

Commission Implementing Regulation (EU) No 1313/2014 of 10 December 2014 imposing a definitive anti-dumping duty on imports of certain prepared or preserved citrus fruits (namely mandarins, etc.) originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009

COMMISSION IMPLEMENTING REGULATION (EU) No 1313/2014

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imposing a definitive anti-dumping duty on imports of certain prepared or preserved citrus fruits (namely mandarins, etc.) originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community<sup>(1)</sup> (the basic Regulation), and in particular Article 11(2) thereof,

Whereas:

1. **PROCEDURE**

1.1. **Measures in force**

- (1) By Regulation (EC) No 1355/2008<sup>(2)</sup> the Council imposed a definitive anti-dumping duty on imports of certain prepared or preserved citrus fruits originating in the People's Republic of China (China). The measures took the form of a specific duty per company ranging from 361,4 EUR/tonne to 531,2 EUR/tonne net product weight.
- (2) These measures have been annulled by the Court of Justice of the European Union on 22 March 2012<sup>(3)</sup> but were re-imposed on 18 February 2013 by Council Implementing Regulation (EU) No 158/2013<sup>(4)</sup>.

1.2. **Request for an expiry review**

- (3) Following the publication of a Notice of impending expiry of the definitive anti-dumping measures in force<sup>(5)</sup>, the Commission received on 12 August 2013 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 Federación Nacional de Asociaciones de Transformados Vegetales y Alimentos Procesados (FENAVAL) on behalf of producers representing more than 75 % of the total Union production of certain prepared or preserved citrus fruits.

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- (4) The request was based on the grounds that the expiry of the definitive anti-dumping measures would be likely to result in continuation of dumping and recurrence of injury to the Union industry.

1.3. **Initiation of an expiry review**

- (5) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review, the Commission announced on 25 October 2013, by a notice published in the *Official Journal of the European Union*<sup>(6)</sup> (the Notice of Initiation), the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

1.4. **Investigation**

1.4.1. *Review investigation period and period considered*

- (6) The investigation of a continuation of dumping covered the period from 1 October 2012 to 30 September 2013 (the review investigation period). The examination of the trends relevant for the assessment of the likelihood of recurrence of injury covered the period from 1 October 2009 to the end of the review investigation period (the period considered).

1.4.2. *Parties concerned by the investigation*

- (7) The Commission officially advised the following parties of the initiation of the expiry review: the applicant, the producers in the Union and their relevant associations, the known exporting producers in China and in the potential analogue countries, unrelated importers in the Union and their relevant associations, suppliers to producers in the Union and their relevant associations, an association of consumers in the Union known to be concerned and the representatives of the exporting country. These 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.
- (8) In view of the apparent large number of exporting producers in China and of unrelated importers in the Union, it was considered appropriate to examine whether sampling should be used, 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, those parties were requested to make themselves known within 15 days of the initiation of the review and to provide the Commission with the information requested in the Notice of Initiation.
- (9) Since only one group of exporting producers in China came forward with the requested information, it was not considered necessary to select a sample of exporting producers.
- (10) With regard to unrelated importers, 32 were identified and invited to provide sampling information. Seven of them came forward and provided the

information necessary for the sampling selection. Out of them, three were selected to be part of the sample, but only two confirmed within the deadline their willingness to be part of the sample exercise.

- (11) On the basis of the above, the Commission sent questionnaires to interested parties and to those who had made themselves known within the deadlines set in the Notice of Initiation. Replies were received from five Union producers, the cooperating exporting producer in China, two unrelated importers, eight suppliers to the Union producers, one association of suppliers to the Union producers and one producer in the analogue country.
- (12) Two associations of importers came forward as interested parties. Five unrelated importers also submitted comments.
- (13) With regard to the analogue country producers, four companies were identified and invited to provide necessary information. Only one of these companies provided the requested information and agreed with the verification visit.
- (14) The Commission verified all the information it deemed necessary for a determination of the likelihood of a continuation of dumping and likelihood of recurrence of injury and of the Union interest. Verification visits were carried out at the premises of the following interested parties:
  - (a) Union producers:
    - Halcon Foods S.A.U., Murcia, Spain
    - Conservas y Frutas S.A., Murcia, Spain
    - Agricultura y Conservas S.A., Algemesi (Valencia), Spain
    - Industrias Videca S.A., Villanueva de Castellón (Valencia), Spain
  - (b) Exporting producer in China:
    - Zhejiang Taizhou Yiguan Food Co., Ltd, China and its related company Zhejiang Merry Life Food Co.,Ltd
  - (c) Unrelated importers in the Union:
    - Wünsche Handelsgesellschaft International mbH & Co KG, Hamburg, Germany
    - I. Schroeder KG (GmbH & Co), Hamburg, Germany
  - (d) Producer in the analogue country:
    - Frigo-Pak Gıda Maddeleri Sanayi Ve Ticaret A.S., Turkey

#### 1.5. **Disclosure of the essential facts and the hearings**

- (15) On 13 October 2014, the Commission made the disclosure of the essential facts and considerations on the basis of which it intended to impose anti-dumping duties (final disclosure). Subsequent to the final disclosure, several interested parties made written submissions including their views

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on the definitive findings. The parties who so requested were granted an opportunity to be heard. Three importers requested and were afforded a joint hearing in the presence of the Hearing Officer in trade proceedings. One European association of traders requested and was afforded a hearing with the Commission services.

## 2. **PRODUCT CONCERNED AND LIKE PRODUCT**

### 2.1. **Product concerned**

(16) The product concerned by this review is the same as the one in the original investigation, that is prepared or preserved mandarins (including tangerines and satsumas), clementines, wilkings and other similar citrus hybrids, not containing added spirit, whether or not containing added sugar or other sweetening matter, and as defined under CN heading 2008, originating in the People's Republic of China (the product concerned), currently falling within CN codes 2008 30 55, 2008 30 75 and ex 2008 30 90.

(17) The product concerned is obtained by peeling and segmenting certain varieties of small citrus fruit (mainly satsumas) which are then packaged in a medium of sugar syrup, juice or water in various sizes to meet the specific demands of the different markets.

(18) Satsumas, clementines and other small citrus fruit are commonly known by the collective name 'mandarin'. Most of these different varieties of fruit are suitable to be used as fresh product or for processing. They are similar and their preparations or preservations are, thus, considered to be one single product.

### 2.2. **Like product**

(19) The Union's producers argued that the imported product and the Union product are alike on the following grounds:

- both products share the same or very similar physical properties such as taste, shape, size and texture,
- they are sold through the same or similar channels and they mainly compete on price,
- they both have the same or similar end-uses,
- they are easily interchangeable,
- they are classified under the same Combined Nomenclature codes for the tariff purposes.

(20) Certain importers claimed, on the other hand, that the imported product is of higher quality since it contains less broken segments (5 % maximum) as well as better taste, appearance and the structure than the Union product. It was also claimed that the imported product differs in terms of smell from the Union product.

- (21) The Commission investigated those claims and in view of the available data concluded that the claims of the Union's industry referred to in recital 19 are correct.
- (22) As far as the claims made by the importers are concerned, they had to be rejected on the following grounds:
- (a) some quality differences relating to the amount of broken segments, taste, appearance, smell and structure did not affect the basic characteristics of the product. The imported product is still interchangeable and serves the same or similar end-uses as the Union product. In fact, the Union producers sold their product, also with a higher proportion of broken segments, during the period considered both to the importers and to the same categories of users/consumers (for example supermarket chains and bakery industry suppliers), which were also served by the importers. In addition, one supermarket chain in the European Union also confirmed that it was selling the European and the Chinese origin product under the same brand and trademark;
- (b) the maximum amount of 5 % broken segments is not an exclusive feature of the imported product only. In fact, the investigation revealed that Union producers offered a wide range of qualities with different percentages of broken segments, including proportions which contained maximum 5 % of broken segments. Some importers purchased the product which contained maximum 5 % of broken segments from the Union producers.
- (23) Therefore, similarly to the original investigation, the imported product and the one produced by the Union industry are considered to be alike within the meaning of Article 1(4) of the basic Regulation.

### 3. **LIKELIHOOD OF CONTINUATION OF DUMPING**

#### 3.1. **Preliminary remarks**

- (24) 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 of dumping.
- (25) As mentioned in recital 9, due to the fact that only one group of companies cooperated, it was not necessary to select a sample of exporting producers in China. This company covered around 12 %-20 % (range given for reasons of confidentiality) of the imports of product concerned from China to the Union during the review investigation period.

#### 3.2. **Dumping of imports during the review investigation period**

##### 3.2.1. *Analogue country*

- (26) 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 prices or constructed

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value in an appropriate market economy third country (the ‘analogue country’), or the price from such a third 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.

- (27) In the Notice of Initiation, the Commission indicated its intention to use Turkey as an appropriate analogue country for the purpose of establishing normal value for China and invited interested parties to comment on this.
- (28) No comments were received concerning Turkey as proposed analogue country. None of the interested parties suggested alternative analogue country producers of the like product.
- (29) One of the contacted Turkish exporting producers, Frigo-Pak, submitted the full questionnaire reply in time and it accepted a verification visit at its premises.

#### 3.2.2. *Normal value*

- (30) Pursuant to Article 2(7)(a) of the basic Regulation normal value was established on the basis of the verified information received from the producer in Turkey. This company did not sell the like product on the domestic market and therefore the normal value was constructed in accordance with Article 2(3) of the basic Regulation using the costs of production and, in line with Article 2(6)(b), adding a reasonable percentage for selling, general and administrative expenses (SG&A) and, in line with Article 2(6)(c), a reasonable margin of profit. The SG&A rate used is the SG&A rate incurred, by this producer, on their domestic sales of other canned products and amounted to 10 %-20 % (range given for reasons of confidentiality). The profit rate used is the same as the one used in the initial investigation, i.e. 6,8 % which represents the profit achieved by the EU industry before it was injured by the dumped imports from China.

#### 3.2.3. *Export price*

- (31) The export sales of the cooperating exporting producer to the Union were made directly to independent customers established in the Union. In accordance with Article 2(8) of the basic Regulation the export price was established on the basis of the prices actually paid or payable for the product when sold for export from China to the Union.

#### 3.2.4. *Comparison*

- (32) The comparison between normal value and export price was made on ex-works basis.
- (33) For the purpose of ensuring a fair comparison between the normal value and the export price of the cooperating exporting producer, and in accordance

with Article 2(10) of the basic Regulation, due allowance in the form of adjustments was made with regard to differences in transport, insurance, commission and bank charges which affected prices and price comparability.

#### 3.2.5. *Dumping margin*

- (34) As provided for under 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.
- (35) For the cooperating exporting producer, that comparison showed the existence of dumping. The dumping margin amounted to more than 60 %.
- (36) For China as a whole, a comparison of the weighted average export price for Chinese imports of the product concerned, as reported in Eurostat, and a weighted average normal value established for the analogue country (duly adjusted to reflect the likely product mix of the Chinese imports in view of the product mix of the EU sales of the cooperating exporting producer for comparable product types), also established considerable dumping at even higher levels.
- (37) Subsequent to final disclosure, a European trade association claimed that, as opposed to Chinese exporting producers and Spanish producers, it did not have any possibility to verify the exact calculations (dumping and injury) and therefore asked the Commission to provide the dumping calculation details. During the hearing in the presence of the Hearing Officer, three importers also signalled that they would have preferred to receive details on the calculation of dumping.
- (38) In this respect, it should be noted that the data on which the Commission based its calculations contains business secrets and confidential information. The cooperating exporting producer which supplied such data has duly received specific disclosure of the detailed dumping and injury calculations and did not make any comments or requests for clarification. The Commission cannot make that data available for inspection by other interested parties without breaching its confidential nature. However, the methodology used by the Commission, as described in recitals 30-36 above, was disclosed to all interested parties. The Hearing Officer, during the mentioned hearing, informed the importers of the possibility of requesting him to verify the Commission's calculation if they had concerns on its accuracy. The three importers however did not request an intervention of the Hearing Officer in this respect.
- (39) In any event, the European trade association calculated itself a dumping margin, comparing average Eurostat import prices from China with the average Eurostat import prices from Turkey. According to that trade association, such comparison would suggest a lower level of dumping, circa 30 %. In this respect, it should first be noted that, in an expiry review, the

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exact level of dumping is of less importance than in an investigation in which the level of the duty is determined. Secondly, as explained in recitals 30-33 above, the Commission's calculation was based on 'real' normal value data from the cooperating and verified Turkish producer and the comparison with the Chinese export prices was made at a detailed level. Therefore, the data on which the Commission based its calculation is considered much more reliable and precise than the estimate suggested by the association in its comments to the disclosure.

- (40) During the hearing with the Hearing Officer, three importers further claimed that there was no dumping. They based that claim on the fact that the Commission had found that the average sales prices of the cooperating Chinese exporting producer to several important non-EU markets were below the average sales price to the Union market. This claim has to be rejected as dumping is selling in a given market at prices below normal value, not at prices below those achieved in other third markets.

### 3.3. **Development of imports should measures be repealed**

#### 3.3.1. *Preliminary remark*

- (41) Further to the finding of the existence of dumping during the review investigation period, the likelihood of continuation of dumping should measures be repealed was investigated and the following elements were analysed: production capacity and spare capacity in China; volume and prices of dumped imports from China; the attractiveness of the Union market in relation to imports from China.

- (42) During a big part of the RIP there were no measures in force in the EU, since they had been annulled (see recital 2 above). During that period without measures, there was peak in imports in 2011/12 followed by a drop during the rests of the review investigation period. This actually reflects a stock piling effect rather than a genuine increase/decrease in consumption and is attributed to the high level of Chinese imports which took place between March and July 2012, when the measures were not in force.

#### 3.3.2. *Production, domestic consumption and exporting capacity of the Chinese producers*

- (43) As concerns the total Chinese production capacity and spare capacity, the Commission did not obtain information from any of the Chinese producers or other interested parties. In accordance with Article 18 of the basic Regulation the Commission made its findings on the basis of facts available.

- (44) According to the report published by the Foreign Agricultural Service of the US Department of Agriculture (FSA/USDA) which was included in the review request and which is also publicly available<sup>(7)</sup>, the amount of fresh mandarins devoted to processing, that is production of canned mandarins, in China increased by 27 % between 2009/2010 (520 000 tonnes) and the review



investigation period (660 000 tonnes). The production of Chinese canned mandarins followed a similar trend. According to this report, China increased the production of canned mandarins from 347 000 tonnes in 2009/2010 to 440 000 tonnes in the review investigation period. The report further estimated that the Chinese domestic consumption of canned mandarins was around 100 000-150 000 tonnes in 2013/2014. As another publicly available source estimated that domestic consumption at 50 000-100 000 tonnes<sup>(8)</sup>, an estimate of a domestic consumption of 100 000 tonnes appears to be reasonable. Taking the above information into account, the amount of Chinese canned mandarins available for export can be estimated to be around 340 000 tonnes in the review investigation period.

- (45) Other available sources provide slightly different estimates concerning the amount of Chinese canned mandarins available for export between 2009 and 2014<sup>(9)</sup>. However, in spite of those differences, they all indicate that the amount of Chinese canned mandarins available for export was at least 300 000 tonnes per reported annual season between 2009 and 2013. None of the sources indicate that the amount of Chinese canned mandarins available for export could be significantly reduced in the future.

### 3.3.3. *Attractiveness of the Union market*

- (46) Even if imports from China during the review investigation period were 19 253 tonnes, import data from the original investigation, covering the 2002-2007 period, show that Chinese manufacturers can allocate more than 60 000 tonnes per season to the Union market, as confirmed by Eurostat import data concerning the 2011/2012 season. Moreover, the high level of imports in 2011/2012, a period during which measures were not applicable for the majority of the time (namely, as from 22 March 2012), shows that the Union is an attractive market for Chinese manufacturers in terms of prices and that significant volumes of Chinese dumped imports would reach the Union market if the current anti-dumping measures are repealed.
- (47) The fact that China exported to the Union in 2002-2007 period (when no anti-dumping measures were imposed) considerably more canned mandarins on average per season (by 36 %) than in 2009-2013 period (when duties were imposed except between 22 March 2012 and 23 February 2013), although the total volumes available for Chinese export worldwide were lower in the first period than in the second one, further corroborates the likelihood that the Chinese producers will increase their export volumes to the Union to the levels witnessed during the original investigation if the measures are repealed.

### 3.3.4. *Export prices to third countries*

- (48) With regard to exports to third countries, the investigation showed that in the review investigation period the average sales prices of the cooperating company's exports to several important markets (such as Japan, Malaysia, Philippines, Thailand) were below the average sales prices to the Union. It

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can therefore be expected that in the absence of measures, the cooperating exporting producer would shift at least part of those exports to the Union.

- (49) Also the Chinese export statistics concerning prepared and/or preserved citrus fruit, in airtight container, demonstrate that there is a likelihood of redirection of Chinese exports to the Union. Indeed, based on these statistics it is estimated that, during the review investigation period, approximately 20 000 tonnes of the product concerned were sold to export destinations with average prices below those obtained in the EU, even though there were no anti-dumping duties applicable to imports from China on those markets. During the review investigation period that volume would equal the Union industry domestic sales and 71 % of the total Union industry production. In other words, on the basis of the current European canned mandarins market size (total EU consumption: 44 523 tonnes) and according to the information from the Chinese export statistics, the Chinese volume of current EU exports plus the potential volume for which it makes economic sense to redirect it to the Union would almost cover the complete EU demand of canned mandarins.

### 3.3.5. *Conclusion of the likelihood of continuation of dumping*

- (50) The investigation has confirmed that Chinese imports continued to enter the Union market at dumped prices during the review investigation period. Given the continued dumping, the fact that the Union market is a significant market which was interesting for the Chinese exporters in the past, the production capacities available in China going beyond the total Union consumption as well as the proven willingness and ability of Chinese producers to increase rapidly the exports to the Union should there be an incentive, it is concluded there is a likelihood of continuation of dumping should measures be removed.

## 4. **INJURY**

### 4.1. **General remarks**

- (51) Mandarins are harvested in autumn and winter, with the harvesting and processing season starting early October and finishing around the end of January (for certain varieties, February or March) the following year. Most purchase (for example by unrelated importers) and sales contracts are negotiated in the first months of each season. Practice in the mandarin preserving industry is to use the season (the period from 1 October in one year to 30 September in the following year) as the basis for comparisons. As in the original investigation, the Commission adopted this practice in its analysis.

### 4.2. **Union production and Union industry**

- (52) During the review investigation period, the like product was manufactured in the union by five Union producers. The total union production of the like product during the review investigation period was established on the basis of questionnaire replies provided by four individual producers which were verified during an on-spot verification. The production of the remaining

producer, who did not adequately cooperate and was not subject to an on-site verification visit, was based on the reply to the questionnaire submitted by that producer cross-checked with the complaint. On this basis, the total Union production was estimated to be around 28 500 tonnes during the review investigation period.

- (53) It is concluded that the above 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.

#### 4.3. **Apparent consumption in the Union market**

- (54) The Union consumption was established on the basis of import data as reported by Eurostat at TARIC (integrated community tariff) level, thus exactly coinciding with the definition of the product concerned — and on the basis of the EU sales volumes of the Union industry.

- (55) It should be noted that, even though the analysis is based on seasons rather than calendar years, the above methodology does not necessarily reflect the consumption at industrial user/consumer level. Indeed, given the seasonality of the main raw material (fresh fruits), it is common practice in the sector for both importers and Union producers to build up stocks when fresh fruits are canned, and sell the processed products to distributors or industrial users throughout the year. The consumption may thus sometimes be affected by stock-piling effects.

- (56) On this basis, during the period considered the Union consumption developed as follows:

*TABLE 1*

	<b>2009/2010</b>	<b>2010/2011</b>	<b>2011/2012</b>	<b>Review investigation period</b>
<b>Union consumption (tonnes)</b>	66 487	72 618	90 207	44 523
<b>Index (2009/2010 = 100)</b>	100	109	136	67

- (57) During the period considered, the Union consumption for citrus fruits remained on average slightly below 70 000 tonnes. There was however a peak in imports in 2011/2012, followed by a drop during the review investigation period. This development actually reflects a stock piling effect rather than a genuine increase/decrease in consumption and is attributed to the high level of Chinese imports which took place between March and July 2012, when the

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measures were temporarily not in force (see recital 2). The peak of imports in 2011/2012 was compensated by a lower import level during the review investigation period, thus a lower Union consumption.

- (58) Some of the importers claimed that they had not been practising stockpiling. They also submitted that since 6 October 2011, when the Advocate General delivered its opinion in Case C-338/10, they were already convinced that the Court of Justice would annul the measures. Therefore, they postponed the custom clearance of the product concerned until the final judgment of the Court of Justice was adopted.
- (59) In this context, it should be recalled that stockpiling can be defined as accumulating and storing a reserve supply. The data at the disposal of the Commission shows that since the annulment of the measures, on 22 March 2012, there had been a massive import volume of the product concerned until July 2012: on average of almost 9 000 tonnes per month. Thereafter and until the end of the RIP, the average level of imports went down to only around 1 650 tonnes per month, which was about 2 000 tonnes less per month as compared to the average level of imports in the period preceding the annulment of the measures. The Commission concluded that in order to reach such a significant level of monthly imports during a relatively short period of time, importers had been accumulating high volumes of the product concerned. This was in fact also confirmed by some importers, who admitted that they had been delaying customs clearance when they become convinced that the anti-dumping duties would be annulled. Therefore, the claim that the importers were not practising stockpiling had to be rejected.

#### 4.4. Imports into the Union from China

- (60) Bearing in mind that only one group of Chinese exporters cooperated with the investigation and that this group represented around 12 %-20 % (range given for reasons of confidentiality) of the total imports from China during the review investigation period, it was concluded that the Eurostat data (at TARIC (integrated community tariff) code level where necessary) was the most accurate and the best information source for import volumes and prices. Individual prices of the cooperating Chinese exporter were nevertheless also examined.

##### 4.4.1. Volume and market share

- (61) The Chinese import volume and the corresponding market shares developed as follows during the period considered:

TABLE 2

Imports from China	2009/2010	2010/2011	2011/2012	Review investigation period

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Volume of imports (tonnes)	47 235	41 915	59 613	19 294
<i>Index (2009/2010 = 100)</i>	<i>100</i>	<i>89</i>	<i>126</i>	<i>41</i>
Market share	71 %	57,7 %	66,1 %	43,3 %

- (62) Following the imposition of the anti-dumping measures in 2008, the volume of Chinese imports generally followed a downward trend. It is recalled that imports during the original investigation period (2006/2007) amounted to 56 108 tonnes.
- (63) As explained above, there was however a peak of imports in 2011/2012. This peak was clearly the result of the annulment of the anti-dumping measures in March 2012. Indeed, when looking at the monthly development of Chinese imports, based on Eurostat data, while the monthly Chinese imports generally fluctuated between 2 000 and 6 000 tonnes, they reached levels between 6 000 and 12 000 tonnes in the period March 2012-July 2012 (on average almost 9 000 tonnes per month). In this respect, it should be noted that measures were annulled in March 2012 and re-imposed in February 2013, but registration was introduced on 29 June 2012<sup>(10)</sup>, which had a chilling effect on imports.
- (64) Similarly to the import volume, the Chinese market share followed a downward trend during the period considered, decreasing from 71 % to 43 %. Even considering the impact of the unusual level of Chinese imports in 2011/2012 and the review investigation period, the market shares decreased from around 70 % in 2009/2010 to an average of 55 % in the following years.

#### 4.4.2. Price and price undercutting

TABLE 3

<b>Imports from China</b>	<b>2009/2010</b>	<b>2010/2011</b>	<b>2011/2012</b>	<b>Review investigation period</b>
Average import price (EUR/tonne)	677	744	1 068	925
<i>Index (2009/2010 = 100)</i>	<i>100</i>	<i>110</i>	<i>158</i>	<i>137</i>

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- (65) As reflected in the above table, over the period considered the prices of Chinese imports increased by 37 %. It should however be noted that prices significantly increased until the period 2011/2012 and then decreased during the review investigation period.
- (66) Since the import volume of the only cooperating exporter represented only around 12 %-20 % (range given for reasons of confidentiality) of the Chinese imports during the review investigation period, the existence of price undercutting has been examined also for the overall Chinese exports, based on import statistics.
- (67) For this purpose, the weighted average sales prices of the cooperating Union producers to unrelated customers on the Union market were compared to the corresponding weighted average CIF (cost, insurance and freight) prices of imports from China as reported by Eurostat. These CIF (cost, insurance and freight) prices were adjusted to cover costs related to customs clearance, namely customs tariff and post-importation costs.
- (68) On that basis, the comparison showed that during the review investigation period the imports of the product concerned undercut the Union industry's prices by 4,8 %, when calculations take into account the impact of the anti-dumping duties in force. The undercutting margin however reaches 28 % when import prices are considered without anti-dumping duties.
- (69) When considering the import prices reported by the Chinese cooperating exporter, duly adjusted, an undercutting margin of 14 % could be established during the review investigation period, when taking into account anti-dumping duties in force. When discounting the effect of the anti-dumping duties, the undercutting margin reached a level of 20 %. It should be noted that the majority of these exports during the review investigation period took place when the measures were annulled.

#### 4.5. Imports into the Union from other third countries

- (70) Over the period considered the volume of imports from other third countries never held a market share of more than 11,2 %. Most of these imports (it was at least 89 % during period considered) were from Turkey.

TABLE 4

	2009/2010	2010/2011	2011/2012	Review investigation period
<b>Volume of imports from other third</b>	4 033	8 078	10 090	4 717

<b>countries (tonnes)</b>				
<b>Index (2009/2010 = 100)</b>	100	200	250	117
<b>Market share</b>	6,1 %	11,1 %	11,2 %	10,6 %

#### 4.6. Economic situation of the Union industry

- (71) Pursuant to Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Union industry included an evaluation of all economic factors and indices having a bearing on the state of the Union industry during the period considered.
- (72) Even though all the five Union producers provided a questionnaire reply it was considered that the questionnaire reply submitted by one of the producers could not be completely used as its reply was not verified during an on-spot verification. The analysis was therefore based on the following methodology.
- (73) The macroeconomic indicators (production, production capacity, capacity utilisation, sales volume, market share, employment, productivity, growth, magnitude of dumping margins and recovery from the effects of past dumping) were assessed at the level of the whole Union industry. The assessment was based on the information provided by the four fully cooperating Union producers. In case of the producer whose questionnaire reply was not verified assessment was based on the data provided by this producer which was, to the extent possible, cross-checked with data included in the complaint and its audited financial statements.
- (74) The analysis of microeconomic indicators (stocks, sale prices, profitability, cash flow, investments, return on investments, ability to raise capital, wages) was carried out at the level of the fully cooperating four Union producers. The assessment was based on their information which was duly verified during an on-spot verification visit.

##### 4.6.1. Macroeconomic indicators

###### 4.6.1.1. Production, production capacity and capacity utilisation

TABLE 5

	2009/2010	2010/2011	2011/2012	Review investigation period
<b>Production (tonnes)</b>	11 815	33 318	29 672	28 763

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<b>Index (2009/2010 = 100)</b>	100	282	251	243
<b>Production capacity (tonnes)</b>	77 380	77 380	77 380	77 380
<b>Index (2009/2010 = 100)</b>	100	100	100	100
<b>Capacity utilisation</b>	15 %	43 %	38 %	37 %

- (75) The production significantly increased during the period considered from around 12 000 tonnes to almost 29 000 tonnes during the review investigation period. In 2009/2010 season the production was small since the Union industry was still affected by the dumped import of Chinese canned mandarins, which were imported in the previous season, as well as by the fact that it maintained a stock from the previous season when the anti-dumping measures had not been in force. The production increased in 2010/2011 season once the new Chinese imports were captured by the anti-dumping measure being in force.
- (76) Since the Union production capacity did not change during the period, the capacity utilisation increased accordingly. It however systematically remained below 50 %.
- (77) One European association of traders claimed that one Union producer stopped production since 2012/2013 and that this producer and two others were in a difficult financial situation. For these reasons, it is claimed that the production and production capacity/utilisation figures were artificially inflated.
- (78) In this respect, it should first be recalled that the information collected in the course of the investigation indicated that all Union producers forming part of the Union industry have been producing in all seasons during the period considered. The first claim that one producer stopped production during the RIP should therefore be rejected.
- (79) Concerning the alleged difficult financial situation of Union producers, one of the Union producers was indeed subject to an insolvency proceeding during the period considered. However, the investigation showed that the production level of that producer increased significantly throughout the period considered, while its capacity remained unchanged. Therefore, it was concluded that the insolvency proceeding did not negatively affect that producer's output. As far as the two other Union producers are concerned, they entered into insolvency proceedings but only after the period considered. This in fact confirms the conclusion (see recitals from 96 to 98) that the



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injury actually resumed and that the Union industry has been still in a fragile financial situation.

#### 4.6.1.2. Sales volume and market share in the Union

TABLE 6

	2009/2010	2010/2011	2011/2012	Review investigation period
<b>Sales volume (tonnes)</b>	15 219	22 625	20 504	20 512
<b>Index (2009/2010 = 100)</b>	100	149	135	135
<b>Market share (of Union consumption)</b>	22,9 %	31,2 %	22,7 %	46,1 %

(80) The sales by the Union industry on the Union market to unrelated customers increased by 35 % during the period considered.

(81) The Union industry market share also followed an increasing trend during the period considered. Even considering the stock piling effect on the level of the union consumption in 2011/2012 and during the review investigation period, the market share increased from around 23 % at the beginning of the period to an average of 35 % in the last 2 years examined.

#### 4.6.1.3. Employment and productivity

TABLE 7

	2009/2010	2010/2011	2011/2012	Review investigation period
<b>Employment</b>	350	481	484	428
<b>Index (2009/2010 = 100)</b>	100	137	138	122
<b>Productivity (tonnes per employee)</b>	34	69	61	67

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<b>Index (2009/2010 = 100)</b>	100	205	182	199
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- (82) Both employment and productivity improved during the period considered and reflect the overall increase of production and sales volume. The increase of productivity in 2010/2011 season was linked to the higher production volumes which resulted from the fact that the anti-dumping measures took full effect in that period.
- (83) The above employment figures are full-time equivalent and therefore they do not show the absolute number of seasonal jobs involved. In order to have a better idea of the magnitude of jobs involved, it should be noted that the figure for the review investigation period is a full-time equivalent expression of around 2 400 seasonal jobs.

#### 4.6.1.4. *Growth*

- (84) The Union industry managed to benefit from growth on the Union market until 2011. However, as soon as the measures against China were lifted (see recital 2) and the Chinese imports flooded the Union market, the Union industry lost a considerable part of its market share. After the duties were re-imposed, the Union industry was able to regain its lost market share, albeit at a cost of deteriorating financial situation.

#### 4.6.1.5. *Magnitude of dumping and recovery from past dumping*

- (85) Dumping continued during the review investigation period at a significant level, as explained under point 3.2.5 (see recitals 34 and 35) above.
- (86) As to the impact on the Union industry of the magnitude of the actual dumping margin, given the volume of the dumped imports from China, this impact cannot be considered negligible. It is noted that the Union industry is still on the recovery path from past dumping in particular in terms of capacity utilisation and profitability (as compared to the original investigation).

#### 4.6.2. *Microeconomic indicators*

##### 4.6.2.1. *Stocks*

TABLE 8

	<b>2009/2010</b>	<b>2010/2011</b>	<b>2011/2012</b>	<b>Review investigation period</b>
<b>Stocks (tonnes)</b>	2 020	2 942	7 257	9 729

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<b>Index (2009/2010 = 100)</b>	100	146	359	482
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(87) The Union producers increased their stock significantly in the last two seasons. This reflects the fact that production increased more than sales in the period considered.

#### 4.6.2.2. Sales prices in the Union

TABLE 9

	2009/2010	2010/2011	2011/2012	Review investigation period
<b>Average unit sales price (EUR/tonne)</b>	1 260	1 322	1 577	1 397
<b>Index (2009/2010 = 100)</b>	100	105	125	111

(88) Over the review period, the Union industry managed to increase its EU sales price by 11 %. The increase was especially marked until 2011/2012, but prices subsequently decreased during the review investigation period. This is attributed to the high level of Chinese imports which took place between March and July 2012 when the measures were not in force, and the undercutting of Union industry's prices by the prices of the product concerned from China.

#### 4.6.2.3. Profitability and cash flow

TABLE 10

	2009/2010	2010/2011	2011/2012	Review investigation period
<b>Profitability</b>	- 29,8 %	5,9 %	6,4 %	- 2,9 %

(89) During the period considered the profitability of the Union industry first significantly improved, that is in the period 2010/2011-2011/2012. However, in the review investigation period the Union industry became loss-making again.

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- (90) The improvement of the profitability was clearly related to the fact that the Union industry managed to increase its sales and production volume as well as sales price in the years following the imposition of the anti-dumping measures. The return to a loss-making situation in the review investigation period is the consequence of lower sales prices due to the sudden influx of Chinese imports after the annulment of the duties by the Court of Justice of the European Union.
- (91) In this context, it should be recalled that a significant volume of Chinese products was imported free-of-anti-dumping duty in the period March-July 2012. Moreover, Chinese imports were found to be undercutting the Union prices during the review investigation period at significant levels, in particular when discounting the effect of the anti-dumping duties. This has caused a general price depression, which in turn resulted in a loss-making situation of the Union industry.

TABLE 11

	<b>2009/2010</b>	<b>2010/2011</b>	<b>2011/2012</b>	<b>Review investigation period</b>
<b>Cash flow (EUR)</b>	1 211 342	3 078 496	- 1 402 390	- 2 023 691
<b>Index (2009/2010 = 100)</b>	100	254	- 116	- 167

- (92) During the period considered the evolution of the cash flow mainly corresponded to the development of the overall profitability of the Union industry, in conjunction with the effect of increases of stocks, in particular in the last 2 years analysed.

#### 4.6.2.4. *Investment, return on investments, ability to raise capital and growth*

TABLE 12

	<b>2009/2010</b>	<b>2010/2011</b>	<b>2011/2012</b>	<b>Review investigation period</b>
<b>Investments (EUR)</b>	318 695	416 714	2 387 341	238 473
<b>Index (2009/2010 = 100)</b>	100	131	749	75

<b>Return on investments (net assets)</b>	- 60 %	29 %	19 %	- 1 %
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- (93) During the period considered part of the Union industry made investments for the maintenance and optimisation of the existing production machinery. The level of investment increased especially in the period 2011/2012, most likely favoured by the level of profit during and immediately before that year. This investment was mainly made by one Union producer with a view to secure source of supply of raw materials, which will complement the existing ones, and to improve the compliance with environmental regulations. The return on investments during the period considered followed closely the profitability trend.
- (94) Part of the Union industry encountered difficulties to raise capital during the period considered but was ultimately able to restructure its debt.

#### 4.6.2.5. Wages

TABLE 13

	2009/2010	2010/2011	2011/2012	Review investigation period
<b>Labour costs per employee (EUR)</b>	23 578	21 864	21 371	23 025
<b>Index (2009/2010 = 100)</b>	100	93	91	98

- (95) The average wage levels remained rather stable over the period considered, whereas the unit cost of production dropped.

#### 4.7. Conclusion

- (96) The injury analysis shows that the situation of the Union industry improved in the period considered. The imposition of the anti-dumping measures at the end of 2008 allowed the Union industry to, slowly but steadily, recover from the injurious effects of the dumping, further exploiting its potential onto the Union market. The fact that the Union industry benefited from the measures is mostly illustrated by increased production and sales levels and in particular the level of profit.
- (97) The situation, however, changed during the review investigation period. Measures were annulled in March 2012 and imports from China massively

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increased until June 2012 when imports became subject to registration. Importers used the annulment of the anti-dumping duties to build up stocks in 2011/2012 and put these products on the EU market at cheap prices during the review investigation period. This caused a significant overall price pressure on the EU market and, as a result, the financial situation of the industry deteriorated again. Indeed, the industry had no choice but to decrease its prices in order to maintain its level of sales. This however had serious consequences on its financial situation.

- (98) The still injurious situation of the Union industry is best demonstrated by a series of negative financial indicators, namely profitability and cash flow, combined with high stock levels and low capacity utilisation. This context deters new investments and growth.
- (99) One European association of traders questioned the findings of injury on the grounds that the sales volumes, employment and sales prices of the Union industry, as well as the level of investments of one Union producer, have developed positively during the period considered.
- (100) This claim should however be rejected. Indeed, according to Article 3(5) of the Basic Regulation, the list of the relevant economic indicators that should be examined is not exhaustive, one or more of these factors cannot necessarily give decisive guidance regarding the examination of the impact of the dumped imports on the Union industry. As explained in recital 98, the indicators suggested by the claimant were not decisive for the Commission to reach its conclusions on the injurious situation of the Union industry. The conclusion that injury continued was rather based on the negative financial indicators relating to profitability and cash flow combined with high stock levels and low capacity utilisation.

## 5. LIKELIHOOD OF CONTINUATION OF INJURY

### 5.1. Impact of the projected volume of imports and price effects in case of repeal of measures

- (101) Should the measures be repealed, the volume of imports is expected to increase and cause further injury to the Union industry. This is based on the following elements.
- (102) The analysis above (see recital 44) shows that, although the Chinese export volumes to the Union decreased significantly after the imposition of measures at the end of 2008, Chinese producers still manufacture significant volumes of product concerned most of which is destined for exportation.
- (103) In terms of projected volumes and prices, it is clear that the Union market remains very attractive to the Chinese exporting producers. First, in terms of volume, the Union market is the third biggest world market for Chinese canned mandarins. Moreover, the development following the annulment of the measures shows that the Chinese exporters are able to quickly export

significant quantities of the product concerned to the Union market without even the need to redirect its sales from other markets. Finally in this respect, based on import data from the original investigation, China can easily export more than 60 000 tonnes per season to the Union market, and this corresponds to almost 90 % of the average Union consumption in the period considered.

- (104) If China indeed increased its EU exports as a result of a repeal of the measures, there would more than likely be a general price decrease on the EU market in the medium term. This would put the EU producers in an even more difficult position, as explained below.
- (105) Secondly, as far as prices are concerned, the Chinese database<sup>(11)</sup> shows that in the past China exported significant volumes to non-EU countries at prices below the export prices to the EU. During the review investigation period, the volumes exported to these non-EU countries were approximately 20 000 tonnes, which constituted 71 % of the total Union industry production. Because of the attractiveness of the EU market in terms of pricing, it is concluded that if the measures are terminated, Chinese exporters are likely to re-direct those volumes to the more lucrative Union market.
- (106) Furthermore, the above analysis (see recitals 68 and 69) has demonstrated that Chinese imports on the Union market significantly undercut the Union producers' prices during the RIP, in particular when discounting the effect of the anti-dumping duties. Even if the Chinese import prices increased in 2011/2012, when the measures were not in force, their level was still well below the level of the EU prices, based on Eurostat data. On that basis the magnitude of the price difference in 2011/2012 was actually comparable to the RIP.
- (107) The market for prepared or preserved citrus fruits is very price competitive as the competition mainly takes place on the basis of prices. This is further exacerbated by the fact that sales usually take place for relatively big quantities. If cheap and dumped imports are made available in significant quantities on the Union market, there would be a direct repercussion on the general level of prices on the Union market, which would result in overall price depression.
- (108) The annulment of the anti-dumping duties at the end of the period considered is a perfect illustration of what would happen if measures lapsed.
- (109) As soon as the measures were annulled by the Court of Justice of the European Union and until imports became subject to registration, the volume of Chinese imports increased rapidly and significantly. The massive presence of these cheap imports on the Union market forced the Union producers to decrease their prices in order to maintain their position in terms of volumes of sales and production, which resulted in a loss making situation.

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- (110) This was the result of free-of-anti-dumping duty imports during a period of only 5 months. Repercussions on the situation of the Union industry would obviously be even more serious if measures expired. If the high volumes of low-priced imports recurred, injury suffered by the Union industry would in all likelihood be exacerbated. Union producers would suffer a fall in production and sales volumes and prices which would lead to increased losses. An undercutting calculation based on the data presented in point 4.4.2 (see recitals 68 and 69) but with the anti-dumping duties removed points at an undercutting level higher than 20 %.
- (111) One European association of traders claimed that the Union industry would not suffer injury if the measures were repealed, because lower volumes of imports of the product concerned would be expected in the future. This claim was based on the following reasons. Firstly, that the domestic consumption of fresh fruits in China would increase in the future, as well as the Chinese exports of fresh fruits to Russia. Secondly, that the domestic Chinese consumption of canned mandarins was also expected to increase. Thirdly, that the Eurostat statistics prove the above as they show lower imports of the products concerned since the 2012/2013 season.
- (112) These claims should however be rejected on the following grounds:
- (a) firstly, even if the Chinese domestic consumption and export of fresh fruits would be expected to increase, the Chinese production is also estimated to increase to a comparable extent, based on the available data<sup>(12)</sup>. It is therefore concluded that the availability of fresh fruits for the Chinese canning industry in the 2013/2014 season will not be significantly affected;
- (b) secondly, it was concluded in recital 44 that the Chinese domestic consumption of canned mandarins would be around 100 000 tonnes per season, and there is no indication that this figure is expected to grow in the future. The claimants did also not provide any evidence that consumption would increase;
- (c) with relation to the third reason, it should be recalled that the lower imports of the product concerned in the 2012/2013 season (the RIP) could be reasonably explained by the stockpiling effect resulting from a massive imports which took place in 2011/2012 season during the first 5 months after the annulment of the measures (see recital 59).
- (113) The same European association of traders also claimed that bigger volumes of fresh fruits available on the Union market, presumably due to Russian embargo, would decrease the prices of those fruits, thus enable the Union industry to further improve its competitiveness.
- (114) However, such claim is purely speculative and was not supported by any evidence. Even if raw material prices may decrease in the future, it is not considered to be a sufficient reason not to remedy the negative effects of



dumped imports on the situation of the Union Industry. It is indeed considered that, without the maintenance of measures, dumped imports would resume in significant volumes and further cause injury to the Union Industry. This would, as the case may be, deprive the Union Industry to fully benefit from the positive effect of any future decrease of their raw material price. The claim was therefore rejected.

## 5.2. **Conclusion**

(115) On this basis, it is concluded that the repeal of measures on the imports from China would in all likelihood result in a continuation of injury to the Union industry.

## 6. **UNION INTEREST**

### 6.1. **Introduction**

(116) In accordance with Article 21 of the basic Regulation, it was examined whether the maintenance of the existing anti-dumping measures would not 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, that is those of the Union industry on the one hand, and those of importers and other parties on the other hand.

(117) It should be recalled that, in the original investigation, the adoption of measures was considered not to be against the interest of the Union. 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 for the assessment of any undue negative impact on the parties concerned by the current anti-dumping measures.

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

### 6.2. **Interest of the Union industry**

(119) The Union industry, composed of five producers in rural areas of Spain, gained market share and was able to increase the price of the product concerned to a level that allowed it to turn the business back towards breakeven or profitable in the periods of the period considered when measures were in force. Production volume and employment figures improved in the same way. Should measures be repealed, the Union industry would be in a much worse situation as described above (under likelihood of recurrence of injury) in terms of lower sales prices and further increased losses (see recital 110). New investments aimed at consolidating the companies and improving their competitiveness on the market of the product concerned would be hindered as well. The continuation of measures would be in the interest of the Union

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industry and should help it further exploiting its potential on a Union market governed by restored competition.

**6.3. Interest of importers, traders and retailers**

- (120) As mentioned in recital 10 above, in view of the apparent high number of unrelated importers sampling was applied. Importers are located mainly in Germany, but also in other countries such as for example, but not only, the United Kingdom, the Netherlands or the Czech Republic.
- (121) Two companies which imported the product concerned during the period considered cooperated in the investigation. The aggregated preserved citrus fruit-related business of these parties constituted 3,8 % of their aggregated turnover. Even if the preserved citrus fruit related business is not the most profitable one for these importers, this is inherent to their business option, which consists of offering a very wide range of products to certain customers (for example supermarket chains) in order to secure big contracts where less profitable products are offset by sales of other products and economies of scale.
- (122) There appeared to be no indications that a continuation of measures would have any significant negative effect on the activities of the two importers. They are not dependent on this product, whereas the supply chain adapted to the costs linked to the anti-dumping duty. Moreover, as the investigation shows, the measures did not close the Union market for the Chinese exporters as the product concerned was imported in significant quantities throughout the period considered despite the existence of measures.
- (123) Another importer claimed that anti-dumping duties negatively affect its preserved citrus fruit-trading business. In light of the absence of verifiable data provided by that importer, it is considered that the negative effect that the continuation of anti-dumping measures can have on these parties would not outweigh the positive effect of measures on the Union industry.
- (124) Some parties pointed at a shortage of production capacity by the Union industry. It should be noted that the non-continuation of duties could lead to a situation where the alternative source of supply would have to close down its activities, leaving importers with only one source of supply (imports from China). Yet it is recalled that supermarket chains and retailers value maintaining a security of supply for their business. In fact, one of them supported continuation of the measures in order to have competition and at least two sources of supply. In addition, the Union industry, which is still far from reaching a satisfactory capacity utilisation level, has the capacity to further serve the Union market in a framework of restored competition. The fact that the Union industry is currently not covering 100 % of the needs in the Union cannot justify either the unfair trade practices by Chinese exporters or the removal of measures in this case.

- (125) One European association of traders claimed that the continuation of the measures would unduly restrict the normal conduct of its members' business since a significant part of it was related to trade in the product concerned. In this respect, it should be noted that the purpose of anti-dumping duties is to remedy unfair trade practices, i.e. dumping, and not to restrict business. It is recalled that the Commission came to the conclusion that maintaining the remedy was still necessary in this case.

#### 6.4. **Interest of users**

- (126) For the purpose of the analysis, users were divided into two categories: on the one hand, households; and, on the other hand, professional/industrial users active in sectors such as the production of drinks, jams or yogurts, baking or catering.
- (127) No party belonging to any of these categories or representing their interests came forward or cooperated in any way in the investigation.
- (128) One importer argued that the anti-dumping duties imposed on the product concerned would be anti-competitive and thus not in the interest of the Union consumers. No evidence was submitted in order to support that claim.
- (129) Given the limited weight that the product concerned may have in the budget of an average household in the Union, there is no evidence that an increase in consumer price, if any, derived from the maintenance of the measures can outweigh the positive effect of measures on the Union industry.
- (130) Even if it cannot be contested that the continuation of duties can in the abstract affect some professional/industrial users negatively in terms of lower margins, there is no evidence that costs stemming from the product concerned (as compared to their total costs) are significant. Any negative impact from a continuation of the measures on this category of users would thus not be disproportionate.

#### 6.5. **Interest of suppliers**

- (131) Both individual suppliers of fresh fruit to the Union industry and one association of such suppliers stated that measures are in their interest and would be beneficial also in terms of new investments and jobs. Fruit sold to the Union producers is an important complementary source of revenue for suppliers in the absence of which major disruptions in the agriculture sector in the Spanish regions concerned may occur. It is estimated that the number of cooperative members affected would be more than 2 000 in the region of Valencia only. With relation to seasonal jobs involved, among others, in collection, transport and storage of fruits, it is estimated that at least 2 500 would be affected in the region of Valencia and Murcia together.

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- (132) From the data submitted by the Association of the Spanish suppliers, it derives that if the Chinese imports exceed 60 000 tonnes, which already happened twice during the original investigation, the suppliers will likely face the situation when they will not be able to sell the whole volume of satsumas destined for the Union canning industry.
- (133) One European association of traders claimed that the suppliers could expect subsidies to dispose of the quantities of fruits which could not be exported due to the embargo to Russia. However, the claimant did not present any evidence supporting the subsidy claim. In addition, subsidies, if any, would have been available only for unsold fruits destined for export to Russia but not for those which had not been sold to the Union industry due to the injury caused by the product concerned after the lapse of the measures. The claim was therefore rejected.

#### 6.6. **Conclusion**

- (134) The investigation has shown that the existing anti-dumping measures did not close the Union market to Chinese imports and contributed to the recovery of the Union industry. As this recovery process is still ongoing, the continuation of measures is in the interest of the Union industry. If measures were allowed to lapse, this recovery process would come to a stop, profitable price levels would be out of reach and the Union industry would incur high losses. Moreover, a complementary source of revenue for members of numerous cooperatives and seasonal workers in several rural areas where little job alternatives exist would be in a threat.
- (135) From the data available, the existing measures appear not to have had any important negative effects on the economic situation of the importers in the Union which cooperated in the investigation. In light of available data, the impact of measures on other parties that came forward or on importers, traders, users and retailers cannot be deemed substantive either. Any price increase, if at all, resulting from the continuation of anti-dumping measures, does not appear to be disproportionate when compared to the benefit to the Union industry achieved by the removal of the trade distortion caused by the dumped imports.
- (136) Taking into account all of the factors outlined in the recitals above, it is concluded that there are no compelling reasons against the maintenance of the current anti-dumping measures.

### 7. **ANTI-DUMPING MEASURES**

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

- (138) 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 certain preserved certain fruit originating in China should be maintained for an additional period of 5 years.
- (139) Some parties claimed that measures with a quantitative element (a quota system) are preferable to anti-dumping measures. This claim cannot be retained given that according to the basic Regulation a form of measures cannot be changed in an expiry review investigation. This claim cannot undermine the findings in the framework of this investigation either, namely that the requirements for maintaining the anti-dumping measures are met.
- (140) A company may request the application of these individual anti-dumping duty rates if it changes subsequently the name of its entity. The request must be addressed to the Commission<sup>(13)</sup>. The request must contain all the relevant information enabling to demonstrate that the change does not affect the right of the company to benefit from the duty rate which applies to it. If the change of name of the company does not affect its right to benefit from the duty rate which applies to it, a notice informing about the change of name will be published in the *Official Journal of the European Union*.
- (141) The Committee established by Article 15(1) of the basic Regulation did not deliver an opinion,

HAS ADOPTED THIS REGULATION:

*Article 1*

1 A definitive anti-dumping duty is imposed on imports of prepared or preserved mandarins (including tangerines and satsumas), clementines, wilkings and other similar citrus hybrids, not containing added spirit, whether or not containing added sugar or other sweetening matter, and as defined under CN heading 2008, currently falling within CN codes 2008 30 55, 2008 30 75 and ex 2008 30 90 (TARIC codes 2008 30 90 61, 2008 30 90 63, 2008 30 90 65, 2008 30 90 67 and 2008 30 90 69) and originating in the People's Republic of China.

<sup>[F12]</sup> The amount of the definitive anti-dumping duty applicable for the products described in paragraph 1 and manufactured by the companies listed below shall be as follows:

<b>Company</b>	<b>EUR/tonne net product weight</b>	<b>TARIC additional code</b>
Yichang Rosen Foods Co., Ltd, Yichang, Zhejiang	531,2	A886
Zhejiang Taizhou Yiguan Food Co. Ltd, Huangyan, Zhejiang	361,4	A887
Zhejiang Juzhou Foods Co., Ltd, Sanmen, Zhejiang	499,9	C528

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Hubei Xinshiji Foods Co., Ltd, Dangyang City, Hubei Province	489,7	A888
Cooperating exporting producers not included in the sample as set out in the Annex	499,6	A889
All other companies	531,2	A999]

#### Textual Amendments

- F1** Substituted by [Commission Implementing Regulation \(EU\) 2019/1860 of 6 November 2019 amending Commission Implementing Regulation \(EU\) No 1313/2014 imposing a definitive anti-dumping duty on imports of certain prepared or preserved citrus fruits \(namely mandarins, etc.\) originating in the People's Republic of China following an expiry review pursuant to Article 11\(2\) of Council Regulation \(EC\) No 1225/2009.](#)

#### Article 2

1 In cases where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value pursuant to Article 145 of Commission Regulation (EEC) No 2454/93<sup>(14)</sup> the amount of anti-dumping duty, calculated on the basis of Article 1 above, shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.

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

#### Article 3

Article 1(2) may be amended by adding a new exporting producer to the cooperating companies not included in the sample and thus subject to the weighted average duty rate of 499,6 EUR/tonne net product weight where any new exporting producer in the People's Republic of China provides sufficient evidence to the Commission that it:

- (a) did not export to the Union the product described in Article 1(1) during the review investigation period (1 October 2012 to 30 September 2013) and during the original investigation period (1 October 2006 to 30 September 2007);
- (b) is not related to any of the exporting producers in the People's Republic of China which are subject to the measures imposed by this Regulation; and
- (c) has either actually exported to the Union the product concerned or has entered into an irrevocable contractual obligation to export a significant quantity to the Union after the end of the review investigation period.

#### Article 4

This Regulation shall enter into force on the day following that of 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.

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**Changes to legislation:** There are currently no known outstanding effects for the Commission  
Implementing Regulation (EU) No 1313/2014. (See end of Document for details)

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**Changes to legislation:** There are currently no known outstanding effects for the Commission  
Implementing Regulation (EU) No 1313/2014. (See end of Document for details)

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## ANNEX

Cooperating exporting producers not included in the sample  
Hunan Pointer Foods Co., Ltd, Yongzhou, Hunan  
Ningbo Pointer Canned Foods Co., Ltd, Xiangshan, Ningbo  
Yichang Jiayuan Foodstuffs Co., Ltd, Yichang, Hubei  
Ninghai Dongda Foodstuff Co., Ltd, Ningbo, Zhejiang  
Huangyan No 2 Canned Food Factory, Huangyan, Zhejiang  
Zhejiang Xinchang Best Foods Co., Ltd, Xinchang, Zhejiang  
Toyoshima Share Yidu Foods Co., Ltd, Yidu, Hubei  
Guangxi Guiguo Food Co., Ltd, Guilin, Guangxi  
Zhejiang Juda Industry Co., Ltd, Quzhou, Zhejiang  
Zhejiang Iceman Group Co., Ltd, Jinhua, Zhejiang  
Ningbo Guosheng Foods Co., Ltd, Ninghai  
Yi Chang Yin He Food Co., Ltd, Yidu, Hubei  
Yongzhou Quanhui Canned Food Co., Ltd, Yongzhou, Hunan  
Ningbo Orient Jiuzhou Food Trade & Industry Co., Ltd, Yinzhou, Ningbo  
Guangxi Guilin Huangguan Food Co., Ltd, Guilin, Guangxi  
Ningbo Wuzhouxing Group Co., Ltd, Mingzhou, Ningbo



- (1) [OJ L 343, 22.12.2009, p. 51.](#)
- (2) Council Regulation (EC) No 1355/2008 of 18 December 2008 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain prepared or preserved citrus fruits (namely mandarins, etc.) originating in the People's Republic of China ([OJ L 350, 30.12.2008, p. 35](#)).
- (3) Judgment of the Court of Justice of the European Union of 22 March 2012 in Case C-338/10, *Grünwald Logistik Service GmbH (GLS) v Hauptzollamt Hamburg-Stadt*.
- (4) Council Implementing Regulation (EU) No 158/2013 of 18 February 2013 reimposing a definitive anti-dumping duty on imports of certain prepared or preserved citrus fruits (namely mandarins, etc.) originating in the People's Republic of China ([OJ L 49, 22.2.2013, p. 29](#)).
- (5) [OJ C 94, 3.4.2013, p. 9.](#)
- (6) [OJ C 310, 25.10.2013, p. 9.](#)
- (7) United States Department of Agriculture Foreign Agricultural Service Citrus: World Markets and Trade, January 2013. Available at: <http://usda.mannlib.cornell.edu/usda/fas/citruswm//2010s/2013/citruswm-01-24-2013.pdf>
- (8) 'Will plastic cups boost Chinese mandarin consumption', *Foodnews*, 26 July 2013 <https://www.agra-net.net/agra/foodnews/canned/canned-fruit/mandarins/will-plastic-cups-boost-chinese-mandarin-consumption--1.htm>
- (9) Idem; FSA/USDA Gain Reports on citrus for 2008-2013 (available at: <http://gain.fas.usda.gov/Pages/Default.aspx>); China customs statistics database provided by Goodwill China Business Information Limited.
- (10) [OJ L 169, 29.6.2012, p. 50.](#)
- (11) See footnote 9.
- (12) FSA/USDA Gain Report on citrus dated 12/13/2013 (available at: <http://gain.fas.usda.gov/Pages/Default.aspx>).
- (13) European Commission, Directorate-General for Trade, Directorate H, Rue de la Loi/Wetstraat 170, 1040 Bruxelles/Brussel, BELGIQUE/BELGIË.
- (14) Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ([OJ L 253, 11.10.1993, p. 1](#)).

**Changes to legislation:**

There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 1313/2014.