

Commission Implementing Regulation (EU) 2017/2179 of 22 November 2017 imposing a definitive anti-dumping duty on imports of ceramic tiles originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council

COMMISSION IMPLEMENTING REGULATION (EU) 2017/2179

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THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union<sup>(1)</sup>, and in particular Article 11(2) thereof,

Whereas:

A. **PROCEDURE**

1. **Measures in force**

- (1) Following an anti-dumping investigation ('the original investigation'), the Council imposed, by means of Implementing Regulation (EU) No 917/2011<sup>(2)</sup>, a definitive anti-dumping duty on imports of ceramic tiles originating in the People's Republic of China ('the PRC' or 'China' or 'country concerned').
- (2) The measures took the form of an *ad valorem* duty and the duty levels imposed ranged from 13,9 %<sup>(3)</sup> to 36,5 % for cooperating producers. Furthermore, a country-wide duty rate of 69,7 % was imposed on Chinese companies which either did not make themselves known or did not cooperate with the investigation.

2. **Request for an expiry review**

- (3) Following the publication of a notice of impending expiry<sup>(4)</sup> of the anti-dumping measures in force, the Commission received a request for the initiation of an expiry review of the measures in force pursuant to Article 11(2) of Regulation (EU) 2016/1036 ('the basic Regulation') ('the request').
- (4) The request was lodged by the European Ceramic Tile Manufacturers' Federation ('the applicant' or 'CET') on behalf of producers representing more than 25 % of the total Union production of ceramic tiles.

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

3. **Initiation of an expiry review**

- (6) Having determined that sufficient evidence existed for the initiation of an expiry review, the Commission announced on 13 September 2016, by a notice published in the *Official Journal of the European Union*<sup>(5)</sup> ('Notice of Initiation'), the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

4. **Review investigation period and period considered**

- (7) The investigation of the likelihood of continuation or recurrence of dumping and injury covered the period from 1 July 2015 to 30 June 2016 (the 'review investigation period' or 'RIP'). The examination of the trends relevant for the assessment of the likelihood of recurrence of injury covered the period from 1 January 2013 to the end of the review investigation period (the 'period considered').

5. **Parties concerned by the investigation**

- (8) The Commission advised the applicants, other known Union producers, exporting producers in the PRC, known importers, users and traders known to be concerned, associations representing Union producers and users and representatives of the exporting countries of the initiation of the expiry review.
- (9) Interested parties were given opportunity to make their views known in writing and to request a hearing within the time limit set out in the Notice of Initiation.
- (10) The Union producers, represented by the applicant, took this opportunity to request that their names are kept confidential for fear that they could face retaliation by customers or competitors implicated by this investigation, in line with Article 19(1) of the basic Regulation. The Commission individually examined each of these confidentiality requests for merit thereof. It established that there was indeed evidence of a significant possibility of retaliation in each case and accepted that the names of these companies should not be disclosed.
- (11) The Chinese Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters (the 'CCCMC') requested a hearing. The hearing took place on 6 December 2016.
- (12) At the hearing and in the subsequent submissions the CCCMC requested full access to the dumping margin, price effects, injury margin and injury indicators calculations, and any other confidential information on which calculations were based. The CCCMC argued that the lawyers that would

be granted the access are registered at a European bar association and are subject to strict bar rules and disclosing confidential information to their clients would result in severe disciplinary actions, including disbarment and potential criminal action. Therefore, the CCCMC argued that the access to the confidential file would not breach the Commission's obligation to protect confidential information whilst allowing an effective exercise of the rights of defence.

- (13) Article 19 of the basic Regulation stipulates that the Commission must not reveal any information which is by nature confidential without specific permission from the supplier of such information. It does not envisage that any other party, including lawyers registered at a European bar association, is granted the access. Furthermore, the jurisprudence of the Court of Justice reveals that the protection of rights of the defence must be, where necessary, reconciled with the principle of confidentiality, which is specifically laid down in Article 19 of the basic Regulation.<sup>(6)</sup> While that reconciliation permits the receipt of non-confidential summaries of such information (carried out, for instance, in the form of ranges and/or indexed elements of information) where that information would not lead to a disclosure of business secrets, it is not absolute. Accordingly, and while the CCCMC could have been granted access to, for instance, ranges and/or indexed elements of the information requested, full disclosure of that information was not deemed reconcilable with the duty to protect confidential information. In like measure, and because the Union legislator did not foresee this exception in the basic Regulation, the Commission considered that the fact that the lawyers registered at a European bar association are subject to strict bar rules and are potentially subject to sanctions in case of breach of these rules does not allow the Commission services to grant access contrary to the applicable legislation. The Commission thus concluded that the access to confidential information by lawyers registered at a European bar association could not be granted. In any case, an additional element for safeguarding, in this respect, the rights of defence of interested parties, is the possibility of having recourse to the Hearing Officer in Trade Proceedings under Article 15 of his terms of reference<sup>(7)</sup> who did not call into question the Commission's position on confidentiality. Hence, the Commission deemed the information provided in the disclosure documents sufficient to satisfy the former's rights of defence.

5.1. *Sampling*

- (14) In the Notice of Initiation, the Commission stated that it might sample interested parties, in accordance with Article 17 of the basic Regulation.

5.2. *Sampling of exporting producers in the PRC*

- (15) On the basis of information provided by the applicant, the Commission found that the PRC ceramic industry was largely fragmented with 1 452 producers

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in 2014. Therefore, in view of the apparently large number of exporting producers in the PRC, sampling was envisaged in the Notice of Initiation.

- (16) In order to decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known exporting producers in the PRC to provide the information specified in the Notice of Initiation. In addition, it asked the mission of the PRC to the Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation. In total, the information specified in the Notice of Initiation was sent to 119 companies in the PRC.
- (17) Nineteen producers or group of producers in the PRC provided the requested information and agreed to be included in the sample. Given the number of companies which could have come forward, this was considered low cooperation. In accordance with Article 17(1) of the basic Regulation, the Commission provisionally selected a sample of four groups of exporting producers on the basis of their declared volume of exports to the Union during the review investigation period and their production capacity which could reasonably be investigated within the time available. Following the disclosure to interested parties of this provisional sample, the group of exporting producers with the largest production capacity withdrew its cooperation. Thus, the proposed sample was amended by adding the exporting producer with the second largest production capacity. Following the disclosure of the amended sample to the interested parties, no comments were received. Therefore, the sampling proposal was confirmed in accordance with Article 17(2) of the basic Regulation.
- (18) The four sampled groups of exporting producers had an annual production of 55 million m<sup>2</sup> of the product concerned, representing around 34 % of the overall declared production and sales of all cooperating exporting producers or groups of exporting producers of the product concerned to the Union. The four sampled groups covered around 8 % of the total Chinese exports to the Union according to Eurostat in the review investigation period.

### 5.3. *Sampling of Union producers*

- (19) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. In accordance with Article 17(1) of the basic Regulation, the Commission selected the sample on the basis of the largest representative volume of sales and production, taking into account geographical spread and also the high fragmentation of the ceramic tiles industry in line with the methodology detailed below in recitals (20) to (21).
- (20) In the original investigation the Commission concluded that the ceramic tiles sector is very fragmented. Therefore, in order to ensure that the results of large companies did not dominate the injury analysis and to ensure that the situation of the small and medium-sized companies, collectively accounting for the largest share of the Union production, was adequately reflected, the

- Commission decided to establish three segments based on the volume of yearly production:
- Segment 1: large companies — production in excess of 10 million m<sup>2</sup>,
  - Segment 2: medium-sized companies — production between 5 and 10 million m<sup>2</sup>,
  - Segment 3: small companies — production below 5 million m<sup>2</sup>.
- (21) The Commission's investigation did not reveal any changes to the ceramic tiles market, which continues to be fragmented, and thus dominated by small Union producers as opposed to larger producers able to influence the market's direction. Accordingly, the Commission considered that the high fragmentation of the ceramic tiles sector should also be taken into consideration in the current expiry review. It, therefore, decided to apply the same methodology for the selection of the sample as in the original investigation and considered that all segments, namely small, medium-sized and large companies should be represented in the sample.
- (22) The provisional sample consisted of nine Union producers. The sampled Union producers accounted for over 8,5 % of total estimated Union production in 2015. Companies from all of the three sectors were represented: Two companies were from the segment of large companies, three companies were from the segment of medium-sized companies and four companies were from the segment of small companies. The sampled companies were situated in Germany, Italy, Poland, Portugal and Spain.
- (23) In order to reflect different situations that can be encountered in the Union in the different Member States, when selecting the sample, the Commission also took into account the geographical spread (see recital (19)). The sample thus covered Member States where approximately 90 % of the production is situated. Thus the methodology applied by the Commission ensured that the sample was representative of the Union production as a whole and complied with Article 17(1) of the basic Regulation.
- (24) The Commission invited interested parties to comment on the provisional sample. No comments were received within the deadline and the provisional sample was thus confirmed. The sample was considered representative of the Union industry.
- (25) On 28 October 2016, 11 days after the announcement of the final sample, one of the sampled Union producers, the Polish producer, informed the Commission that it had decided to stop cooperating with the investigation. In order not to impact the representativeness of the sample, the Commission decided to replace the company by another Union producer from the same market segment and informed all the interested parties of the change in the sample. The new sample accounted for 7,7 % of the total Union production. The new sample covered Member States where approximately 80 % of the production is situated. The replacement of the non-cooperating company

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with a company from the same market segment was done to ensure that the final sample remained representative of the Union industry, even though the unexpected non-cooperation of the first company invariably reduced the representativeness of total Union production.

5.4. *Sampling of unrelated importers*

- (26) To decide whether sampling was necessary and, if so, to select a sample, all known (in total more than 1 000) importers/users were invited to fill in the sampling form attached to the Notice of Initiation.
- (27) Eleven companies replied to the sampling form. The Commission decided to select four companies. In accordance with Article 17(1) of the basic Regulation, the Commission selected the sample of the unrelated importers on the basis of the size of the imports taking into accounts the geographical spread. The sampled importers were situated in Belgium, Denmark and Germany. The sampled unrelated importers accounted for around 6,5 % of total imports from the PRC.
- (28) On 30 November 2016, one of the sampled unrelated importers informed the Commission that it decided to stop cooperating with the investigation. The final sample of the unrelated importers consisted therefore of three unrelated importers. They still accounted for around 6 % of total imports from the PRC. The final sample was therefore considered representative.

6. **Questionnaires and verification visits**

- (29) The Commission sought and verified all the information deemed necessary for the purpose of determining the likelihood of continuation or recurrence of dumping, the likelihood of recurrence of injury and Union interest.
- (30) The Commission sent questionnaires to the four sampled Chinese exporting producers/groups of exporting producers, the two producers in the analogue country, the nine sampled Union producers and the four unrelated importers that came forward in the sampling exercise. Following sending the questionnaire, one sampled group of exporting producers and one sampled unrelated importer withdrew their cooperation (see recitals (17) and (25) respectively).
- (31) Complete questionnaire replies were received from three sampled groups of exporting producers, two analogue country producers, the nine sampled Union producers and the three unrelated importers.
- (32) The Commission carried out verifications at the premises of the following companies:
- (a) Union producers:
- verification visits were carried out at the premises of the nine sampled Union producers<sup>(8)</sup>;

- (b) Importer:
  - Enmon GmbH;
- (c) Exporting producers in the country concerned:
  - Foshan Shiwan Eagle group, Foshan City, Guangdong Province, PRC,
  - Guangdong Bode Fine Building Group, Foshan City, Guangdong Province, PRC,
  - Guangdong Kaiping Tile's building Materials, Kaiping City, Guangdong Province, PRC;
- (d) Producers in the analogue country:
  - Del Conca, Loudon, Tennessee, USA,
  - Florida Tiles, Lexington, Kentucky, USA.

## 7. Disclosure

- (33) On 2 August 2017, the Commission disclosed to all interested parties the essential facts and considerations of the investigation and invited them to submit written comments and/or to request a hearing with the Commission and/or the Hearing Officer in trade proceedings by 3 September 2017.
- (34) Three Chinese exporting producers, the CCCMC one Union importer and the applicant submitted comments after the disclosure, and a hearing between the Commission services and the CCCMC took place on 22 September 2017.
- (35) By letters of 17 August 2017 and 6 September 2017, the CCCMC requested the Commission to provide information on a number of elements relating to dumping and injury calculations, in addition to the information contained in the open file and disclosed to the interested parties. The CCCMC claimed that because of the Commission's failure to provide this information, neither the CCCMC nor the Chinese exporting producers were in a position to fully exercise their rights of defence.
- (36) The Commission analysed individually each piece of information requested by the CCCMC. It provided all the information by letters of 25 August 2017 and 20 September 2017 to CCCMC, or to the Chinese exporting producers directly, for example a list of product types produced by the Union industry or details on adjustments used for the undercutting calculations, with the exception of information which was not existent, not part of the file, or was confidential. Where information was not existent, not part of the file, or deemed confidential, the Commission appropriately reasoned its rejection. In particular, the Commission did not perform overall aggregated undercutting calculations and undercutting calculations per product control number ('PCN' or 'product type') (rather than per exporting producer). Therefore this information was not part of the file. The Commission was of the

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opinion that the CCCMC was able to exercise its rights of defence sufficiently without access to this information.

- (37) With respect to the confidential information, such as prices and volumes of sales by the Union industry per PCN for example, the Commission recalled that it was under obligation to protect such information under Article 19 of the basic Regulation. Furthermore the Commission considered that the open file of the case made available to parties, including to the CCCMC, contained all the information relevant for the presentation of their cases and used in the investigation. If the information was deemed confidential, the open file contained meaningful summaries of it. All the interested parties, including the CCCMC had access to the open file and could consult it.
- (38) In sum, the Commission thus considered that all the parties, including the CCCMC, were given the opportunity to fully exercise their rights of defence. The Commission therefore rejected the claim.

## B. **PRODUCT CONCERNED AND LIKE PRODUCT**

### 1. **Product concerned**

- (39) 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 ('the product concerned'), currently falling within HS code 6907. The above HS code is valid as of 1 January 2017 and replaces the 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 mentioned in the original investigation and the Notice of Initiation of the current proceeding.
- (40) Ceramic tiles are mainly used in the construction industry to cover walls and floors.

### 2. **Like product**

- (41) The product concerned and the ceramic tiles produced and sold in the PRC, on the domestic market of the United States of America ('USA'), the analogue country, as well as ceramic tiles produced and sold in the Union by the Union industry were found to have the same basic physical, chemical and technical characteristics and uses.
- (42) Following the disclosure, the CCCMC requested the Commission to provide a more detailed description of the different product types of Union producers and the analogue country producers that were included in a particular product control number. It claimed that there could be differences between a product type produced by the Union industry, by the analogue country industry and by the Chinese exporting producers that were not reflected in the PCN and of that neither the Chinese exporting producers nor the CCCMC were aware. The CCCMC raised the argument in relation to the price comparison for the



purpose of both the dumping and the injury analysis, arguing that without the information, it was not in a position to request adjustments when warranted and, therefore, to fully exercise its rights of defence (see recitals (81) to (83) and (120) to (122)).

- (43) However, as the Commission explained to the CCCMC in a letter of 20 September 2017, it did not dispose any more detailed descriptions of the different product types within a particular PCN nor had grounds to consider that any differences within a particular PCN existed. As also explained in recital (45) below, it was considered that the characteristics of each PCN were detailed enough to capture all the differences between the different product types. Nor did the CCCMC provide any arguments that a more detailed description or distinction was necessary. The Commission therefore rejected the claim.
- (44) The CCCMC also claimed that since ceramic tiles encompassed a large number of products, the Commission should have collected information about product types imported from the PRC and product types produced by the Union industry, and to carry out an analysis per (groups of) product types (segments).
- (45) To define the product concerned and to distinguish between the different product types, the Commission used seven characteristics detailing physical characteristics such as water absorption, finishing (if the tiles were glazed/unglazed, single/double fired, coloured/non coloured, rectified or not), size and quality standards. These same characteristics were already used in the original investigation. No other party claimed that they would not reflect all the differences between the different product types, and that the same product type produced in the Union differed from the same product type product in the PRC. Nor did the CCCMC provide any information which other characteristics would be necessary for this matter. Therefore, the Commission maintained that the characteristics of each PCN were detailed enough to capture all the differences between the different product types, allowing a fair product (and price) comparison.
- (46) Furthermore, with regard to the claim that certain product types merited to be grouped in a segment and analysed separately, the Commission did not find any objective basis other than the differences captured by the PCN to make such segments. It also noted that there were not groups of products distinguished in the original investigation. Moreover, the CCCMC did not substantiate its request with a concrete proposal and no other party submitted that grouping some of the product types would be necessary and justified. On the other hand, the Commission considered that an analysis per PCN was more detailed than an analysis per segment that grouped certain PCNs together, and therefore, more appropriate. The Commission therefore rejected the claim.

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- (47) Therefore, in view of the above and in absence of any further comments regarding the product concerned and the like product the Commission maintained that these products are alike within the meaning of Article 1(4) of the basic Regulation.

## C. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING

### 1. Preliminary remarks

- (48) In accordance with Article 11(2) of the basic Regulation, the Commission examined whether the expiry of the existing measures would be likely to lead to a continuation or recurrence of dumping from the Chinese exporting producers.
- (49) Nineteen exporting producers or groups of exporting producers provided the reply to the sampling form. The declared export volume of ceramic tiles to the Union by the cooperating exporting producers was around 1,7 million m<sup>2</sup> in the review investigation period corresponding to around 11 % of the total import volumes of the product concerned from China recorded in Eurostat for the same period. The total declared production capacity of the cooperating exporting producers or groups of exporting producers amounted to 207 million m<sup>2</sup> which is roughly 1,5 % of the total estimated Chinese production capacity (estimated at 13,9 billion m<sup>2</sup> in 2015). Further details on the production capacity in the PRC can be found in Section 3(a) below.
- (50) The Commission accordingly assessed the likelihood of continuation or recurrence of dumping by reference to the data provided by these three groups of companies.

### 2. Dumping during the review investigation period

- (a) Analogue country
- (51) According to Article 2(7)(a) of the basic Regulation, normal value was determined on the basis of the prices paid or payable on the domestic market or constructed value in an appropriate market economy third country (the ‘analogue country’).
- (52) The CCCMC contested the methodology of analogue country for establishment of the normal value as such, arguing that Section 15 of the Protocol of Accession of China to the WTO had lapsed after 11 December 2016. Thus, according to the CCCMC, normal value for the Chinese exporting producers should be calculated on the basis of their own domestic prices and/ or costs. Following the disclosure, the CCCMC reiterated these claims.
- (53) The Commission recalled that all Chinese exporting producers had the opportunity to submit MET (‘Market Economy Treatment’) claim forms to enable individual calculations of dumping margins. None of these exporters made use of that possibility. Therefore, pursuant to Article 2(7) of the basic

Regulation, normal value was determined on the basis of data from an analogue country. This argument was, thus, rejected.

- (54) In the original investigation, the USA was used as analogue country for the purposes of establishing the normal value with regard to the PRC.
- (55) In the Notice of Initiation, the Commission informed interested parties that it envisaged using the USA as an analogue country and invited parties to comment. Moreover, the Notice of Initiation mentioned that other market-economy producers might be located, inter alia, in Turkey, the United Arab Emirates (the 'UAE'), India and Brazil and would be examined as well.
- (56) The CCCMC raised concerns regarding the appropriateness of the USA as analogue country after the initiation of the case. It considered that the USA was not a suitable analogue country alleging that there was an economic development disparity between China and the USA and a low consumption of ceramic tiles for the flooring market in the USA. The CCCMC expressed that the choice of Brazil, India, Mexico and Turkey as analogue country would be more appropriate, provided that those countries and the PRC were similar in terms of level of development and had a comparable domestic consumption.
- (57) Regarding the USA, the CET claimed that there was a high level of competition on the domestic market among a wide range of products, fully comparable to those exported from the PRC. Moreover, it argued that access to raw material and to energy resources were similar between the USA and PRC and the quantities sold on the USA domestic market made the USA a representative choice of an analogue country.
- (58) Following these comments, the Commission contacted the representations of the countries mentioned above plus the countries with highest import volumes of ceramic tiles to the Union, in order to ask for their help in identifying producers in their respective countries who could be invited to cooperate as analogue country producers. In addition, requests for cooperation were sent to the known analogue country producers and producers associations.
- (59) Ten producers expressed their willingness to cooperate with the investigation. They were located in the USA (3), Brazil (2) and India (5), respectively. The Commission sent the analogue country questionnaire to them on 20 January 2017. No reply was received from India. For exporting producers from Brazil, one producer did not reply and the second one withdrew its cooperation. From the USA, one producer withdrew its cooperation and two producers completed the questionnaire.
- (60) Based on available information, the Commission concluded that the USA had significant production and a satisfactory level of competition on its domestic market. The USA's domestic consumption was around 254 million m<sup>2</sup>. There were at least 28 domestic producers. Moreover, imports represent 68 % of the consumption, originating mainly from the PRC (from a total import volume of

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49 million m<sup>2</sup>). Apart from a customs duty of 8,5 %-10 % there are no import restrictions in force. The US producers used a similar production process than the Chinese sampled exporting producers. The US cooperating producers reported as domestic sales respectively 2,0 and 2,9 million m<sup>2</sup>.

- (61) Following the disclosure, the CCCMC claimed that the USA is in any event not an appropriate analogue country and that the Commission failed to use a country in which the price for a like product is formed in circumstances which are as similar as possible to those in the country of export.
- (62) With regard to this claim, it is first recalled that the Commission contacted the official representations and/or producers located in Brazil, India, Indonesia, Malaysia, Mexico, Russia, Serbia, Thailand, Tunisia, Turkey, the UAE, Ukraine and the USA. However, as described in recital (59), only two producers cooperated.
- (63) As mentioned in recital (60), the USA was considered appropriate as an analogue country because, the USA had significant production, consumption and a satisfactory level of competition on its domestic market. The claim was therefore rejected.
- (64) Following the disclosure, one importer raised concerns as to the choice of two US producers related to Union producers and the establishment of the normal value for the PRC on the basis of these two producers. Therefore, the objectiveness of the data collected from such producers may be questionable.
- (65) The Commission observed that even if a producer in the analogue country is related to Union producer, such a link does not invalidate or affect the determination of the normal value<sup>(9)</sup>.
- (66) In view of the above and in the absence of any further comments, the Commission concluded that the USA was an appropriate analogue country under Article 2(7)(a) of the basic Regulation.
- (b) Normal value
- (67) The information received from the two cooperating producers in the analogue country was used as a basis for the determination of the normal value.
- (68) In accordance with Article 2(2) of the basic Regulation, the Commission first examined whether the total volume of domestic sales of the like product to independent customers made by the cooperating analogue country producers during the review investigation period was representative. To this end, their total sales volumes were compared to the total volume of the product concerned exported by each of the sampled Chinese exporting producers to the Union. On that basis, the Commission found that the like product was sold in representative quantities on the US domestic market.

- (69) Second, the Commission compared on a product type basis the sales volume on the US market with the export volumes to the Union by each sampled Chinese exporting producers. This comparison showed that two product types directly comparable were not sold in representative quantities in the USA. Therefore, the normal value of these two product types was constructed on the basis of their own SG&A, profit and allowances found in the ordinary course of trade.
- (70) Following the disclosure, CCCMC claimed that it is not meaningful to compare the volume of sales by the analogue country producers on their domestic market to the volume of export sales by the Chinese exporting producers, as there are entirely unrelated with one another. Therefore, the analysis carried out by the Commission did not say anything about the representativeness of the US domestic sales for these product types.
- (71) By analogy to the situation of a dumping calculation in market economies, the Commission verified if the transactions were made in sufficient quantities at an individual product type level in accordance with Article 2(2) of the basic Regulation. As these two product types represented respectively 0,70 % and 0,09 % of the Chinese exporting producer sales, the Commission considered that the US domestic sales were not representative and constructed the normal value. Moreover, the Commission found that the methodology used had no impact on the establishment of the dumping margin. Therefore, the claim is rejected.
- (72) The Commission next defined the proportion of profitable sales to independent customers on the domestic market for each product type during the review investigation period in order to decide whether to use actual domestic sales for the calculation of the normal value, in accordance with Article 2(4) of the basic Regulation.
- (73) The normal value is based on the actual domestic price per product type, irrespective of whether those sales are profitable or not, if:
- the sales volume of the product type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of this product type, and
  - the weighted average sales price of that product type is equal to or higher than the unit cost of production.
- (74) In this case, the normal value is the weighted average of the prices of all domestic sales of that product type during the IP.
- (75) The normal value is the actual domestic price per product type of only the profitable domestic sales of the product types during the IP, if:
- the volume of profitable sales of the product type represents 80 % or less of the total sales volume of this type, or

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- the weighted average price of this product type is below the unit cost of production.
- (76) The analysis of domestic sales showed that the normal values of 10 product types were established on the basis of the method mentioned in recital (74) and 7 product types on the basis of the method mentioned in recital (75).
- (77) The US cooperating producers reported in total 17 product types while Chinese cooperating exporting producers reported in total 15 product types. However, the comparison between the product types exported by the Chinese and sold by the US producers revealed that there was a direct matching for only two product types. The limited number of matching product types was explained by the rather complex definition of the product types involving seven characteristics and 672 possible combinations (including, but not limited to, porcelain/non-porcelain, seven types of working surfaces, presence of single/double or no glazing). As it is a requirement to take into account 100 % of export sales during dumping calculations, for matching purposes, some adjustments had to be made.
- (78) Firstly, the Commission decided to increase the comparability by constructing the normal values of additional product types. In this regard, it is recalled that the Chinese cooperating exporting producers sold two non-porcelain product types to the Union (representing around 6 % of the total quantity exported to the Union). The US analogue country producers, however, did not produce such non-porcelain product types. Therefore, the Commission decided to construct the costs of manufacturing for non-porcelain product types by comparing the Union industry costs for porcelain and non-porcelain. The cost of manufacturing for non-porcelain product types was found to be 30 % below that of porcelain product types. The ratio obtained was applied to the 17 product types reported by the US producers so as to match these to the product types reported by the Chinese exporting producers.
- (79) As regards unglazed ceramic tiles, the Chinese exporting producers reported sales thereof (four product types representing around 56 % of the total quantity exported to the Union) for which there were no direct matching with the product types sold by the US cooperating producers. Applying the same methodology described in recital (78) above, the Commission constructed the costs of manufacturing for single-glazed product types by comparing the Union industry costs for single glazed and unglazed product types. The cost of manufacturing of unglazed ceramic tiles was found to be 6 % below that of single-glazed product types. The ratio obtained was applied to the 17 product types reported by the US producers.
- (80) On the basis of the additional constructed normal values 3 product types matched between the product types produced by the US producers and the Chinese exporting producers. Finally, for the product types for which no direct matching was possible, the Commission decided to compare the product types

sold by the Chinese exporting producers with the US product types with the closest technical characteristics and the cheapest normal value.

- (81) Following the disclosure, two interested parties claimed that the Commission had failed to disclose information concerning the specific product types of the analogue country producers. Moreover, they claimed that they were not in position to identify whether there were differences (not reflected by the PCN) that merited an adjustment.
- (82) The Commission disclosed the normal values calculations per product types to interested parties. As mentioned in recital (45) the product types were defined on the basis of the following technical characteristics: water absorption, the finishing (glazed single fired, glazed double fired, or unglazed, polished or unpolished, if the tile body was coloured or non-coloured, rectified or without rectifying), the size of the working surface and the quality standard.
- (83) None of the interested parties commented on the definition of the product types or proposed any additional relevant methodology or submitted additional information. The Commission considered that the product type definitions were sufficient in order to capture all differences affecting price comparability. Therefore, the claim was disregarded. Moreover, a sampled Chinese exporting producer claimed that the Commission should not use the weighted average profit and SG&A margins of the domestic sales found in the analogue country when determining the constructed normal value but the weighted average profit and SG&A margins of the product types with the closest technical characteristics.
- (84) In the current case, the product types exported by the interested party were not produced and sold in the analogue country. Therefore, the Commission constructed the normal value on the basis of the cost of manufacturing of the product types with the closest technical characteristics and, in accordance with Article 2(7) of the basic Regulation, the average amounts for SG&A costs and profit based on actual data pertaining to production and sales of the like product, in the ordinary course of trade, by the analogue country producers. Therefore, this claim was also rejected.
- (c) Export price
- (85) The three sampled groups of exporting producers exported directly to the Union in the form of direct sales of the product concerned to independent customers in the Union. Therefore, the export price was established at the price actually paid or payable for the product concerned when sold for export to the Union in accordance with Article 2(8) of the basic Regulation during the review investigation period.
- (d) Comparison
- (86) The Commission compared the normal value and the export price of the sampled exporting producers on an ex-works basis. Where justified by the

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need to ensure a fair comparison, the Commission adjusted the normal value and/or the export price for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation.

(87) Concerning domestic prices of the analogue country producers, adjustments were made for domestic transportation costs, credit costs, handling costs, packing costs and commissions and for level of trade. As regards export prices of the sampled exporting producers, adjustments were made for transport, insurance, handling, credit costs, bank charges, packing costs, import charges, customs duties and commissions.

(e) Dumping margin

(88) The Commission compared the weighted average normal value of each type of the like product in the analogue country with the weighted average export price of the corresponding type of the product concerned of each sampled cooperating group in accordance with Article 2(11) and (12) of the basic Regulation.

(89) On this basis, the weighted average dumping margins expressed as a percentage of the CIF Union frontier price during the review investigation period, duty unpaid, were found to be between 66 % and 231 %.

(f) Conclusion on dumping in the review investigation period

(90) The Commission found that Chinese exporting producers (at higher volume than in the original investigation) continued to export ceramic tiles to the Union at dumped prices during the review investigation period.

### 3. **Evidence of likelihood of continuation of dumping**

(91) The Commission further analysed whether there was a likelihood of continuation of dumping should the measures be allowed to lapse. When doing so, it looked into the Chinese production capacity and spare capacity, the behaviour of Chinese exporters on other markets, the situation on the domestic market of China and the attractiveness of the Union market.

(92) As mentioned above, 19 Chinese exporting producers or groups of exporting producers came forward representing only 1,5 % of the estimated Chinese production capacity in 2015. The three Chinese exporting producers sampled and verified during an on-spot verification visit represented a fraction (namely 0,3 %) of the estimated Chinese production. The information available to the Commission on production and spare capacity from Chinese exporting producers was, therefore, limited.

(93) For this reason, most of the findings set out below concerning the continuation or the recurrence of dumping had to be based on other sources, that is, Eurostat data, the Chinese Export Database and the information submitted by the Union



Industry in the review request. The analysis of that information revealed the following.

- (a) Production and spare capacity in the PRC
- (94) Chinese producers have installed vast ceramic tiles' production capacities, which continue to exceed the Union's production capacity by far. Over the last decade, Chinese producers have significantly increased production and added production capacity and continue doing so. The Chinese production capacity of ceramic tiles increased by nearly 30 % between 2011 and 2014, from 10,8 to 13,9 billion m<sup>2</sup>. Moreover, the number of Chinese producers of ceramic tiles increased significantly by nearly 20 % between 2014 and 2016, from 1 452 in 2014 to 1 777. Production capacity for the year 2016 was estimated at around 17 billion m<sup>2</sup> by extrapolating the production capacity from the number of producing companies<sup>(10)</sup>.
- (95) According to the same Chinese statistical source, the actual production increased from 8,7 billion m<sup>2</sup> in 2011 to 11,1 billion m<sup>2</sup> in 2016, that is 2,4 billion m<sup>2</sup> over the period. However, the production of ceramic tiles did not increase with similar pace compared to the installed capacity of Chinese ceramic tiles production during that period: the production capacity increased by 6,2 billion m<sup>2</sup> (from 10,8 billion m<sup>2</sup> in 2011 to 17 billion m<sup>2</sup> in 2016). Therefore, the spare capacity increased from 20 % in 2011 to 35 % at the end of 2016, equivalent to an increase of 3,8 billion m<sup>2</sup>. This spare capacity is several times higher than the total Union consumption which was approximately 879 million m<sup>2</sup> during the RIP.
- (96) Moreover, the information collected during the on-spot verification revealed that over the period 2013-RIP, the capacity utilisation of the verified exporting producers decreased from 74 % to 54 % and the number of employees went down by 25 %. Producers stopped production during two months during the first quarter 2017 as stocks reached a level, representing 67 % of the total RIP production. At the end of the RIP, the three sampled exporting producers had stocked in their warehouses 23 million m<sup>2</sup> (during the RIP, Union imported from China 15 million m<sup>2</sup>).
- (97) In summary, in view of the fact that China has a large production capacity available and thus the ability to increase its production volumes at short notice, the repeal of the current measures would likely result in an increase of Chinese low-priced dumped imports in the Union market.
- (b) Behaviour of the Chinese exporters on the markets of third countries
- (98) Chinese producers export significant quantities of ceramic tiles to third countries other than the Union, in particular the Philippines, USA, Saudi Arabia, South Korea, Indonesia, Thailand and Australia.
- (99) The Commission compared the average price of the product concerned by these producers to the main export markets mentioned above during the

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review investigation period with the average export price to the Union market. That comparison was made on the basis of the information provided by the Chinese Export Database, where export values are expressed in US dollar and on FOB basis. Quantities are expressed in kilogram.

- (100) Export prices to the Union were significantly higher compared to the other main export markets. The average export price to the Union was around USD 0,46 per kilo while average prices were around USD 0,34 per kilo to the other main destinations.
- (101) According to the Chinese Export Database, sales prices to the rest of the world further decreased after the RIP. During the second semester of 2016 the average export prices to the main export markets dropped when compared to export prices in the RIP (– 37 % for Philippines, – 26 % for Saudi Arabia, – 22 % for USA, around – 13 % for South Korea and Australia).
- (c) Attractiveness of the Union market
- (102) The estimated Union demand is a fraction of the available spare capacity of the Chinese domestic market. Before the introduction of the measures, the Union was a traditional export market for China. In the original investigation, the Commission found that Chinese imports had reached 65 million m<sup>2</sup> annually on average, more than three times their current level of exports to the EU. Currently, the average price in the Union market (USD 0,46/kg) is also higher than the Chinese export price (USD 0,34/kg) in its main export markets. It is therefore likely that the Chinese producers will try to increase their sales using their available capacities to the Union if the measures were allowed to lapse.
- (d) Conclusion on dumping and likelihood of continuation of dumping
- (103) The investigation showed that the prices of Chinese exports of ceramic tiles to the Union and to the PRC's main export markets were below the normal value established during the RIP. Furthermore, the production capacity and production were still increasing in China. Their export volume was rather stable and there are no indications that the Chinese domestic consumption would be able to absorb the enormous quantities produced and in stocks. Nor have interested parties been able to explain how these quantities could be absorbed otherwise without posing a threat to the Union.
- (104) On that basis and in absence of any comments from interested parties, the Commission considered it is likely that significant volumes of Chinese ceramic tiles would be exported to the Union at dumped prices in case the measures were allowed to lapse.

#### D. UNION INDUSTRY

- (105) The Union industry did not undergo major structural changes since the original investigation. The industry is still highly fragmented, and the small and medium-sized companies collectively represent an important share of the

market (66 % based on the production volume in 2015). The like product was manufactured by around 500 Union producers during the review investigation period. They constitute the ‘Union industry’ within the meaning of Article 4(1) of the basic Regulation.

- (106) As described in recital (20), the Commission took into account the high fragmentation of the Union industry when choosing a sample of the Union producers, so that companies from each sector were represented. To reflect the respective share (weight) of the each segment in the total Union production and in order to draw a representative picture of the situation of the Union industry, the Commission used the respective share (weight) to weigh certain microeconomic indicators (see recital (144)) of the sampled companies in the specific segment, in accordance with the methodology used in the original investigation.
- (107) The weights were established on the basis of data provided by the applicant, namely production volumes in 2015 of companies situated in the countries representing 79 % of the Union production.<sup>(11)</sup> The weights were as follows: companies from the sector of small companies with a production of less than five million square metres represented 41 % of the total Union production; companies from the sector of medium-sized companies with production between five and ten million metre square represented 25 % of the total Union production and companies from the sector of large companies represented 34 % of the total Union production.

## E. SITUATION ON THE UNION MARKET

### 1. Union consumption

- (108) Union consumption was established by adding the net Union sales to imports from the PRC and third countries. The production volumes were based on Eurostat data and data obtained from the CET members.
- (109) During the period considered the Union consumption developed as follows:

*Table 1*

<b>Union consumption</b>				
	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>RIP</b>
<b>Volume (thousand m<sup>2</sup>)</b>	750 158	837 188	851 104	878 968
<b>Index (2013 = 100)</b>	100	112	113	117

Source: Eurostat, CET

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- (110) The Union consumption increased over the period considered. The largest increase (12 %) occurred between 2013 and 2014 from 750 million m<sup>2</sup> to around 837 million m<sup>2</sup>. Overall over the period considered the consumption increased by 17 % from 750 million m<sup>2</sup> to around 879 million m<sup>2</sup> in the RIP.
- (111) Compared to the period examined in the original investigation, the consumption was however still 37 % less in the RIP than in 2007 when it was around 1,4 billion m<sup>2</sup>. The drop in consumption after 2007 was caused by a contraction in domestic consumption following the Eurozone crisis and the significant ensuing recession of the construction sector.<sup>(12)</sup>

## 2. Import from the PRC to the Union

### 2.1. Volume, price and market share of imports from the PRC

- (112) The volumes and market share of imports were based on Eurostat data.
- (113) During the period considered the volume and market share of imports from the PRC developed as follows:

Table 2

#### Volume and market shares of imports from the PRC

	2013	2014	2015	RIP
<b>Volume of imports (thousand m<sup>2</sup>)</b>	22 691	23 244	18 167	15 057
<b>Index (2013 = 100)</b>	100	102	80	66
<b>Market share (%)</b>	3,02	2,78	2,13	1,70

Source: Eurostat

- (114) Following the imposition of anti-dumping duties, imports of ceramic tiles from the PRC dropped considerably.<sup>(13)</sup> Nevertheless, Chinese imports were still present in the Union market and in the RIP they represented around 15 million m<sup>2</sup> in terms of volume of imports and 1,7 % in terms of a percentage of the market share.
- (115) Import volumes from the PRC dropped by 34 % in the RIP compared to 2013 from almost around 22,7 million m<sup>2</sup> to around 15 million m<sup>2</sup>. The market share of the Chinese imports dropped from 3,2 % in 2013 to around 1,7 % in the RIP.
- ### 2.2. Price of imports and price undercutting

- (116) During the period considered the average price of imports from the PRC developed as follows.

*Table 3*

**Average price of imports from the PRC**

	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>RIP</b>
<b>Average CIF Union frontier price EUR/m<sup>2</sup></b>	5,07	5,44	6,13	5,78
<b>Index (2013 = 100)</b>	100	107	121	114

*Source:* Eurostat

- (117) The average import prices from the PRC increased by 14 % in the period considered from 5,07 EUR/m<sup>2</sup> to 5,78 EUR/m<sup>2</sup>, with the peak in 2015 when the price increased by 21 % to 6,13 EUR/m<sup>2</sup>.
- (118) For the purpose of analysing price undercutting, the weighted average sales prices of the Union producers to unrelated customers on the Union market, adjusted to ex-works level, were compared per product type to the corresponding weighted average prices of the imports from the PRC to the first independent customer on the Union market, established on a CIF basis with appropriate adjustments for the existing customs duties and post-importation costs. For the product types for which a corresponding product type did not exist, the comparison was made by adjusting the closest resembling product type. The adjustments had to be done in particular for double-fired glazed product types and for unglazed product types for which corresponding product types could not be found at the Union industry side.
- (119) The comparison showed that during the RIP, and despite the increase in average CIF Union frontier price, as explained in recital (90) above, Chinese 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 17 % to 50 %. The calculations were based on the data submitted by the sampled Union producers and sampled exporting producers from the PRC.
- (120) Following the disclosure, the CCCMC claimed that the undercutting analysis was deficient as neither the CCCMC nor the Chinese exporting producers were placed in a position to meaningfully exercise their rights defence since they did not have possibility to identify differences between products produced by the Union industry and the Chinese exporting producers and therefore, to claim adjustments.

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- (121) With regard to the potential differences between Union products and the products imported from the PRC, for the reasons mentioned in Section B, the Commission did not have grounds to consider that any such differences within a particular PCN existed. Rather, the definition of the PCN allowed full price comparability between the product concerned and the like product (see Section B).
- (122) Any party claiming an adjustment must base itself on a reasonable estimate of the market value of the difference. However, the Commission did not receive from any of the parties a claim for an adjustment to be made for a particular product type. Therefore, the only adjustments that the Commission did was for double-fired glazed product types and for unglazed product types for which corresponding product types could not be found at the Union industry side, as explained in recital (118). Following the request by the CCCMC of 6 September 2017, the Commission provided details on these adjustments and in particular on the PCNs concerned and on the amount of the adjustment to the two sampled exporting producers concerned, to allow them to comment. Afterwards, the latter did not come back on the issue.
- (123) Following the disclosure, the CCCMC also argued that the Commission should have carried out (and disclosed) an undercutting analysis not only per exporting producer but also on an overall level (on a weighted average basis). Furthermore, the CCCMC claimed that the Commission should have carried out (and disclosed) an undercutting calculation per product type, which was according to the CCCMC the only way to draw meaningful conclusions concerning the possibility for the Chinese imports to exercise price pressure on the Union industry's sales. Furthermore, the CCCMC requested the Commission to also disclose total volume and value sold per PCN of all the sales by the Union industry that were not used for the undercutting calculations.
- (124) As the Commission informed the CCCMC by letters of 25 August 2017 and 20 September 2017, it had made the undercutting calculations per exporting producer on an individual basis and for the PCNs that were sold by the individual sampled Chinese exporting producers. The Commission considered that it was not relevant for the likelihood of recurrence of the injury assessment to carry out an analysis of the overall undercutting level and an analysis of the undercutting level per PCN as this would aggregate the data of the sampled Chinese exporting producers per PCN. The type of aggregated calculation requested by the CCCMC would, in any case, have been meaningless as such type of information does not impact the analysis of the likelihood of recurrence of the injury. Moreover, aggregated calculations would not allow an individual exporting producer to verify whether the Commission used correctly its data to perform the undercutting calculations. The exporting producer would not thus be in a position to exercise its rights of defence. For that reason, the Commission had not performed such

a calculation. Instead, the Commission duly carried out the undercutting analysis per sampled exporting producer. Therefore, the Commission did not have to do the requested analyses.

- (125) The Commission also recalled that the current case was an expiry review. The measures in place had for effect a significant decrease of imports of ceramic tiles (from around 66 million m<sup>2</sup> in the original IP to around 15 million in the RIP of the current investigation). Therefore, the undercutting analysis could only be based on the limited number of PCNs of the product concerned exported from the PRC to the Union. The purpose of carrying out an undercutting analysis per exporting producer was to analyse whether the Chinese exporting producers would be undercutting the Union prices should the measures lapse.
- (126) On the other hand, overall undercutting level and undercutting level per PCN were not considered being relevant for the assessment of likelihood of recurrence of injury and therefore, not part of the file. The Commission considered that it was under no obligation to make (and disclose) calculations that were not performed. The Commission thus decided to reject the claim.

### 3. Import from other third countries

- (127) During the period considered, the imports from other third countries and their market share developed as follows:

Table 4

#### Imports from other third countries and their market share

Import volume (in thousand m <sup>2</sup> )	2013	2014	2015	RIP
<b>Turkey</b>	35 526	34 256	35 965	35 246
<i>Index (2013 = 100)</i>	100	96	101	99
Import prices	5,44	6,10	6,19	6,11
<i>Index (2013 = 100)</i>	100	112	114	112
Market share (%)	4,74	4,09	4,23	4,01
<b>United Arab Emirates</b>	7 759	6 538	18 424	16 603
<i>Index (2013 = 100)</i>	100	84	237	214

Source: Eurostat

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Table 4

**Imports from other third countries and their market share**

Import prices	7,73	7,92	3,08	3,27
<i>Index (2013 = 100)</i>	100	102	40	42
Market share(%)	1,03	0,78	2,16	1,89
<b>India</b>	1 314	3 582	3 648	4 341
<i>Index (2013 = 100)</i>	100	273	278	330
Import prices	4,32	4,22	5,19	4,67
<i>Index (2013 = 100)</i>	100	98	120	108
Market share (%)	0,18	0,43	0,43	0,49
<b>Other third countries</b>	12 367	12 868	12 301	13 021
<i>Index (2013 = 100)</i>	100	104	99	105
Import prices	6,13	5,95	6,02	5,69
<i>Index (2013 = 100)</i>	100	97	98	93
Market share (%)	1,65	1,54	1,45	1,48
<b>Total of imports from third countries except the country concerned</b>	56 967	57 244	70 338	69 211
<i>Index (2013 = 100)</i>	100	100	123	121
Import prices	5,87	6,15	5,30	5,26

Source: Eurostat



Table 4

**Imports from other third countries and their market share**

<i>Index (2013 = 100)</i>	100	105	90	90
Market share (%)	7,59	6,84	8,26	7,87

Source: Eurostat

(128) During the period considered the largest import volumes were from Turkey (with almost 4 % market share in the RIP), United Arab Emirates (with almost 2 % market share in the RIP) and India (with around 0,5 % market share in the RIP). Altogether the market share from third countries represented 7,84 % in the RIP. It remained relatively stable throughout the period considered with a peak in 2015 (8,26 % market share).

(129) The average import prices of Turkey rose by 12 % over the period considered, to 6,11 EUR/m<sup>2</sup> in the RIP. The average import prices from the United Arab Emirates dropped by 58 % over the period considered, to 3,27 EUR/m<sup>2</sup>. The average import prices of 4,67 EUR/m<sup>2</sup> from India were 8 % higher in the RIP compared to the prices in 2013. Altogether the import prices from all the importing countries except the PRC dropped by 10 % in the period considered to 5,26 EUR/m<sup>2</sup>.

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

##### 4.1. General remarks

(130) In accordance with Article 3(5) of the basic Regulation, the Commission examined all economic factors and indices having a bearing on the state of the Union industry.

(131) As mentioned in recital (19), sampling was used for the determination of possible injury suffered by the Union industry.

(132) The Commission distinguished between macroeconomic and microeconomic injury indicators. It evaluated macroeconomic indicators relating to the whole Union industry on the basis of information provided by the applicant in the review request and the data of the sampled Union producers that was adjusted on the basis of data provided in the replies of the sampled Union producers for the RIP. The Commission evaluated microeconomic indicators relating only to the sampled companies on the basis of data contained in the questionnaire replies of the sampled Union producers. Both sets of data were found representative of the economic situation of the Union industry.

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(133) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity and magnitude of the dumping margin.

(134) The microeconomic indicators are: average sales prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital.

#### 4.2. *Macroeconomic indicators*

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

(135) Data on production of the Union industry for the period considered was established based on the data from Eurostat and the data collected by CET.

(136) The total Union production, production capacity and capacity utilisation developed over the period considered as follows:

*Table 5*

#### **Production, production capacity and capacity utilisation**

	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>RIP</b>
<b>Production volume (thousand m<sup>2</sup>)</b>	1 126 000	1 168 000	1 192 000	1 238 500
<b>Index (2013 = 100)</b>	100	104	106	110
<b>Production capacity (thousand m<sup>2</sup>)</b>	1 503 300	1 545 000	1 536 100	1 536 100
<b>Index (2013 = 100)</b>	100	103	102	102
<b>Capacity utilisation (%)</b>	74,9	75,6	77,6	80,6
<b>Index (2013 = 100)</b>	100	101	104	108

Source: Eurostat, CET

(137) The total Union production increased by 10 % in the period considered. It amounted to 1,24 billion m<sup>2</sup> in the RIP. Over the same period the increase in the Union consumption was 18 % (see Table 1).

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(138) Production capacity remained stable over the period considered. The capacity utilisation increased by 8 % and reached around 81 % in the period considered.

#### 4.2.2. Sales volume and market share

(139) The Union industry's sales volume and market share refer to the sales by the Union industry on the Union market to independent customers. They were established based on the data from Eurostat and the data collected by the CET. They developed over the period considered as follows:

Table 6

#### Sales volume and market share

	2013	2014	2015	RIP
<b>Sales volume (thousand m<sup>2</sup>)</b>	670 500	756 700	762 600	794 700
<b>Index (2013 = 100)</b>	100	113	114	119
<b>Market share (%)</b>	89,4	90,4	89,6	90,4
<b>Index (2013 = 100)</b>	100	101	101	101

Source: Eurostat, CET

(140) Sales volume of the Union's industry increased by 19 % in the period considered. In the same period the market share of the Union industry remained relatively stable with an increase of 1 %. It held a market share around 90 % in the RIP.

#### 4.2.3. Employment and productivity

(141) Employment and productivity developed over the period considered as follows:

Table 7

#### Employment and productivity

	2013	2014	2015	RIP
<b>Number of employees(Full-time employment/employee)</b>	59 348	59 010	59 352	59 352

Source: Eurostat, CET

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Table 7

**Employment and productivity**

<b>Index (2013 = 100)</b>	100	99	100	100
<b>Productivity (m<sup>2</sup>/employee)</b>	18 973	19 793	20 084	20 867
<b>Index (2013 = 100)</b>	100	104	106	110

Source: Eurostat, CET

(142) Employment remained stable during the period considered. Productivity expressed by production volume (in m<sup>2</sup>) per employee increased by 10 % in the period considered.

## 4.2.4. Magnitude of the dumping margins

(143) The dumping margins are specified in recital (89). All margins are significantly above the *de minimis* level.

4.3. *Microeconomic indicators*

## 4.3.1. General remarks

(144) For some of the microeconomic indicators expressed in other than absolute values — namely in % or per unit (the sales price, cost of production, profitability and return on investment), the figures were weighted in accordance with the methodology used in the original investigation to reflect the share of that segment in the total Union production (see recital (20)), using the specific weight of each segment in the total Union production (see recital (107)).

## 4.3.2. Prices and factors affecting prices

(145) The average sales prices of the Union industry to unrelated customers in the Union developed over the period considered as follows:

Table 8

**Average sales prices**

	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>RIP</b>
<b>Sales price (EUR/m<sup>2</sup>)</b>	9,00	9,06	9,13	9,21
<b>Index (2013 = 100)</b>	100	101	101	102

Source: verified questionnaire replies

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- (146) Over the period considered the Union industry's average unit sales price to unrelated customers in the Union increased by 2 %. In the same period the unit cost of production decreased by 9 %.

#### 4.3.3. Labour costs

- (147) The average labour costs of the Union industry developed over the period considered as follows:

Table 9

<b>Labour costs</b>				
	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>RIP</b>
<b>Average labour costs per employee (EUR)</b>	39 314	41 783	42 922	42 262
<b>Index (2013 = 100)</b>	100	106	109	107

Source: verified questionnaire replies

- (148) Between 2013 and the RIP the average labour costs per employee of the sampled Union producers increased by 7 %.

#### 4.3.4. Inventories

- (149) Stock levels of the Union industry developed over the period considered as follows:

Table 10

<b>Inventories</b>				
	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>RIP</b>
<b>Closing stocks (thousand m<sup>2</sup>)</b>	49 168	44 529	42 538	43 427
<b>Index (2013 = 100)</b>	100	91	87	88
<b>Closing stocks as a percentage of production (%)</b>	58	51	46	45

Source: verified questionnaire replies

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Table 10

**Inventories**

<b>Index (2013 = 100)</b>	100	87	79	78
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Source: verified questionnaire replies

- (150) Closing stocks both absolute volumes and as a percentage of production decreased over the period considered (by 12 % and 22 % respectively).
- (151) The relatively high stocks expressed as a percentage of production remains the consequence of the drop of the consumption and thus of the demand in the past years, following the crisis in the construction sector after 2007. The fact that ceramic tiles are products that depend on trends at the time of the sale contributed to the difficulties of companies to find demand for their stocks, and thus to reduce stocks. However, the consumption in the RIP was still lower (by 37 %) than in 2007 (see recital (111)).

4.3.5. Cost of production

The unit cost of production developed as follows during the period considered:

TABLE 11

**Unit cost of production**

	2013	2014	2015	RIP
<b>Unit cost of production (EUR/m<sup>2</sup>)</b>	10,10	9,54	9,35	9,15
<b>Index (2013 = 100)</b>	100	95	93	91

- (152) Over the period considered the Union industry's unit cost of production of ceramic tiles decreased by 9 %.

4.3.6. Profitability, cash flow, investments, return on investments and ability to raise capital

- (153) The Commission established the profitability of the sampled Union producers by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales. It developed as follows:

Table 12

**Profitability, cash flow, investments and return on investment**

	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>RIP</b>
<b>Profitability of sales in the Union on the free market (% of sales turnover)</b>	- 5,84	- 2,06	- 0,68	- 2,02
<b>Index (2013 = 100)</b>	- 100	- 35	- 12	35
<b>Cash flow (EUR)</b>	9 801 189	28 450 311	26 667 148	28 851 493
<b>Index (2013 = 100)</b>	100	290	272	294
<b>Investments (EUR)</b>	124 733 782	148 595 194	168 940 047	173 001 344
<b>Index (2013 = 100)</b>	100	119	135	139
<b>Return on investment (%)</b>	- 5,96	- 3,76	- 1,12	2,06
<b>Index (2013 = 100)</b>	- 100	- 63	- 19	35

Source: verified questionnaire replies

- (154) During the period considered, the Union industry's profitability became positive and increased considerably from - 5,8 % to 2,0 %. The increase corresponds to a positive development, during the same period, of indicators impacting profitability such as: an increase by 2 % of the unit sales price (see recital (145)), and a decrease in cost of production per unit by 9 % (see recital (152)). Overall, at macroeconomic level, the production increased by 10 % in the period considered (see recital (137)), and the Union gained an additional 1 % of the market share (see recital (140)).
- (155) The net cash flow is the Union industry's ability to self-finance their activities. The cash flow increased markedly between 2013 and 2014 (by 190 %) and then remained stable.
- (156) Investments increased by 39 % in the period considered. The companies in the ceramic tiles sector need to constantly invest in modernising the equipment, in order to follow the trends in the market. This concerns in particular investing

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in printing machines allowing the tiles design to follow the trends, and investing in more efficient kilns which are one of the major bottleneck in the ceramic tiles production.

(157) The return on investments is the profit in percentage of the net book value of fixed assets. It also developed positively in the period considered, becoming positive, reflecting the general upward trend.

5. **Conclusion on injury**

(158) The Union industry was able to recover from the past dumping. Its economic situation improved during the period considered compared to its economic situation in the original investigation period. Although the measures in force did not foreclose Chinese producers from the Union market, they allowed the Union producers to maintain the market share, which had a positive impact on the economic development of the Union industry.

(159) Consequently, in the period considered all the injury indicators showed a positive trend. Both the production and the sales increased during the period considered. The sales price remained relatively stable but the cost of production decreased. Although still relatively high, the level of the stock decreased. Both cash flow and return on investment and cash flow increased considerably.

(160) All the above indicators had a positive impact on the profitability of the Union industry, departing from negative to positive results in the RIP.

(161) On the basis of the above, the Commission concluded that the Union industry did not suffer material injury within the meaning of Article 3(5) of the basic Regulation during the review investigation period.

F. **LIKELIHOOD OF RECURRENCE OF INJURY**

(162) As determined above (see recitals (103) and (104)), Chinese imports were made at dumped price levels during the review investigation period and a likelihood of continuation of dumping was found should the measures be allowed to lapse.

(163) Since the Union industry did not suffer material injury anymore, the Commission assessed whether there would be a likelihood of recurrence of injury should the measures be allowed to lapse.

(164) To establish the likelihood of recurrence of injury, the following elements were analysed: the production capacity and spare capacities in China, the attractiveness of the Union market, including the existence of anti-dumping or countervailing measures on ceramic tiles in other third countries, the price behaviour of Chinese exporting producers in other third country markets, and the effect on the Union industry's situation. The analysis took also into account the increase in consumption in the Union and the profitable situation of the Union industry during the period considered.



## 1. **Production capacities and spare capacities in China**

- (165) The PRC is the largest producer of the ceramic tiles in the world. It accounts for more than half of the world's overall production. The estimated total production for 2016 was above 11 billion m<sup>2</sup> tiles (see recital (95)).
- (166) At the same time, the available spare capacities in the PRC were very high in comparison to the size of the Union market. In 2016, it was estimated at around 6 billion m<sup>2</sup> (see recital (95)). Compared to this, the Union production in the RIP was around 1,24 billion m<sup>2</sup> and the tiles consumption was only 879 million m<sup>2</sup> in the same period. Therefore, the Chinese spare capacity exceeds the Union consumption by more than six times.
- (167) The Commission also established that the Chinese exporting producers have accumulated significant stocks that they can start exporting at the moment the measures lapse (see recital (96)). Based on the information from the sampled Chinese exporting producers the stocks may represent up to two third of their ceramic tiles production.

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

- (168) Although the Union market of ceramic tiles is smaller in terms of consumption compared to, for instance, Asia, it still represents around 7 % of the world's consumption of the ceramic tiles. Furthermore, as shown in Table 1 above, Union consumption of the product concerned increased between 2013 and the RIP from 750 158 tonnes to 878 968 tonnes. This shows that Union consumption remains strong and that the Union market, because of its relatively large size and steadily-increasing consumption, remains attractive for Chinese exporting producers.
- (169) Before the imposition of the measures, Chinese imports represented in average around 65 million m<sup>2</sup> annually. The fact that Chinese imports, although at a lower level (see Table 2 above), did not stop after the imposition of measures confirms that Chinese exporting producers find the Union market attractive and continue selling on the Union market.
- (170) In addition, anti-dumping measures were imposed on imports of ceramic tiles from the PRC by other third countries,<sup>(14)</sup> which will make it more difficult for the Chinese exporting producers to export to these markets and further increases the attractiveness of the Union market where these exports may be redirected.
- 2.1. *Price behaviour of Chinese exporting producers in other third country markets*
- (171) A further important factor demonstrating the attractiveness of the Union market is the price of the product concerned, as sold by Chinese exporting producers to third country markets. Export prices of the sampled exporting

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producers of the product concerned to third country markets are higher than the prices these same producers charge to the Union, however they are still significantly below the prices of the Union industry on the Union market. During the RIP, the average export price of the product concerned, as exported by Chinese exporting producers to third country markets, was on average 15-25 % lower than the average price of ceramic tiles on the Union market.

## 2.2. *Chinese prices in the Union market*

(172) A further element demonstrating the attractiveness of the Union market is the higher price level of ceramic tiles on the Union market. In the RIP, the average price of the exports of Chinese exporting producers to the Union market was on average 30-40 % lower than the average price of ceramic tiles in the Union market. Although the current prices from the UAE and India are currently below the level of the Chinese prices, their volumes and growth potential are not comparable with the size of the production capacities in the PRC.

## 3. **Effect on the Union industry situation**

(173) Given the high spare capacities in the PRC and the attractiveness of the Union market and other elements as summarised above in recitals (162) to (172), it is likely that significant volumes of low priced ceramic tiles would be available for sale/re-direction to the Union already in the short term, should the measures lapse.

(174) To assess the likely impact of such low-priced Chinese imports on the Union industry the Commission first looked at a potential loss of their market share. It simulated what would be the impact if the Chinese exporting producers regained the market share of 6,5 % in the investigation period of the original investigation, that is, before the imposition of the measures. In terms of volume this would represent 57 million m<sup>2</sup> based on the Union consumption in the RIP. As established in the original investigation, such a volume of dumped imports of ceramic tiles from the PRC was sufficient to cause material injury to the Union industry in the past.

(175) The Commission considered that since the average sales prices of third countries' imports to the Union is below the average sales price of the Chinese exporting producers and if low priced Chinese tiles reappear on the Union market, they would potentially first gain market share at the expense of the Union industry, before taking over the market share of the exports from third countries producers to the Union.

(176) Therefore, assuming that the increase of the imports translates in an equivalent decrease in the production and the sales volumes of the Union industry, as a result, the unit cost of production of the Union industry would increase from 8,95 EUR/m<sup>2</sup> to 9,09 EUR/m<sup>2</sup>. The increase in the unit cost of production would result in the drop of the Union industry profitability to the break-even point (that is to revenues equalling to total of fixed and variable costs).

- (177) The volume of imports of 57 million m<sup>2</sup> taken for this simulation was based on a conservative estimate. In reality, it can be assumed that in view of the large overcapacity and the accumulated stocks, the Chinese exporting producers would start exporting even more significant volumes of ceramic tiles to the Union. This stock can be at the moment of discontinuation of the measures made available to be exported to the Union.
- (178) Indeed, ceramic tiles are products that depend on current trends and fashion. Therefore, it is not likely that all the accumulated stock would be exported to the Union should the measures lapse. However, because of the considerable volumes of the accumulated stocks, the impact on the Union industry's situation could be considerable even if a small percentage of this stock arrives on the Union market.
- (179) In addition, the huge spare capacities of the Chinese exporting producers strengthen the likelihood of Chinese ceramic tiles entering the Union market. The Commission found that the Chinese exporting producers use similar or the same equipment as the one used by the Union industry and can produce to large extent tiles of similar quality and design as the Union producers. That being said, after further assessment, the Commission found that there was no information to support the claim that ceramic tiles were price sensitive, and, that from the point of view of the final user the only determining factor would be the price. It cannot be denied that price is at least one of the decisive factors for customers to choose a specific product, next to the other factors such as brand and fashion, and given the similarities between the Union and Chinese ceramic tiles, the Commission noted that there is a likelihood that imports of dumped Chinese products would drive down Union prices and have the above mentioned consequences (see recitals (173) to (178) above).
- (180) Therefore, it is likely that the Chinese dumped imports force the Union ceramic tiles producers to adjust prices to their level. As mentioned above in recital (172), on average, Chinese imports are declared at a price significantly below the Union market price.
- (181) Second, the Commission looked at price effects. It simulated what would be the effect if the entry of low-priced Chinese imports to the Union market would drive down the price of the product concerned, as sold by the Union industry. Based on the verified data of the Union producers and the Chinese exporting producers for the RIP, a hypothetical price decrease of the product concerned by Union producers to the level of Chinese prices would result in a significant decrease in their profitability and in heavy losses of 47,52 %.
- (182) Third, as an alternative, the Commission assumed that the average sales price of the Union industry would be pushed down to the level of the average sales price of the Chinese exporters to third markets. Here, similarly, based on verified data of the Union producers, their profitability would deteriorate and result in considerable losses of 17,15 %.

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- (183) The CCCMC argued that the simulations that the Commission carried out were flawed. In its view, when simulating the impact of regaining a market share of 6,5 % by the Chinese imports, the Commission had failed to take into account the different product mixes, the lack of price comparability and (lack of) competition between product types.
- (184) The CCCMC also argued that when simulating the increase of the costs of production resulting from the increased sales of Chinese exporting producers the Commission had disregarded the significant differences between the costs of production of the different product types, and the fact that the Chinese imports only concerned a limited number of PCNs.
- (185) Furthermore, when simulating the price effects of the Chinese imports, the CCCMC argued that the Commission had only relied on average prices and had not taken into account differences in prices of different types of ceramic tiles while the Chinese imports were limited and only concerned a limited number of product types. The CCCMC claimed that because of important differences in types of ceramic tiles, there was no competitiverelationship between different types of ceramic tiles, and therefore, prices of one type of ceramic tiles could not exercise pressure on prices of another type of tiles. It argued that the Commission should have carried out the simulations per product type and not on aggregated basis, as it was the case for the undercutting calculations.
- (186) Therefore, according to the CCCMC, the Commission had failed to conduct the likelihood determination on sufficient factual basis, to allow ‘reasoned and adequate conclusions’ and failed to carry out an analysis that would be based on a positive evidence and objective examination.
- (187) The Commission recalled first that it had reached the conclusions on the likelihood of the recurrence of injury after having analysed a number of elements such as the production capacity and spare capacities in the PRC, the attractiveness of the Union market, the price behaviour of Chinese exporting producers in other third country markets, and the effect on the Union industry’s situation (see recitals (164) to (172)). Its simulations only strengthened and confirmed its conclusions about the recurrence of injury in case the current measures lapse.
- (188) Second, to carry out the simulations, the Commission could only have based itself on the data from the sampled Union producers and aggregated volumes and prices of the exporting producers in the PRC. It did not take into account information about product types and prices of the non-sampled companies.
- (189) Therefore, the Commission had to base itself on a number of assumptions including the given product mix imported from the PRC in the RIP and its average prices. These assumptions did not render its analysis erroneous. Rather, and to the contrary, the Commission considered that it had chosen, in

view of all the other elements such as for instance the spare and production capacity in the PRC, rather a conservative approach. The analysis of other elements showed that should the measures lapse, a much bigger volume as well as wider product mix would be imported to the Union, as it was the case in the original IP. Also, the simulations showed that that potential future imports would have had a significant negative impact on the financial health of the Union industry and would translate in a recurrence of injury of the Union industry. The Commission therefore rejected the claim.

- (190) The CCCMC also argued that the conclusion on the likelihood of recurrence of injury was erroneous because the Commission only had found price effects for a small subset of Union sales. The found price undercutting only represented around 1 % of the total Union industry's sales during the RIP and around 8 % of the sales made by the sampled Union producers on the Union market in the RIP. Also, the CCCMC pointed to the low number of product types (six) that were sold by the Chinese exporting producers during the RIP (out of more than one hundred sold by the Union industry), and therefore to a low level of matching.
- (191) First the Commission recalled that the case at hand was an expiry review. The measures currently in place had for effect a significant decrease of imports from the PRC of the product concerned. Therefore, the undercutting analysis could only be carried out based on the (sampled) imports and represented only one of the various elements to assess the likelihood of continuation or recurrence of dumping and injury.
- (192) Second, unlike the assessment in the original investigation, the assessment of the likelihood of recurrence of injury is prospective in nature. The undercutting analysis of the past imports was only one of the indicators as to the future pricing and volume of exporting producers of the product concerned, and its effects on the Union industry.
- (193) Third, the price analysis of the imports from the sampled Chinese exporting producers showed that despite the measures, all the product types imported by them would be undercutting the Union industry prices should the measures lapse. In that event, a bigger volume and also many more product types would be imported to the Union at prices that would likely undercut the Union prices. This further indicates the likelihood of recurrence of injury to the Union industry. The Commission therefore rejected the claim.
- (194) The CCCMC also argued that the lack of a segmented analysis (per segments of companies) vitiated all (likelihood of continuation of) injury related findings. The CCCMC argued that the Commission should have provided the injury assessment per segment namely for small, medium and big companies, to allow the CCCMC to exercise its rights of defence and to analyse the CCCMC position that there was no basis to conclude that injury was likely to recur.

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- (195) The Commission considered that a separate injury segment analysis was not appropriate or necessary in this expiry review. By sampling Union producers of different sizes so that each segment was represented by the sample, for the purposes of determination of injury and the likelihood analysis, the situation of the different segments was automatically reflected in all injury findings. Furthermore, in line with Articles 3 and 4 of the basic Regulation, injury determination was carried out for the Union industry as a whole rather than for individual producers or group of producers. The sample in the present case was considered representative for the situation of the Union industry as a whole as also explained in recitals (19) to (25) and (105) to (107) above. The Commission thus rejected the argument.
- (196) The CCCMC finally argued that the Commission should have complemented its analysis of the state of the Union industry with an analysis by groups of product type. However, apart from general statements, neither the CCCMC nor any other interested party did submit any details on what are the particular product types that would merit a separate analysis — see recital (46). Also, a segmented analysis was not part of the original investigation. The Commission did not have any grounds to consider that such an analysis was appropriate and it thus considered this argument unfounded. The Commission therefore rejected the claim.
- (197) On the basis of the above considerations, the Commission maintained that the repeal of the measures would in all likelihood result in a recurrence of injury to the Union industry.

## G. UNION INTEREST

### 1. Preliminary remarks

- (198) In accordance with Article 21 of the basic Regulation, the Commission examined whether maintaining the existing measures against the PRC would be against the interest of the Union as a whole. The determination of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, importers and users.

### 2. Interest of the Union industry

- (199) During the RIP the Union industry had recovered from the injury caused by the dumped imports from the PRC. Should measures against the PRC be repealed, it is, however, likely that the injury would recur as the Union industry would be exposed to dumped imports from the PRC potentially in significant volumes and exerting significant price pressure. As a consequence the economic situation of the Union industry would likely deteriorate significantly for the reasons described above (see recitals (173) to (197)). On the contrary, maintaining the measures would bring certainty to the market, allowing the Union industry to maintain its positive economic situation while operating on a fair and competitive market.

(200) On this basis the Commission concluded that the continuation of the measures would be in the interest of the Union industry.

### 3. **Interest of importers**

(201) More than 1 000 known importers/users were contacted at the initiation stage. Eleven companies replied to the sampling form, and three companies filled in the questionnaire form.

(202) Two of the companies were against the continuation of the measures, and one of them argued that it would not be against measures if they were kept at lower rate. The remaining company did not have any specific view on whether the measures should lapse or not.

(203) All the three companies were of view that together with measures, the current exchange rate and the transport costs make it less attractive to import the ceramic tiles from the PRC, and that the imports from the PRC may not significantly increase if the measures lapse. At the same time two of the three importers considered that before the imposition of the anti-dumping duties, imports from the PRC were attractive in view of their designs and low prices.

(204) In the original investigation, it was concluded that the imposition of the measures would not have a significant impact on the activity of the importers because they could, among others, switch to other sources of supply. The Commission observed that, indeed, during the RIP, and while the market share of the imports from the PRC decreased to 1,7 %, imports from countries other than the PRC reached almost 8 % market share (see recital (127)) compared to 5,3 % in the investigation period of the original investigation<sup>(15)</sup>. These imports were not affected by the duties as they are of non-Chinese origin. Therefore, the Commission considered that the prolongation of the measures would not hamper Union importers from continuing buying similar products from other sources.

(205) Finally, the rather low cooperation of unrelated importers suggests that the continuation of measures would not have a significant negative impact on the importers.

### 4. **Interest of users**

(206) At the initiation all the known users were contacted together with the importers. However, no user or user association came forward. In the original case, the Commission calculated the impact of the measures on the final consumers and came to the conclusion that the impact in terms of increased costs per m<sup>2</sup> was limited and amounted to less than 0,5 EUR/m<sup>2</sup>. At the same time, the average yearly consumer consumption was around 2,2 m<sup>2</sup> per person in the Union. The average impact on consumers was, thus 1,1 EUR/m<sup>2</sup> per person in the Union. For the same reasons as those set out in recitals (182) to (184) of Implementing Regulation (EU) No 917/2011, this was deemed

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insignificant. The Commission also analysed the impact of the measures on importers, users and suppliers which could be subject to extra costs or to the lack of supply due to the imposition of the measures. It was concluded that the imposition of measures did not have a significant effect on their activity.

5. **Weighing and balancing of interests**

- (207) In weighing and balancing the competing interests, the Commission gave special consideration to the need to eliminate the trade distorting effects of injurious dumping and to restore effective competition. While the continuation of measures would protect an important Union industry, including many small and medium enterprises, against a likely recurrence of injury, the rather low cooperation of the importers and users suggests that the continuation of measures would not have a disproportionate negative impact on them.

6. **Conclusion on Union interest**

- (208) On the basis of the above, the Commission concluded that there were no compelling reasons that it was not in the Union interest to maintain measures on imports of ceramic tiles originating in the PRC.

H. **CONCLUSION AND DISCLOSURE**

- (209) All parties were informed of the essential facts and considerations on the basis of which it was intended to maintain the existing measures against the PRC. They were also granted a period to submit comments subsequent to that disclosure. The submissions and comments were duly taken into consideration where warranted.
- (210) It follows from the above that, as provided for by Article 11(6) of the basic Regulation, the anti-dumping measures applicable to imports of ceramic tiles originating in the PRC, imposed by Implementing Regulation (EU) No 917/2011 should be maintained.
- (211) This Regulation is in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:



- (1) [OJ L 176, 30.6.2016, p. 21.](#)
- (2) Council Implementing Regulation (EU) No 917/2011 of 12 September 2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of ceramic tiles originating in the People's Republic of China ([OJ L 238, 15.9.2011, p. 1](#)), as last amended by Commission Implementing Regulation (EU) 2015/782 of 19 May 2015 adding a company to the list of producers from the People's Republic of China listed in Annex I of Regulation (EU) No 917/2011 ([OJ L 124, 20.5.2015, p. 9](#)).
- (3) See Commission Implementing Regulation (EU) 2015/409 of 11 March 2015 amending Council Implementing Regulation (EU) No 917/2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of ceramic tiles originating in the People's Republic of China ([OJ L 67, 12.3.2015, p. 23](#)).
- (4) Notice of the impending expiry of certain anti-dumping measures ([OJ C 425, 18.12.2015, p. 20](#)).
- (5) Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of ceramic tiles originating in the People's Republic of China ([OJ C 336, 13.9.2016, p. 5](#)).
- (6) Judgment of the Court of 20 March 1985, Case C-264/82 *Timex v Council and Commission*, ECLI:EU:C:1985:119, at paragraph 24.
- (7) Decision of the President of the European Commission of 29 February 2012 on the function and terms of reference of the hearing officer in certain trade proceedings ([OJ L 107, 19.4.2012, p. 5](#)).
- (8) As explained in the recital (10) the names of the Union producers cannot be disclosed for confidentiality reasons.
- (9) Please refer also to Judgement in Case C-687/13, point 67, request for a preliminary ruling from the Finanzgericht München — Germany, *Fliesen-Zentrum Deutschland GmbH v Hauptzollamt Regensburg Fliesen-Zentrum*, Judgment of the Court (Third Chamber) of 10 September 2015.
- (10) Source: The China Building Ceramics and Sanitary Ware Association ('CBCSA') (website: <http://www.china-china.cn>)
- (11) The actual weights slightly differed from the ones used in the original investigation, established based on data from 2008.
- (12) See recital 121 of the 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](#)).
- (13) During the original investigation (from 2007 to 31 March 2010), imports from the PRC averaged around 65 million m<sup>2</sup> annually.
- (14) Thailand (2,18-35,49 %), Argentina (USD 50,03/m<sup>2</sup>), Brazil (USD 3,34/m<sup>2</sup> to USD 6,42/m<sup>2</sup>), South Korea (9,07 % to 37,40 %), India (up to USD 1,87 per m<sup>2</sup>), Mexico (price commitment FOB no less than USD 6,72/m<sup>2</sup>, or duties USD 2,9/m<sup>2</sup> to USD 12,42/m<sup>2</sup>), and Pakistan (5,21 %-59,18 %). Source: Annex 22 of the request, WTO website for Semi-annual reports under Article 16.4 of the Agreement from the various countries, and Indian Ministry of Finance publication.
- (15) See recital 78 of the 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](#)).

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