 Gaoyao Yushan Ceramics Industry Co. Ltd

47 Guangdong Bode Fine Building Materials Co. Ltd

48 Guangdong Foshan Redpearl Building Material Co. Ltd

49 Guangdong Gold Medal Ceramics Co. Ltd

50 Guangdong Grifine Ceramics Co. Ltd

51 Guangdong Homeway Ceramics Industry Co. Ltd

52 Guangdong Huiya Ceramics Co. Ltd

53 Guangdong Juimsi Ceramics Co. Ltd

54 Guangdong Kaiping Tilee's Building Materials Co. Ltd

55 Guangdong Kingdom Ceramics Co. Ltd

56 Guangdong Kito Ceramics Co. Ltd

57 Guangdong Monalisa Ceramics Co. Ltd

58 Guangdong New Zhong Yuan Ceramics Co. Ltd Shunde Yuezhong Branch

59 ►C1 Guangdong Ouya Ceramic Co. Ltd ◄

60 Guangdong Overland Ceramics Co. Ltd

61 Guangdong Qianghui (QHTC) Ceramics Co. Ltd

62 Guangdong Sihui Kedi Ceramics Co. Ltd

63 Guangdong Summit Ceramics Co. Ltd

64 Guangdong Tianbi Ceramics Co. Ltd

65 Guangdong Winto Ceramics Co. Ltd

66 Guangdong Xinghui Ceramics Group Co. Ltd

67 Guangning County Oudian Art Ceramic Co. Ltd

68 Guangzhou Cowin Ceramics Co. Ltd

69 Hangzhou Nabel Ceramics Co. Ltd

70 Hangzhou Nabel Group Co. Ltd

71 Hangzhou Venice Ceramics Co. Ltd

72 Heyuan Wanfeng Ceramics Co. Ltd

73 Hitom Ceramics Co. Ltd

74 Heyuan Becarry Ceramics Co. Ltd

75 Huiyang Kingtile Ceramics Co. Ltd

76 Jiangxi Ouya Ceramics Co. Ltd

77 Jingdezhen Kito Ceramics Co. Ltd

78 Jingdezhen Lehua Ceramic Sanitary Ware Co. Ltd

79 Jingdezhen Tidiy Ceramics Co. Ltd

80 Kim Hin Ceramics (Shanghai) Co. Ltd

81 Lixian Xinpeng Ceramic Co. Ltd

82 ►C1 Louis Valentino (Inner Mongolia) Ceramic Co. Ltd ◄

▼B

83 Louverenike (Foshan) Ceramics Co. Ltd

84 Nabel Ceramics Co. Ltd

85 Ordos Xinghui Ceramics Co. Ltd

86 Qingdao Diya Ceramics Co. Ltd

87 Qingyuan Guanxingwang Ceramics Co. Ltd

88 Qingyuan Oudian Art Ceramic Co. Ltd

89 Qingyuan Ouya Ceramics Co. Ltd

90 RAK (Gaoyao) Ceramics Co. Ltd

91 Shandong ASA Ceramic Co. Ltd

92 Shandong Dongpeng Ceramic Co. Ltd

93 Shandong Jialiya Ceramic Co. Ltd

94 Shanghai Cimic Tile Co. Ltd

95 Shaoguan City Lehua Ceramic Sanitary Ware Co. Ltd

96 Shunde Area Foshan Lehua Ceramic Sanitary Ware Co. Ltd

97 Sinyih Ceramic (China) Co. Ltd

98 Sinyih Ceramics (Penglai) Co. Ltd

99 Southern building materials and Sanitary Co. Ltd of Qingyuan

100 Tangshan Huida Ceramic group Co. Ltd

101 Tangshan Huida Ceramic Group Huiquin Co. Ltd

102 Tegaote Ceramics Co. Ltd

103 Tianjin (TEDA) Honghui Industry & Trade Co. Ltd

104 Topbro Ceramics Co. Ltd

105 Xingning Christ Craftworks Co. Ltd

106 Zhao Qing City Shenghui Ceramics Co. Ltd

107 Zhaoqing Jin Ouya Ceramics Co. Ltd

108 Zhaoqing Lehua Ceramic Sanitary Ware Co. Ltd

109 ►C1 Zhaoqing Zhongheng Ceramics Co. Ltd ◄

110 Zibo Hualiansheng Ceramics Co. Ltd

111 Zibo Huaruinuo Ceramics Co. Ltd

112 Zibo Tongyi Ceramics Co. Ltd

▼B

ANNEX II

A declaration signed by an official of the entity issuing the commercial invoice, in the following format, must appear on the valid commercial invoice referred to in Article 1(3):

(1) the name and function of the official of the entity issuing the commercial invoice;

(2) the following declaration:

'I, the undersigned, certify that the (volume) of ceramic tiles sold for export to the European Union covered by this invoice was manufactured by (company name and registered seat) (TARIC additional code) in (country concerned). I declare that the information provided in this invoice is complete and correct.

Date and signature'.