EUROPEAN COMMISSION
Directorate-General for Trade
Directorate H – Trade Defence

Trade Defence Instruments

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Anti-dumping proceeding concerning imports of ceramic tableware and kitchenware originating in the People's Republic of China

AD 586

General Disclosure Document

A. PROCEDURE

1. Initiation

(1) The Commission, by Regulation (EU) No 1072/2012[1] ('the provisional Regulation'), imposed a provisional anti-dumping duty on imports of ceramic tableware and kitchenware originating in the People's Republic of China ('PRC' or 'the country concerned').

(2) The proceeding was initiated on 16 February 2012[2] following a complaint lodged on behalf of Union producers ('the complainants'), representing more than 30% of the total Union production of ceramic tableware and kitchenware.

(3) As set out in recital (22) of the provisional Regulation, the investigation of dumping and injury covered the period from 1 January 2011 to 31 December 2011 ('the investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2008 to the end of the IP ('the period considered').

2. Subsequent procedure

(4) Subsequent to the disclosure of the essential facts and considerations on the basis of which it was decided to impose a provisional anti-dumping duty ('provisional disclosure'), several interested parties made written submissions making known their views on the provisional findings. The parties who so requested were granted an opportunity to be heard. Two importers and one exporting producer requested and were afforded hearings in the presence of the Hearing Officer of the Directorate-General for Trade.

(5) The Commission continued to seek and verify all information it deemed necessary for its definitive findings. The oral and written comments submitted by the interested parties were considered and, where appropriate, the provisional findings were modified accordingly.

(6) In addition, as explained in paragraph (50) below, a verification visit was carried out at a Thai producer, the purpose of which was to investigate the suitability of Thailand as an appropriate analogue country.

3. Sampling

(7) Following provisional disclosure several interested parties challenged the sample of exporting producers from the PRC arguing that the sample is not representative, as it is based only on the largest exported volumes and thus failed to take into account other factors characterising the diversity and fragmentation of the ceramic industry in the PRC.

(8) It follows from Article 17(1) of the basic Regulation that the selection of companies to be included in the sample may be limited to the largest representative volume of exports that can reasonably be investigated within the time available. In view of the fragmentation of the industry it was considered that a selection based on export volumes would allow a representative sample that could be investigated within the time available. In this respect it should nevertheless be noted that the companies selected are located in three different regions in China and have significant production

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[1] OJ L 318, 15.11.2012, p. 28.

[2] OJ C 44, 16.2.2012, p. 22.

of the product concerned of different types of ceramic material, e.g. porcelain and stoneware as well as production of a wide variety of product types. Therefore, this claim cannot be accepted.

(9) One exporting producer claimed that the use of different methodologies for selecting the sample for the EU industry and importers as compared to the sampling of exporting producers amount to discrimination and that the same criteria should have been used. The use of different methodologies is discriminatory against the exporting producers and a breach of equal treatment.

(10) The selection of a sample of exporting producers serves only to investigate the existence of dumping of the product concerned from the PRC. In this regard, it is essential to cover the maximum volume of imports of the product concerned in the investigation period. On the other hand, the sample of Union producers was selected for the purpose of determining whether the Union industry was suffering material injury of the basis of numerous different indicators. Concerning importers, the information collected is largely used in the Union interest assessment. It follows that for importers and the Union producers, it is important to collect information from a range of companies active in, for example, different product segments. As the underlying rationale for selecting companies to be included in the samples is different for, on the one hand, Union producers and importers and, on the other hand, exporting producers, they are not in a similar situation. Therefore, neither the principle of non-discrimination nor equal treatment requires the use of an identical methodology for selecting the respective samples. It follows that this claim is wholly unwarranted and is therefore rejected.

(11) Furthermore, one exporting producer maintained its request, as referred to in recital (8) of the provisional Regulation, that it should have been included in the sample. The company has however not put forward any new arguments that would justify its inclusion in the sample. Therefore, and taking into account the findings in paragraph (8) above, the conclusions in recital (9) of the provisional Regulation are hereby confirmed.

(12) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of a definitive anti-dumping duty on imports of ceramic tableware and kitchenware originating in the PRC and the definitive collection of the amounts secured by way of the provisional duty (‘final disclosure’). All parties were granted a period within which they could make comments on this final disclosure.

(13) The oral and written comments submitted by the interested parties were considered and taken into account where appropriate.

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Introduction

(14) As set out in recitals (24) and recitals (56) to (57) of the provisional Regulation, the product concerned as provisionally defined is ceramic tableware and kitchenware, excluding ceramic knives ('the product concerned'), currently falling within CN codes ex 6911 10 00, ex 6912 00 10, ex 6912 00 30, ex 6912 00 50 and ex 6912 00 90 and originating in the People’s Republic of China.

2. Claims

(15) Following provisional disclosure, no parties contested that ceramic (kitchen) knives were fundamentally different from other kinds of ceramic table and kitchenware due to differences in physical characteristics, production processes and end-uses. All

comments by parties having been analysed, the claim to exclude ceramic knives from the product scope of this investigation is definitively accepted.

(16) After publication of provisional measures, several parties claimed that certain ceramic condiment and spice mills and their ceramic grinding parts, should be excluded from the product scope.

(17) This claim is based on the allegation that, in view of their specificities, such mills and other types of ceramic tableware and kitchenware could not be considered as forming one single product. Those mills have a ceramic material mainly made of alumina for the grinding plate which is not used for 'standard' tableware such as cups and plates and for which firing is done at higher temperatures. Their degree of inter-changeability with the main categories of the product under investigation would be limited. This would also apply to ceramic grinding mechanisms without any housing which are normally declared under the above-mentioned codes.

(18) The investigation showed that the ceramic element in these grinders normally represented a minor part of the mill. Moreover, the investigation showed that mills with a ceramic grinding plate, including their ceramic grinding parts, did not have the same basic physical characteristics and basic uses as ceramic tableware and kitchenware. The shape, strength and design of the ceramic grinding parts are different from ceramic tableware and kitchenware.

(19) Some parties submitted that the mills in question should be excluded from the product scope on the basis that they have the same physical characteristics, industry design and end-use as mills with grinding mechanisms made of metal and that when included in certain sets of mills they are normally classified under tariff heading 8210. They also claimed that the ceramic elements in these instances generally represent normally up to 2% of the value of the product. Nevertheless, given the numerous classification possibilities of mills and sets of mills, the investigation could not retain these arguments to determine whether ceramic mills should be excluded from the product scope of the investigation.

(20) Several parties backed their claim that the mills in question should be excluded from the product scope on the basis that it would be necessary to use ceramic grinding plates, rather than metal, in certain mills, namely salt mills, as salt corrodes metal grinders. However, the investigation showed that salt mills do not necessarily use ceramic grinding mechanisms.

(21) On the basis of the considerations in the paragraphs above, the investigation concluded that condiment and spice mills with ceramic grinding elements are fundamentally different from other kinds of ceramic table and kitchenware due to the differences in basic physical characteristics and uses of the ceramic material used for the working parts. Therefore, the claim to exclude them, including stand-alone ceramic grinding mechanisms and their parts, from the product scope of this investigation is accepted.

(22) After publication of provisional measures, some parties claimed that ceramic knife sharpeners should be excluded from the product scope because of differences in the production processes, end-use and the fact that these items are not aimed at retaining foodstuff due to their specific design and physical characteristics. The investigation confirmed these points. The claim to exclude them from the product scope of this investigation is therefore granted.

(23) In the same vein it was also investigated whether ceramic peelers should be excluded from the product scope. Indeed, the investigation confirmed that ceramic peelers, also, are fundamentally different from other kinds of ceramic table and kitchenware due to the differences in the design and physical characteristics (shape and strength) of the

ceramic material used for the working parts, their production processes and end-use. Ceramic peelers should, therefore, also be excluded from the product scope of this investigation.

(24) After publication of provisional measures, a party also claimed that pizza-stones made of cordierite ceramic should be excluded from the product scope because of their different physical properties (shape and hardness), industrial design and use. Cordierite ceramic is a type of alumina magnesia silicate with specific properties, namely an excellent thermal shock resistance. The investigation confirmed that pizza-stones made of cordierite ceramic have the same physical properties (shape and hardness), industrial design and use as bricks for furnaces or ovens. Consequently, they are different from other ceramic tableware and kitchenware. The claim to exclude them from the product scope of this investigation is therefore granted.

(25) After publication of provisional measures, a Dutch association claimed that ceramic tableware and kitchenware to be used as promotional products should be excluded from the product scope on the basis that they are not sold to be used as tableware or kitchenware, that they are an important economical driver for the retail sector, that they are highly appreciated by consumers and that only producers in the People's Republic of China could offer the quantities needed within a short period. The claim to exclude ceramic tableware and kitchenware to be used as promotional products from the product scope of this investigation cannot however be granted because their physical characteristics, production processes and end-use are the same as those of other kinds of ceramic tableware and kitchenware.

(26) Provisional measures having been published, a German importer and wholesaler and a Chinese co-operating exporting producer claimed that specially coated stoneware wares of a kind for sublimation printing and for which the coating of sublimation is removable through mechanical scratching should be excluded from the product scope on the basis that they are semi-finished products for which the photofinishing is carried out in the Union via specific channels, the different consumer perception, the fact that the sublimation coating exceeds the value of the uncoated ceramic items and the inexistency of Union producers of this kind of product. The investigation revealed that the product is visibly identical to other non-sublimated tableware and, therefore, it is difficult to distinguish, if at all. The investigation further showed that these products have normally the same end-use as other types of ceramic tableware. It was also found that several Union producers do manufacture these products and that Union-made and imported products are in direct competition. In view of the above, the claim to exclude specially coated stoneware wares of a kind for sublimation printing is rejected.

(27) After the publication of provisional measures, the importer that had claimed the exclusion of underglaze figurative hand-painted tableware from the product scope alleged that the Commission's provisional analysis in this respect was flawed because it ignored the existence of market segments, the differences in quality between the different types of tableware, the luxury and more fragile nature of underglaze figurative hand-painted tableware and the limited interchangeability as a consequence of the associated consumer perception. It also alleged that underglaze figurative hand-painted tableware may be even used for decoration.

(28) As regards the claims concerning the differences in quality between the different types of tableware and the luxury and more fragile nature of underglaze figurative hand-painted tableware, these characteristics are not specific to underglaze figurative hand-painted tableware. Moreover, as regards the limited interchangeability as a consequence of associated consumer perception, no new argument was raised that would change the conclusion in recital (45) of the provisional Regulation that the

average consumer does not make a difference between underglaze figurative hand-painted tableware and other types of ceramic tableware. Finally, the Commission had analysed the existence of market segments in recitals (157) to (158) of the provisional Regulation. These arguments could not therefore reverse the conclusions in recital (45) of the provisional Regulation.

(29) The claim raised in recital (50) of the provisional Regulation was further elaborated after the imposition of provisional measures. The importer with production in China claimed that kitchenware/tableware products that are entirely glazed and/or enamelled on 100% of their surface with the exception of the base or a part thereof and where 100% of the glazed/enamelled surface is coloured with a non-white colour should be excluded from the product scope. The claim was duly analysed and the investigation has shown that the physical characteristics, production processes and end-uses of these products are the same as those of other glazed and/or enamelled products of ceramic tableware and kitchenware. Therefore, the claim is rejected.

(30) The Chinese Chamber of Light Industrial Products and Arts-Crafts (CCCLA) insisted that fine bone china should be excluded from the product scope of the investigation on the basis that it is a fragile luxury product and contested that it is chip resistant. Yet it is noted that CCCLA itself had previously submitted that fine bone china had a high mechanical strength and was chip resistant. These contradictory statements clearly undermined the CCCLA claims. In the absence of any evidence they did not allow for a reconsideration of the conclusions reached in recital (28) of the provisional Regulation.

(31) The same party reiterated that durable porcelain should be excluded from the product scope of the investigation. It claimed that the statement that it does not have uncontested features was not true, that it was very robust due to a clay aluminium content of over 24% and then contested the Union manufacturing capacity for this product. The different submissions on durable porcelain are contradictory as regards for instance the raw materials share and its alumina powder content. These contradictory statements clearly undermined the CCCLA claims. In the absence of any evidence they did not allow for a reconsideration of the conclusion made in recital (39) of the provisional Regulation.

(32) Given that all types of ceramic tableware and kitchenware can be regarded as different types of the same product, the claim that the investigation covers a large range of like products (and that, as a result, it was necessary to conduct separate standing, dumping, injury, causation and Union interest analyses for each of them) is found to be unfounded. One party that claimed that the product scope was too broad brought forward a comparison of products with different levels of decoration, but its statements as regards end-use (for the garden and children in one case, for decoration in the other case) are disputable because there is no clear-cut and can rather be seen as a confirmation of the point made in recital (55) of the provisional Regulation. It should also be noted that an importer with production in the People's Republic of China submitted that over 99% of the ceramic tableware and kitchenware products sold in the Union were predominantly or exclusively white. Some parties contested recital (58) of the provisional Regulation on the basis that in the framework of the investigation the institutions did not carry out any test of whether certain merchandise was not suitable for free trade in the Union. However, this fact does not undermine the conclusion in recital (63) of the provisional Regulation.

3. Conclusion

(33) In view of the above, the product scope is definitively defined as ceramic tableware and kitchenware, excluding ceramic knives, ceramic condiment or spice mills and their

ceramic grinding parts, ceramic peelers, ceramic knife sharpeners and cordierite ceramic pizza-stones of a kind used for baking pizza or bread, originating in the People's Republic of China, currently falling within CN codes ex 6911 10 00, ex 6912 00 10, ex 6912 00 30, ex 6912 00 50 and ex 6912 00 90.

(34) In the absence of other comments regarding the product concerned and the like product, all other determinations in recitals (24) to (63) of the provisional Regulation are hereby confirmed.

C. DUMPING

1. Market Economy Treatment (MET)

(35) One exporting producer, one Union producer and one importer claimed that the MET determination was made out of time, i.e. after the three-month period laid down in Article 2(7)(c) of the basic Regulation and that the investigation therefore should be terminated without imposition of any anti-dumping measures. In support of their claim they relied on the Court of Justice's judgments in the *Brosmann* and *Aokang Shoes* cases[3].

(36) This claim had already been made at the provisional stage and rejected by the Commission in recitals (72) and (73) of the provisional Regulation. It is further recalled that Article 2(7) of the basic Regulation has meanwhile been amended with the effect that the Commission shall only make MET determinations in respect of companies included in a sample pursuant to Article 17 of the basic Regulation and that such a determination shall normally be made within seven months of, but in any event not later than eight months after the initiation of the investigation[4]. This amendment is applicable to all new and pending investigations, including the present one.

(37) Due to the large number of MET claims received and the need at that time to carry out numerous verification visits to examine those claims, the MET determination was not made within seven months. However the determinations were made within eight months from the date of the initiation.

(38) In view of the above, the claim that the anti-dumping investigation, due to a failure to make a MET determination within three months, should be terminated without imposition of any anti-dumping measures is rejected.

(39) Furthermore, one non-sampled exporting producer that failed to demonstrate that it has one clear set of accounting records that were independently audited in line with international accounting standards and thus had its MET request rejected, maintained the claim that the alleged accounting errors, if any, on the basis of which its request was refused, were not material and that, therefore, the decision to refuse MET was disproportionate and in breach of the principle of proportionality.

(40) The arguments concerning the severity of the accounting records are essentially identical to those made during the MET investigation and were rebutted by the Commission prior to the MET determination. Nevertheless, with regard to the argument that the refusal to grant MET breaches the principle of proportionality it

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[3] Court of Justice judgment of 2 February 2012 in case C-249/10 P, *Brosmann Footwear HK and Others v. Council* of the European Union and Court of Justice judgment of 15 November 2012 in case C-247/10 P, *Zhejiang Aokang Shoes Co. Ltd v. Council of the European Union.*

[4] Regulation (EU) No 1168/2012 of the European Parliament and of the Council of 12 December 2012 amending Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community, OJ L 344, 14.12.2012, p. 1.

should be recalled that the MET criteria laid down in Article 2(7)(c) of the basic Regulation are cumulative and, unless they are all fulfilled, MET cannot legally be granted. In addition, since the burden of proof is on the company requesting MET and the company failed to demonstrate that it had one clear set of accounts, the only option available to the Commission was to refuse MET. Therefore, the decision to refuse MET cannot be considered to be in breach of the principle of proportionality. In any event, pursuant to Article 2(7)(d) of the basic Regulation, as amended by Regulation 1168/2012[5], when the Commission has limited its examination by the use of sampling, a determination on MET shall be limited to the parties included in the sample.

2. Individual Treatment (IT)

(41) It is recalled that although sixteen exporting producers requested IT, only the claims received from the sampled companies were examined pursuant to Article 9(6) of the basic Regulation and were, subsequently, accepted. Of the remaining eleven exporting producers, seven requested individual examination.

(42) In accordance with Articles 9(5) and 9(6) of the basic Regulation, individual duties shall be applied to imports from any exporter or producer which will be granted individual examination, as provided for in Article 17(3) of the basic Regulation. Accordingly, the four companies that requested IT but not individual examination could not be granted an individual duty.

(43) One exporting producer claimed that it had submitted all information required within given deadlines and should therefore have had its IT claim examined and an individual margin established in accordance with the Court of Justice ruling in the *Brosmann* case[6].

(44) This claim cannot be accepted. As the company in question was not included in the sample its claim for IT could only be assessed in the context of an individual examination, should one be carried out pursuant to Article 17(3) of the basic Regulation.

(45) In the absence of any further comments on IT, recitals (79) to (81) of the provisional Regulation are hereby confirmed.

3. Individual Examination (IE)

(46) Claims for individual examination pursuant to Article 17(3) of the basic Regulation were submitted by seven exporting producers, comprising ten legal entities. As explained in recitals (82) and (83) of the provisional Regulation, no decisions were taken in respect of these requests at the stage of provisional measures.

(47) On 21 December 2012 the exporting producers were informed that their requests for individual examinations could not be accepted as they would be unduly burdensome and would prevent completion of the investigation in due.

(48) One exporting producer claimed that, pursuant to Article 17(3) of the basic Regulation, an individual examination is a statutory right and that the Commission's refusal to individually examine it is unjustified, since neither the number of companies nor the examination required would, in view of the Commission's resources, be unduly burdensome or prevent the completion of the investigation in due time.

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5 *Ibid.*

6 See footnote 4.

(49) The decision whether or not to accept individual examinations is taken on a case by case basis, taking into account the number of claims submitted and the time available to assess these claims. In this case, it should be recalled that the Commission was legally obliged to carry out MET examinations at sixteen legal entities in the PRC, including companies not selected in the sample. Considering the time constraints imposed by legal procedural deadlines no individual examinations could therefore be carried out prior to the provisional findings. In view of the limited time available thereafter and considering the number of claims submitted and the limited resources available by the services responsible for anti-dumping investigations in the Commission, it was concluded that it would be unduly burdensome to carry out individual examinations in this case.

4. Normal Value

4.1. Choice of analogue country

(50) Following the imposition of provisional measures, the selection of an appropriate analogue country was further examined. In this context, a verification visit was carried out at the premises of the Thai exporting producer that had submitted a questionnaire reply, as mentioned in recital (87) of the provisional Regulation. After having examined and verified the information received from the cooperating producer in Thailand it was however concluded that the Thai producer could not provide data at a sufficient level of detail regarding the types of products sold on the domestic market. Therefore, it was considered that Brazil should be retained as the most appropriate analogue country.

(51) Nevertheless, the information obtained from Thailand served to support some of the findings made in Brazil, notably the level of price difference between branded and non-branded products (see paragraph (72) below).

(52) In view of the above and in the absence of any comments on substance on the choice of Brazil as the appropriate analogue country, recitals (84) to (88) of the provisional Regulation are confirmed.

4.2. Determination of normal value

(53) Following the provisional disclosure several interested parties claimed that the determination of normal value was flawed in so far as it was allegedly not established for the sales of like products in Brazil and, therefore, led to distorted and unfair results, particularly in respect of stoneware products and other product types that were not produced and sold in the analogue country. Some exporting producers also argued that the methodology for establishing the constructed normal value, referred to in recital (94) of the provisional Regulation, was not properly disclosed.

(54) The comments received after the provisional disclosure show that the methodology used to determine the normal value was not fully clear to some interested parties, In order to address these comments, it is further explained that the methodology for determining the normal value has been the following.

(55) Given that all requests for MET are denied normal value for all sampled exporting producers from the PRC was established on the basis of information received from the producer in the analogue country, pursuant to Article 2(7)(a) of the basic Regulation.

(56) In accordance with Article 2(2) of the basic Regulation, the Commission first examined whether the sales of the like product in Brazil to independent customers were representative. The sales of the Brazilian cooperating producer of the like product were found to be sold in representative quantities on the Brazilian domestic market compared to the product concerned exported to the Union by the exporting

producers included in the sample. In this respect it is recalled that according to Article 1(4) of the basic Regulation, "like product" means a product that is identical, *i.e.* alike in all aspects, to the product under consideration or, in the absence of such a product, another product which, although not alike in all aspects, has characteristics closely resembling those of the product under consideration.

(57) The Commission subsequently examined whether these sales could be considered as having been made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing the proportion of profitable sales to independent customers. The sales transactions were considered profitable where the unit price was equal to, or above, the cost of production. The cost of production of the cooperating Brazilian producer was therefore determined.

(58) This examination demonstrated that for all product types more than 80% by volume of sales on the domestic market were above cost and that the weighted average sales price of all types was equal to, or above, the unit cost of production.

(59) Accordingly, normal value, by product type, was calculated as the weighted average of the actual domestic prices of all sales, irrespective of whether those sales were profitable or not. It follows that, contrary to what was indicated in recital (94) of the provisional Regulation, no constructed normal value has been established for non-profitable sales.

4.3. Export price

(60) In the absence of any comments regarding export prices, recital (95) of the provisional Regulation is hereby confirmed.

4.4. Comparison

(61) Following provisional disclosure several interested parties claimed that, generally, the methodology used for the comparison of normal value and export price was flawed as it did not compare like products and that the basis on which adjustments were made was not sufficiently explained. More particularly, one exporting producer claimed that for stoneware products, which were not produced and sold by the analogue producer, the Commission should have compared the export price with the domestic price for earthenware, duly adjusted, rather than constructing a normal value. Moreover, several exporting producers argued that for several other product types, which were produced and sold by exporting producers, a comparison between the export price and an average price per kg for a generic product type sold in Brazil based solely on the type of ceramic material used has inevitably lead to a comparison between products that are not like and thus to a flawed result. In addition, one exporting producer claimed that the branding adjustment under Article 2(10)(k) was underestimated while another exporting producer claimed that the level of that adjustment was not based on any reliable or substantiated data and is therefore not justified. The same exporting producer also argued that its export prices should be adjusted for differences in quantities sold at different levels of trade. Finally, several interested parties claimed that the methodology used for adjustments for differences in physical characteristics are not well founded and it is unclear on which data these adjustments were made.

(62) In view of the comments received the methodology used for price comparison and adjustments for the purpose of price comparability pursuant to Article 2(10) of the basic Regulation have been revised. Most notably, for products that at the provisional stage were compared on the basis of the average price per kg for a generic product based solely on the ceramic material used, the comparison has been made with the closest resembling product (see paragraph (68) below),which allowed for a more accurate price comparison.

(63) The normal value and export price were compared on an ex-works basis. The dumping margins were established by comparing the individual ex-works price of the sampled exporters to the domestic sales price of the analogue producer of the like product. Some export transactions concerned, however, atypical product types, like serviette rings, knife rests or teapot stands, for which it was not possible to ensure a fair comparison. Therefore, also taking into account that these transactions were negligible as they overall only accounted for less than 0.5% of export volumes, they were excluded.

(64) For the purpose of ensuring a fair comparison between the normal value and the export price, due allowances in the form of adjustments was made for differences affecting price and price comparability in accordance with Article 2(10) of the basic Regulation. Adjustments were made, where appropriate, in respect of differences in physical characteristics, level of trade and for other factors affecting price comparability, notably branding.

(65) First, it was examined whether an adjustment under Article 2(10)(a) of the basic Regulation for differences in physical characteristics was warranted.

(66) In cases where the normal value was determined on the basis of the closest resembling product (see paragraph (56) above), an adjustment was made for differences in the physical characteristics in order to ensure a fair price comparability between the like products.

(67) With regard to stoneware products, the export price was compared to the domestic sales price of the closest resembling product produced and sold in the analogue country, *i.e.* the sales price of products made of earthenware instead of stoneware but identical in all other aspect, as adjusted, to reflect the price difference between stoneware and earthenware.

(68) In respect of other product types for which the comparison at provisional stage was based on the average price per kg and the ceramic material only, the Commission has further analysed the product types concerned and compared the export price with the closest resembling product type produced and sold in the analogue country. Where only one minor physical characteristic differed, e.g. type of glazing or decoration, while all other basic characteristics of the product type were identical, the sales price of the closest resembling type was adjusted by the actual price difference found for the difference in physical characteristic. For other product types, where more than one physical characteristic differed, the export price was compared to the average sales price of the closest resembling product. For these product types, the closest resembling product shared several or all of the following basic physical characteristics; ceramic material, type of ware, basic shape, decoration and glazing.

(69) In view of the wide variety of possible combinations of ceramic tableware sets produced and sold in the PRC and in Brazil, respectively, it was for the purpose of achieving a fair price comparability considered necessary to group different sets together based on the number and type of items combined in a set. The average domestic sales price in the analogue country for the different combinations of sets thus grouped together was compared with the export price for the identical group of set combinations.

(70) Furthermore, as described in recital (99) of the provisional Regulation, the investigation established that Chinese exporting producers generally qualify their product in up to five different grades ranging from A to E with significant price differences. The vast majority of exports to the Union consist however of A-grade, B-grade or C-grade or a combination thereof. This grading is however not universal or

based on any general industry-wide standard but is rather company specific and allows for price differentiation. On the other hand, the analogue country producer only sells the equivalent of A-grade on the domestic Brazilian market and price comparability was therefore found to be affected. Accordingly, the export price was adjusted upwards to Chinese A-grade level in order to be comparable with the product sold by the analogue producer on the Brazilian market. This level of this adjustment was individually established for each of the sampled companies, where appropriate and based on the actual and verified price difference between the different grades.

(71) Second, as described in recital (98) of the provisional Regulation it was examined whether a level of trade adjustment under Article 2(10)(d) of the basic Regulation was warranted. It was found that the export price is at a different level of trade from the normal value as Chinese exports were essentially made at wholesale level whereas the domestic sales in the analogue country were also made at a retail level. The investigation further established that on both markets the different distribution channels affected the price level, thus affecting fair price comparability between export price and normal value. Accordingly, in order to make a fair comparison between the export price and the normal value, the latter was established on a per product type basis and adjusted for each level of trade by using the price differences found between the different levels of trade in the analogue country. It is recalled that, where appropriate, a further level of trade adjustment was made in the provisional Regulation on the basis of the price difference found in respect of quantities sold at each level of trade (recital (98) of the provisional Regulation). This further adjustment was deemed justified as the investigation, at the provisional stage, had indicated that while the majority of Chinese export sales were made in large quantities, the majority of domestic sales were made in smaller quantities resulting in price differences on the same level of trade. However, further investigation and a more detailed analysis of the domestic sales transactions in the analogue country have, contrary to the provisional findings, demonstrated that the ratio of small and large quantities sold by the analogue producer is similar to that of the Chinese exporting producers. Accordingly, this adjustment is no longer considered appropriate or justified.

(72) Third, as described in recital (100) of the provisional Regulation the investigation established that the Brazilian producer only sells branded products on the Brazilian market whereas Chinese exporting producers do not export branded products but rather private label products or generic ceramic tableware and kitchenware. Branded products are normally perceived by customers to be products signifying a certain prestige, assured quality and design thus commanding a higher market price whereas generic and/or private label products, whilst having the same physical and technical characteristics, are usually sold at considerably lower price levels. While the additional value of a branded value cannot generally be exactly quantified in the abstract as it varies from brand to brand and depends on many different factors, such as customer perception, brand recognition, and other non-quantifiable factors, the Brazilian producer has, in this particular case, confirmed that its branded products can be sold at significantly higher prices on the Brazilian market than other non-branded products. Accordingly, a downward adjustment of 40% of the domestic sales price was made to the normal value pursuant to Article 2(10)(k) of the basic Regulation.

(73) With regard to the above mentioned adjustment it is recalled that two exporting producers have questioned both the basis on which the adjustment was made as well as the level of the adjustment (see paragraph (61) above). It is however uncontested that a branded product commands a higher sales price than an identical non-branded product and that the price comparability is thus affected. Moreover, in addition to the information provided by the producer in the analogue country, actual and verified

price data from a cooperating producer in Thailand, as well as information received from one Union producer after the provisional disclosure, have confirmed that the level of adjustment is appropriate. Therefore, these claims cannot be accepted.

(74) As described in recital (101) of the provisional Regulation, further adjustments were made, where appropriate, in respect of transport, insurance, handling and ancillary costs, packing, credit, bank charges and commissions in all cases where they were demonstrated to affect price comparability.

5. Dumping margins

(75) In the absence of comments, the methodology used for calculating the dumping margins, as set out in recitals (102) to (105) of the provisional Regulation, is herewith confirmed.

(76) Following the provisional disclosure, the Commission were informed that some trading companies, which do not produce the product concerned, had erroneously been named in Annex I to the provisional Regulation and hence subject to the dumping duty established for cooperating exporting producers. The Commission informed these companies of its intention to have them removed from Annex I and granted them the opportunity to provide comments. After having examined the comments received, several trading companies have been removed from Annex 1. Where appropriate, they have been replaced with the related cooperating exporting producer.

(77) Taking into account the adjustments made to the normal value and to the export price as set out in paragraphs (61) to (74) above, and in the absence of any further comments, the definitive dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Company	Duty
Hunan Hualian China Industry Co., Ltd; Hunan Hualian Ebillion Industry Co., Ltd; Hunan Liling Hongguanyao China Industry Co., Ltd; Hunan Hualian Yuxiang China Industry Co., Ltd	18,3%
Guangxi Sanhuan Enterprise Group Holding Co., Ltd	13,1%
CHL Porcelain Industries Ltd	23,4%
Shandong Zibo Niceton-Marck Huaguang Ceramics Limited; Zibo Huatong Ceramics Co., Ltd; Shandong Silver Phoenix Co., Ltd; Niceton Ceramics (Linyi) Co., Ltd; Linyi Jingshi Ceramics Co., Ltd; Linyi Silver Phoenix Ceramics Co., Ltd; Linyi Chunguang Ceramics Co., Ltd: Linyi Zefeng Ceramics Co., Ltd	17,6%
Guangxi Province Beiliu City Laotian Ceramics Co., Ltd	22,9%
Non-sampled cooperating exporting producers	17,9%
All other companies	36,1%

D. INJURY

1. Union production and Union industry

(78) In a joint submission several importers questioned the calculation method of the Union production figure given in recital (108) of the provisional Regulation. In particular, they considered that the standing requirement would not have been met by the complainants as the available PRODCOM statistics would suggest a much higher level of EU production of the like product than the 240 200 tonne figure mentioned in the said recital.

(79) In respect of this claim it is noted that the data source for the Union production figure was contained in recital (107) of the provisional Regulation, i.e. it is based on data provided by the European and national associations, cross-checked with data provided by individual producers and also with other statistical sources. The disparity between the PRODCOM statistics and the 240 200 figure derives from the fact that the product scope of this investigation does not fully match with the PRODCOM statistical data codes, i.e. it is much narrower. Therefore, there is no reason to doubt the result of the standing exercise.

(80) Moreover, in the framework of the statutory analysis of an anti-dumping complaint and in accordance with Article 5(4) of the basic Regulation the Commission services carried out a thorough standing examination before initiation. The Commission analysed the data in the complaint and contacted all known Union producers and asked them to also provide data on production as well as their position with regards the complaint. Some 50 replied. Associations of producers provided information on production as well.

(81) In the absence of any further comments, recitals (107) and (108) of the provisional Regulation are hereby confirmed.

2. Union consumption

(82) In a joint submission several importers contested the Union consumption figures provided in recital (110) of the provisional Regulation. This claim was based on the erroneous use of PRODCOM statistical data for Union production and sales, as explained in paragraph (79) above and is therefore dismissed.

(83) However, whilst checking again the Eurostat import statistics, it was found that they had been updated since the imposition of provisional measures which had resulted in some minor changes. Therefore, for the sake of completeness, on the basis of these updated Eurostat import statistics and submissions regarding Union industry sales on the Union market, the Union consumption developed as follows:

Table 1

Volume (tonnes)	2008	2009	2010	IP
Union consumption	826 897	687 587	750 828	727 411
Index (2008=100)	*100*	*83*	*91*	*88*

(84) In the absence of any further comments, recitals (109) and (111) to (112) of the provisional Regulation are hereby confirmed.

3. Imports from the country concerned

3.1. Volume, price and market share of dumped imports from the country concerned

(85) In a joint submission several importers contested the figures provided in recital (113) of the provisional Regulation. This claim was based on the erroneous use of PRODCOM statistical data and is therefore dismissed.

(86) On the basis of the updated Eurostat import statistics (see paragraph (83) above), the volume, market share and average prices of imports of the product concerned developed as set out below:

Table 2

Imports from the PRC	2008	2009	2010	IP
Volume of imports (tonnes)	535 593	449 325	516 624	486 170
Index (2008=100)	100	84	96	91
Market share	64,8 %	65,3 %	68,8 %	66,8%
Average import price (EUR/tonne)	1 274	1 307	1 473	1 498
Index (2008=100)	100	103	116	118

(87) The updated volumes, values and trends are almost identical to those analysed in the provisional Regulation. The market share of Chinese imports increased from 64,8% in 2008 to 66,8% in the IP. The import price increased by almost 18% during the period considered, from 1 274 EUR/tonne to 1 498 EUR/tonne.

(88) One party alleged a complete lack of correlation between the prices and volumes of Chinese imports. In this respect, in accordance with Article 3(3) of the basic Regulation consideration shall be given to whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in the Union. With regard to the effect of the dumped imports on prices, consideration shall be given to whether there has been significant price undercutting by the dumped imports as compared with the price of a like product of the Union industry, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which would otherwise have occurred, to a significant degree. No one or more of these factors can necessarily give decisive guidance.

(89) Within the above context, the following should be noted. Firstly, at the time when the Union consumption recovered (2009-2010), there was a significant price increase of Chinese imports – which would suggest that there is a correlation. But more importantly, the development of Chinese prices during the period considered should be assessed in the context of the very significant price difference which already existed in 2008 and which is illustrated by the average Chinese imports prices (table 2) and the average EU sales prices (table 9) reported in the provisional Regulation. These high price differences are confirmed by the high levels of undercutting during the IP. The price increase, consequently, did not prevent Chinese imports from gaining market share over the period considered. Indeed, these imports continued to exert a severe pressure on prices of EU industry which went down by 12% over the period considered. This comment, therefore, cannot be accepted.

(90) As regards the evolution of import price (increasing) and import volume (decreasing) from 2008 to 2011 and then 2012 brought forward by one sampled group of Chinese exporting producers, the observed trend of increasing average import prices cannot undermine the finding of injurious dumping during the IP. As concerns the development of Chinese import volumes, and as already highlighted in recital (114) of the provisional Regulation and again in paragraph (87) above, the market share indicator shows an increase in market share of Chinese imports by 2 percentage points. Moreover, and as explained in more detail in recitals (116) and (117) of the provisional Regulation and in paragraph (89) above, there was important price undercutting by the Chinese imports.

3.2. Price undercutting

(91) Following provisional disclosure, several interested parties requested more details on the price undercutting calculations than those already provided in recital (116) of the provisional Regulation. Insofar as the sensitive nature of this information and the fact that the EU producers had been granted anonymity would allow it, additional information was provided.

(92) By analogy to the decision made after the imposition of provisional measures to exclude from the export listings some "atypical" products for the purpose of calculating dumping (see paragraph (63) above), these products were also excluded from the export listings used for the injury calculations. This change had only a minor effect on the undercutting margins, which remained therefore in the same range as mentioned in recital (117) of the provisional Regulation.

(93) In the absence of any further comments, recitals (113) to (117) of the provisional Regulation are hereby confirmed.

4. Situation of the Union industry

4.1. General

(94) Several parties stated that the fact that several injury factors improved between 2009 or 2010 and the IP demonstrates that the Union industry is developing positively. However, it should be noted that this analysis is incomplete and that it disregards the evolution of those factors during the whole period considered. The explanations given in recital (23) of the provisional Regulation are also to be taken into consideration in this respect.

(95) Upon request by an interested party, it is confirmed that the macroeconomic indicators were assessed at the level of the whole Union industry, while the microeconomic ones were analysed at the level of the sampled Union producers, which included non-complaining companies.

(96) In the absence of any further comments, recitals (118) to (121) of the provisional Regulation are hereby confirmed.

4.2. Macroeconomic indicators

4.2.1. Production, production capacity and capacity utilisation

(97) As mentioned in Section D.1 above, several importers contested the production figures provided in recital (122) of the provisional Regulation. However, these figures have been cross-checked and are confirmed.

(98) In the absence of any further comments, recitals (122) to (124) of the provisional Regulation are hereby confirmed.

4.2.2. Sales volumes and market share

(99) The update in Table 2 has no impact on Tables 4 and 5 of the provisional Regulation.

(100) In the absence of relevant comments regarding sales volumes and market share, recitals (125) and (126) of the provisional Regulation are hereby confirmed.

4.2.3. Employment and productivity

(101) In a joint submission several importers contested the employment and productivity figures provided in recitals (127) and (128) of the provisional Regulation, alleging that they were not in line with the picture depicted by certain Eurostat statistics[7].

(102) However, the figures for both indicators were cross-checked and deemed accurate. The figures brought forward by the parties were too broad and not related to the production of the like product. In the absence of any further comments regarding employment and productivity, recitals (127) to (128) of the provisional Regulation are hereby confirmed.

4.2.4. Magnitude of the dumping margin

(103) In the absence of any comments regarding the magnitude of the dumping margin, recital (129) of the provisional Regulation is hereby confirmed.

4.3. Microeconomic indicators

4.3.1. Stocks

(104) In a joint submission several importers contested the stock figures provided in recital (130) of the provisional Regulation and their relevance as compared to publicly available data regarding certain Union producers. They also disagreed with the statement that the Union industry basically works on orders.

(105) As regards working on orders, the investigation confirmed that that was indeed the case for sampled Union producers and that is a normal practice in the sector. Moreover, the stock figures provided in the provisional Regulation concerned the verified stock figure from the sampled Union producers which is considered the most reliable figure.

(106) In the absence of any further comments regarding stocks, recital (130) of the provisional Regulation is hereby confirmed.

4.3.2. Sales prices

(107) In the absence of any comments regarding the sales prices figures as given in the provisional Regulation, recital (131) of the provisional Regulation is hereby confirmed.

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

(108) After disclosure, a clerical error was discovered in the calculation of the net profit of the Union industry and the return on investment (ROI). This error was corrected and the revised figures are as follows:

Table 3

	2008	2009	2010	IP

[7] Eurostat statistics on employment linked to the manufacturing of textiles, wearing apparel, leather/wood/cork/straw/paper (products) and printing and reproduction of recorded media.

Net profit of Union sales to unrelated customers (% of net sales turnover)	3.8%	2.8%	-0.5%	3.2%
Index (2008=100)	*100*	*74*	*-13*	*84*
ROI (net profit in % of net book value of investments)	16.4%	6.3%	-6.8%	20.5%
Index (2008=100)	*100*	*38*	*-41*	*125*

(109) The above correction does not materially affect the provisional findings as regards these two indicators. However, the weighted average profit level of the sampled producers was, during the period considered, slightly lower as provisionally established as it went down from 3,8% to 3,2% instead of from 4,2% to 3,5%.

(110) One interested party questioned the fragile state of the Union industry at the beginning of the period considered, as mentioned in recital (134) of the provisional Regulation. This party claimed that only injury caused by dumping may be taken into account and that no dumping has been established for any period other than 2011. However, the reference to the state of the Union industry in that recital was only made in order to analyse whether the profit achieved in the beginning of the period considered could be taken into account as representing the profit that the industry would normally achieve – *quod non*.

(111) Several parties questioned the benchmark profit level referred to in recital (135) of the provisional Regulation and/or proposed other (lower) benchmarks.

(112) A group of Chinese exporting producers stated that the profit level during the IP was a good profitability rate. However, this claim was not substantiated. Another party also stated that the profit levels displayed in the provisional Regulation could be deemed normal levels and this party based itself on the publicly available profit data of a German producer between 1999 and 2007. Yet another interested party stated that the IP profit level displayed in the provisional Regulation could be deemed "normal" on the basis on the conclusions of a study by the Commission[8] which included profit data of a German producer between 2004 and 2007.

(113) In this respect, it is recalled that the provisional Regulation concluded that the profit achieved in the beginning of the period considered cannot be considered as a normal profit as the Union industry was then, already, in a fragile state as explained in recital (134) of the provisional Regulation. In addition, it was found that the publicly available 1999-2007 profit data of a German producer referred to above concerned not only manufacturing activities of ceramic tableware and kitchenware, but also other important segments. As concerns the Commission study referred to in paragraph (112) above, in the light of the scope, the aim and the time of that study, this was found not

[8] Competitiveness of the Ceramics Sector, final report 13 October 2008, p. 29.

to be a pertinent basis for the determination of profitability. For instance, in relation to the product concerned it only referred to the profit situation of one company. Finally, all three submissions referred to in paragraph (112), which are contradicted by the submission mentioned in paragraph (116) below, are not sufficiently substantiated. It is therefore confirmed that the profit rate of 3,2% observed during the IP could not be deemed acceptable for this product.

(114) One interested party claimed that the profit levels of the home interior design, furniture and/or food of the Swedish retailing sectors should be used as a benchmark. However, given, inter alia, the disparity in the investment levels for the manufacturing and the retailing sectors concerned, this claim should be rejected

(115) Some other parties suggested the benchmark used in another anti-dumping investigation, i.e. the investigation concerning ceramic tiles[9]. However it is noted that ceramic tiles, contrary to leather footwear and tableware, cannot be considered a consumer product in the same way. For instance, the rate at which households buy or replace ceramic tableware items is closer to leather footwear than to ceramic tiles. The claim to use the target profit also applied in the ceramic tiles investigation is therefore dismissed.

(116) The complainants stated that the benchmark profit level should be rather in excess of 10% because the manufacturing of table- and kitchenware products is a capital intensive activity which in addition requires a high degree of new investment and innovation. Although it is confirmed that indeed the industry concerned is capital intensive and that it requires a continuous need for investment, the information submitted to substantiate this claim could not change the benchmark provisionally used. The investigation could not conclude that that benchmark would be the most appropriate for all Union producers

(117) A group of importers contested the profitability figures in the provisional Regulation and calculated, based on the cost of production figures, EU sales price and volume figures and the export sales prices figures in the provisional Regulation, profitability and reached the conclusion that the EU industry actually made a profit of 6% during the IP. However, this computation was erroneous as it combined data from different sources (the sampled Union producers, the Union industry as a whole and Eurostat).

(118) In the absence of any further relevant comments, recitals (132) to (137) of the provisional Regulation are hereby confirmed.

4.3.4. Cost of production

(119) In a joint submission, several importers deemed that the cost of production figures in recital (138) of the provisional Regulation did not follow the labour and energy cost evolution shown in Eurostat. The parties highlighted that labour costs increased in EU27. Equally, the evolution of the cost of energy in the Union would not support a decrease in the cost of production.

(120) In this respect it is noted that the labour and energy cost provided by the parties was too broad. Moreover, the fact that the Union industry managed to decrease the cost of production during a period where the general trend was the opposite demonstrates the extraordinary effort made by the Union industry to cut costs and remain competitive.

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[9] OJ L 238, 15.09.2011, p.1

(121) The cost of production figures provided in the provisional Regulation represent the verified cost of production for sampled Union producers. In the absence of any further comments, recital (138) of the provisional Regulation is hereby confirmed.

4.3.5. Conclusion on injury

(122) Several parties contested the conclusion on injury put forward in the provisional Regulation on the basis that several injury indicators improved in the very last part of the period considered. However, this issue cannot undermine the fact that most injury indicators deteriorated during the period considered. This deterioration of injury indicators can be observed for most macro-economic indicators, such as production volume, capacity, sales to unrelated customers, employment as well as for the injury indicators related to the financial performance of the Union industry such as profitability, investments and ROI.

(123) In the absence of other comments, recitals (139) to (143) of the provisional Regulation are hereby confirmed.

E. CAUSATION

1. Introduction

(124) In the absence of any comments to recital (144) of the provisional Regulation, that recital is hereby confirmed.

2. Effect of the dumped imports

(125) Several parties contested the conclusion stated in recital (148) of the provisional Regulation. However, even though some of the percentages that were highlighted in recitals (145) and (147) of the provisional Regulation have been slightly revised as explained above, this does not alter the facts and conclusions contained in recitals (145) to (148) of the provisional Regulation.

(126) Indeed, given the development of the market share of the Chinese dumped imports, it is clear that there is no contradiction between recital (147) of the provisional Regulation, in particular as regards the statement that the decrease in sales prices of the Union industry on the Union market and its profitability can be attributed to the price depression caused onto the Union market by dumped imports from China and the Union industry's market share movements, as alleged by one party.

(127) Furthermore, the fact that prices of imports from the PRC increased over the period considered, as pointed out by several parties, does not undermine the finding of undercutting and injurious dumping during the IP.

(128) In the absence of any other comments as regards the effect of the dumped imports, recitals (145) to (148) of the provisional Regulation are hereby confirmed.

3. Effect of other factors

3.1. Imports from third countries other than the country concerned

(129) As mentioned in paragraph (83) above, following the imposition of provisional measures, the Eurostat data concerning imports had been updated. Whilst cross-checking these new data with the previous data contained in the provisional Regulation, a clerical error in the computation of the import figures from Thailand and Turkey was detected. This has been corrected and, consequently, the definitive figures concerning the imports of the like product from third countries, based on Eurostat data, are as follows:

Table 4

	2008	2009	2010	IP
Volume of imports from all other third countries (tonnes)	100 972	81 464	81 595	89 146
Index (2008=100)	100	81	81	88
Market share	12.2%	11.8%	10.9%	12.3%
Average import price (EUR/tonne)	2 378	2 354	2 590	2 519
Index (2008=100)	100	99	109	106
Volume of imports from Turkey (tonnes)	26 978	25 303	25 485	29 336
Index (2008=100)	100	94	94	109
Market share	3,3%	3,7%	3,4%	4%
Average import price (EUR/tonne)	2 776	2 649	2 802	2 855
Index (2008=100)	100	95	101	103
Volume of imports from Thailand (tonnes)	25 916	20 660	20 600	25 213
Index (2008=100)	100	80	79	97
Market share	3,1%	3%	2,7%	3,5%
Average import price (EUR/tonne)	1 246	1 183	1 403	1 356
Index (2008=100)	100	95	113	109

(130) The imports from third countries decreased by 12% over the period considered, while the market share of these imports remained rather stable.

(131) It should be noted that average import prices from other third countries increased by 6% during the period considered, remaining consistently higher than the average selling price of Chinese export sales (by 68% during the IP).

(132) Before the publication of the provisional Regulation, CCCLA observed that imports from Turkey would have increased by 8% between 2010 and 2011, the import prices from Turkey being allegedly only around 20% higher than import prices from China. Then several parties contested the conclusion of the provisional Regulation as regards Turkish imports.

(133) Bearing in mind that there was a material manifest error in the reporting of Turkish imports in the provisional Regulation and the updated data as displayed above, nothing suggests that Turkish imports, given their prices and their market share, can break the causal link between Chinese exports of the product concerned and the injury suffered

by the Union industry. It should also be noted that the non-inclusion of imports originating in Turkey in the complaint cannot be described as discriminatory as, at initiation stage, sufficient evidence of dumping, injury and causal link was not present as far as imports from Turkey were concerned.

(134) The market share of imports from Thailand was never more than 3,5% during the investigation period.

(135) For the above reasons, it is concluded that imports from other third countries did not materially affect the situation of the Union industry to the extent breaking the casual link between the dumped imports from PRC and the injury suffered by the Union industry.

3.2. Market segments

(136) In the absence of any new comments as regards market segments, recitals (156) to (158) of the provisional Regulation are hereby confirmed.

3.3. Consumption and demand

(137) A party suggested that injury could be attributed to a long term reduction in demand for Union produced products. Yet the investigation did not confirm such trend, as already explained in recital (112) of the provisional Regulation.

(138) In the absence of any further comments as regards consumption and demand, recitals (159) to (166) of the provisional Regulation are hereby confirmed.

3.4. Exports by Union industry

(139) A party pointed out that average EU export prices were lower than the average sales prices on the Union market during the period considered. This could have affected the ability of the Union industry to make new investments or hire new staff. However, as already mentioned in recital (169) of the provisional Regulation, most of the injury indicators cannot be affected by the performance on the export sales. Moreover, it could also be argued that these sales were a way of compensating, partly, the injury suffered on the Union market. Further, as the average prices have been calculated by dividing the total value of the sales of the like product by the total volume of such sales, a different product mix of the sales on the EU market as compared to the export sales can also result in significant differences in average sales values overall. Finally, these export sales represented less than 37% of the EU industry's overall sales volumes, i.e. the dominant market for the Union industry was still, by far and large, the Union home market. The argument that these export sales injured the Union industry to the extent breaking a causal link between the imports from PRC and injury suffered by EU industry is therefore rejected.

(140) In the absence of any new comments as regards the exports by the Union industry, recitals (167) to (170) of the provisional Regulation are hereby confirmed.

3.5. Elimination of the import quotas

(141) Following provisional measures, another party suggested that the elimination of import quotas would have had an impact on Union producers during the period considered. However, no new facts were brought forward that could alter the conclusion in recital (173) of the provisional Regulation.

(142) In the absence of any new substantiated comments as regards the elimination of import quotas, recitals (171) to (173) of the provisional Regulation are hereby confirmed.

3.6. Anti-competitive practices on the Union market

(143) Subsequent to the imposition of provisional measures, several parties insisted that the cartel investigation launched by the German authorities referred to in recital (175) of the provisional Regulation or the cartel fine referred to in the same recital had not duly been taken into account. Concerning these claims, the following can be said further to what is already stated in recitals (174) and (175) of the provisional Regulation.

(144) The German cartel investigation, which investigates alleged price fixing from July 2005 to February 2008, is still on-going. However it can be confirmed that none of the sampled Union producers is subject to this on-going investigation. Therefore, the micro-economic indicators cannot be affected by the investigated practices and the macro-economic indicators only to a very limited extent, if any.

(145) As concerns the cartel findings concerning bathroom fixtures and fittings, it is recalled that this price fixing cartel was found active between 1992 and 2004 and that it concerns the sole fined producer which is also active in the tableware and kitchenware sector. The data provided by this producer in the framework of the standing and injury exercise are not influenced by the cartel practices as only the data concerning the tableware and kitchenware section of this producer have been used and not its consolidated data. Therefore, also the fine relating to this cartel has not affected the data provided by this producer. It is further recalled that the price fixing period was well before the period considered. Since the Union producers' identities are confidential, it cannot be disclosed whether or not this company is included in the sample. However, should a sampled Union producer have recorded in its accounts any items (e.g. a cartel fine) distorting its injury picture for the purpose of this investigation, the investigating authority would have isolated them in order for the relevant injury factors not to be distorted.

(146) Consequently, the allegations concerning the impact of the above-mentioned cartel investigations on the injury and causation analysis are hereby rejected.

(147) One interested party mentioned that there would be illegal price arrangements and market allocations between Union producers, however it did provide any evidence for this allegation and the claim is therefore rejected.

(148) In the absence of any new comments concerning anti-competitive practices on the Union market, recitals (174) to (176) of the provisional Regulation are hereby confirmed.

3.7. Production methods

(149) In the absence of any new comments concerning production methods, recitals (177) to (178) of the provisional Regulation are hereby confirmed.

3.8. Second-hand markets

(150) In the absence of any new comments as regards second-hand markets, recitals (179) to (180) of the provisional Regulation are hereby confirmed.

3.9. Economic crisis

(151) A party stated that recital (183) of the provisional Regulation provides a wrong analysis of the situation during the economic recovery period between 2010 and 2011 and that the impact of the economic crisis was underestimated. However, the claims were unsubstantiated. It must also be stressed that the recital cited stated that dumped imports from China intensified the effect of the economic downturn. As regards the impact of the economic crisis, recital (184) of the provisional Regulation is clear about the fact that the economic crisis may have contributed to the Union's industry poor performance, even though it could not break the causal link between the dumped imports and the injurious situation of that industry suffered during the IP.

(152) In the absence of any new comments regarding the economic crisis, recitals (181) to (184) of the provisional Regulation are hereby confirmed.

3.10. Other factors

(153) In a joint submission, several importers alleged that the drop in employment was a normal development in the consumer goods industry. However, this claim was not substantiated. Moreover, even if such trend would be normal in this sector, it could not break the causal link between the dumped imports from the PRC and the significant jobs losses in the sector. This claim is, therefore, rejected.

(154) A party claimed that the remaining structural deficits of the Union industry in conjunction with existing overcapacity as shown in Table 3 of the provisional Regulation could break the causal link between dumped imports from the PRC and injury suffered by Union manufacturers. As regards this argument, although the Union industry was already in a fragile state in the beginning of the period considered and had gone through a restructuration, the investigation confirmed that it was competitive and properly coping with demand from all markets. As to Table 3 of the provisional Regulation, the drop in production must be seen in conjunction with the pressure stemming from the high volume of low-priced imports from the PRC, as exports by the Union industry remained stable. Therefore, the claim could not be accepted.

(155) A party considered that the Commission had failed to consider the cumulative effect of each of the other injurious factors. However, given the results of the investigation in relation to the various other factors invoked, it is not conceivable that their cumulative effect could have broken the causal link. Indeed, for most of the other factors raised, their impact was small, if any.

(156) A party considered that the investigating authority had failed to distinguish between co-occurrence and causality. Yet the supporting information provided was far from being conclusive in this respect and the claim is therefore rejected.

(157) In the absence of any new comments as regards other factors, recitals (185) to (190) of the provisional Regulation are hereby confirmed.

4. Conclusion on causation

(158) In the absence of any new comments, recital (191) of the provisional Regulation is hereby confirmed.

F. UNION INTEREST

1. Preliminary remarks

(159) In the absence of any comments to recital (192) of the provisional Regulation, that recital is hereby confirmed.

2. Interest of the Union industry

(160) A Polish non-complainant producer welcomed the measures, whereas a UK non-complainant manufacturer with importing interests of the product concerned opposed them. The second party deems that duties would have a negative effect on those producers that complement their product range with imports from the PRC and have adapted to globalisation via a business model where high value-added work is done in the Union. In addition customers would be less inclined to purchase their products because they would not offer a full range of products anymore.

(161) As far as the claim of the second party is concerned, the situation of that company was examined. It was found that Chinese imports of tableware constituted a minor part of

their total imports. The company claimed however, without further specifying it, that these imports were important for them. The company did not give any figures about their own production. According to the financial statements, the company had in 2011 a pre-tax profit on total turnover of more than 10%, most of it achieved on non-EU markets (no figure was provided for the product concerned). On this basis, it is not expected that the imposition of measures endangers the viability of this company. As far as the claim that many other companies would also encounter difficulties as a result of the measures, no specific evidence was provided. Moreover, according to the replies received during the pre-initiation standing phase and submissions received subsequently, there is no indication that there is a significant number companies is in such a situation.

(162) The impact of duties on the manufacturing activities of the Union industry would be positive. In fact, since the recent imposition of provisional anti-dumping duties, several positive developments in this respect have been reported.

(163) The above-mentioned positive developments confirm the complainants' statement that Union production could be substantially increased at very short notice by using plants, machinery and workforce already available, whereas larger increases would be feasible in the longer run. Redressing unfair price practices in the market therefore benefits them since a new pricing level would makes it more attractive to manufacture more products in the Union, be it in large or small orders, special designs or mainstream unbranded products. It results in the creation of new jobs involving skills of different kinds and relevant idle workforce can be put back to work.

(164) As to the impossibility of offering a full range of products, this statement cannot be upheld because consumers require ever-changing ranges of products and the existence of several supply sources.

(165) In the absence of any others comments as regards the interest of the Union industry, recitals (193) to (198) of the provisional Regulation are hereby confirmed.

3. Interest of unrelated importers

(166) The two largest importers in the sample contested their level of co-operation as regards full profitability data and the margin between purchase and resale prices to unrelated customers, whereas one of them questioned having denied access to its accounts and argued that nothing would have changed if access would have been given. The parties claimed that their size and business model did not allow them to provide data as detailed as requested. At definitive stage, it is confirmed that one of them denied again access to its importer's accounts and that both, despite having endeavoured to do so, did not manage to provide full and usable profitability data and information about the margin between purchase and resale prices to unrelated customers in such a way that it could be used by the institutions in the analysis of the situation of unrelated importers. The limited information provided by both companies on their purchase and resale prices, be it overall inconclusive, was fully in line, however, with the general mark-up information obtained and summarized in recital (202) of the provisional Regulation.

(167) In recital (203) of the provisional Regulation, interested parties had been invited to submit additional, comprehensive and verifiable data to further analyse the impact of measures on the supply chain.

(168) Subsequent to provisional measures, new replies to the importers questionnaire were sent by two unrelated importers. Also submissions on Union interest were received from other non-sampled importers, an association of European and International Commerce (Foreign Trade Association), a Swedish association of importers, wholesalers and retailers (Svensk Handel), CCCLA and a Union producer with

importing interests. None of the submissions contained conclusive data as to the impact of measures on the supply chain.

(169) A party claimed that the downstream employment figure affected by the duties was understated in view of the fact that Eurostat statistics show that overall distributive trade enterprises employ more people (33 million) than manufacturing companies (31 million). However, the figures provided related to the importing and manufacturing business in general and could not be used for the purpose of this investigation.

(170) In a joint submission, several importers claimed that the five sampled importers employed more than 10 000 jobs relating to the product concerned and not 350 as mentioned in recital (200) of the provisional Regulation. The figures having been checked again, the correctness of the estimation that they employed 350 people in the importation and resale of ceramic tableware and kitchenware is confirmed. That figure was calculated on the basis on an extrapolation to the sample as a whole of the relevant job data provided by the three sampled importers without retailing activities.

(171) Several parties complained about the high gross margin figure contained in recital (202) of the provisional Regulation. However, the investigation has shown that the vast majority of the importers which replied to the importers' sampling questions reported a gross margin between purchase and resale price ranging between 50% and 200%. Moreover, following provisional disclosure, the complainants submitted several examples supporting the information given by the publication referred to in recital (202) of the provisional Regulation, i.e. confirming the import price – retail price ratio of the product concerned.

(172) A UK manufacturer with importing interests explained that those margins are needed to cover certain costs incurred in the Union. No data was provided which would have allowed for a calculation of those margins on the basis of turnover.

(173) As from only three of the sampled importers usable profit data on the importing activities relating to the product concerned could be obtained and verified and these three importers represented only some 3% of the imports of the product concerned, the weighted average profit figure concerned was not considered conclusive and had, therefore, not been mentioned in the provisional Regulation. However, it should be noted that this weighted average profit was healthy (between 6% and 10% - range given for confidentiality reasons).

(174) An importer claimed that there is not enough production of coloured stoneware in the Union and that it had no alternative but importing from the PRC. Yet the investigation established that coloured stoneware can be procured from several sources, including Union producers. Moreover, Union producers have the production capacity to sell more on the Union market.

(175) The information collected in the course of the investigation did not allow a proper quantification as to what extent importers would be able to pass on purchase price increases as a result of the proposed duty levels. However, should imports from the PRC be subject to a definitive anti-dumping duty and given the information about the gross and net margins, there is nothing to suggest that the viability of importers' business is endangered. An importer also suggested that large market operators and importers whose core business is not ceramic tableware and kitchenware would not be negatively affected.

(176) It is therefore concluded that the imposition of measures at the proposed levels does not have a significantly adverse impact on the situation of unrelated importers of the product concerned as a whole.

(177) In the absence of any additional new comments as regards the interest of unrelated importers, recitals (199) to (211) of the provisional Regulation are hereby confirmed.

4. Interest of other economic sectors

(178) Further to the invitation contained in recital (203) of the provisional Regulation, on the day of the publication of provisional measures the Commission contacted directly relevant retailers and associations of retailers, importers with possible retailing activity and also designers that were known to the Commission and invited them to fill in relevant questionnaires. Some recipients that had initially claimed to be retailers replied that they were not concerned by the investigation because they were not active in the business. The Commission eventually received seven new replies to the retailers' questionnaire. These seven retailers accounted for 1% of imports from the PRC during the IP. Most of these replies were deficient in many respects but they were nevertheless analysed as far as possible. No replies were received to the designers' questionnaire.

(179) The information thus obtained did not, in substance, provide any new evidence on the interest of other economic sectors that could contest the conclusion reached in recital (217) of the provisional Regulation.

(180) Following the publication of provisional measures, submissions on Union interest as regards other economic sectors were received from both sampled and non-sampled importers (including a Polish importer active in the promotional items sector), an association of European and International Commerce (Foreign Trade Association), a Swedish association of importers, wholesalers and retailers (Svensk Handel), several retailers, CCCLA and eight coffee roasting companies (seven of them located in Italy, one with its headquarter in Austria).

(181) Coffee roasting companies claimed that due to the very small number of Union producers serving their market (maximum 5), most of which would be importing from the PRC either directly or through sister companies, and the very large number of coffee roasters (1 500 – 3 000), measures at the level proposed at provisional stage could impede them from sourcing the exactly same items in the future. This claim cannot be accepted. First, the definitive measures are lower than provisional measures. Second, the investigation revealed that Union producers were in a position to further deploy their production potential and further serve the coffee roasting industry, should the injury caused by dumped imports from the PRC be removed. Given the large number of Union producers, it is very likely that the number of Union producers that could take in orders from coffee roasting companies would be more than five.

(182) The coffee roasting companies argued that anti-dumping measures would damage their exports because of a loss of competitiveness and a possible retaliation by the Chinese authorities. However, there is no evidence to indicate that the level of measures imposed would entail such loss of competitiveness, also bearing in mind that other WTO members have anti-dumping measures affecting this kind of product. The retaliatory action allegation was also found to be unsubstantiated.

(183) The coffee roasting companies stated that the anti-dumping measures would unavoidably lead to a general reduction in their business, to a decrease of their sales, to a general increase of the coffee price in the HORECA (hotels, restaurants and catering) sector and to a decrease in the quality of the products and services. All this would, allegedly, put at risk a considerable number of direct and indirect jobs. However, bearing in mind what the core business of the coffee roasting companies is and the conclusions as regards the effects of measures on the supply chain, these allegations cannot be upheld. It is also noted that providing the total number of jobs

linked to the worldwide operations of a coffee roasting company cannot be deemed an appropriate calculation basis for the number of jobs that would be at risk because of the imposition of anti-dumping measures.

(184) Two retailers claimed that there is not enough production of new bone china and bone china in the Union and that they had no alternative but importing from the PRC. Firstly and in general it should be noted that anti-dumping measures aim at restoring fair trade and not at blocking imports. In this case, the level of measures cannot be considered prohibitive. Secondly, the investigation established that these products can be procured from several sources, including Union producers. Finally, Union producers have the production capacity to sell more on the Union market and could further exploit their potential, should anti-dumping measures be definitively imposed.

(185) One retailer claimed that measures would have a negative impact on certain objects serving the tourist market. Yet, no substantive information could support that claim. Also the weight of the objects in question in the sector is limited.

(186) An importer and wholesaler alleged that the imposition of measures would lead to a scientific vertical consolidation of the market by some large players. However, given the current number of players, this would be unlikely in the short-to-medium term..

(187) Further to the issues already dealt with in the provisional Regulation, it is noted that several parties found that the interest of smaller companies, such as retailers, distributors and businesses dealing with promotional items, had not been sufficiently taken into consideration. It must be recognised that, overall, micro and small businesses could be more vulnerable to any price increase as a result of anti-dumping duties. However there is no evidence that the level of measures imposed will have a significant negative effect on the other economic actors that qualify as SMEs.

(188) In the absence of any additional comments as regards the interest of other economic sectors, recitals (212) to (217) of the provisional Regulation are hereby confirmed.

5. Interest of consumers (households)

(189) Despite having been contacted by the Commission, no parties directly representing the interests of end-buyers such as associations of consumers made any representations.

(190) Several parties contested the conclusion of recital (222) of the provisional Regulation as regards higher prices.

(191) In the unlikely event that the duty is fully passed onto consumers and, assuming that import levels and prices remain the same, the anti-dumping duties would mean a yearly extra cost per household of less than 1 Euro. Such calculation is based on the IP import volumes and values, the proposed level of the duties and the number of households in the Union.

(192) Such effect cannot be deemed enough to outweigh the positive impact on the Union industry derived from limiting the injury caused by dumped imports from the PRC.

(193) A party alleged that as a consequence of measures there would be a shortage of cheaper tableware. Yet this claim cannot be upheld because, as stated in recital (157) of the provisional Regulation, the Union industry serves all markets (including cheaper tableware).

(194) In the absence of any additional comments as regards the interest of consumers (households), recitals (218) to (226) of the provisional Regulation are hereby confirmed.

6. **Conclusion on Union interest**

(195) In view of the above, the assessment in the provisional Regulation is hereby confirmed.

(196) Therefore, recitals (227) to (229) of the provisional Regulation are hereby confirmed.

G. DEFINITIVE ANTI-DUMPING MEASURES

1. Injury elimination level

(197) It was claimed that the profit margin used to calculate the amount of duty necessary to remove the effects of the injurious dumping was too high. This claim was rejected as explained in section D.4.3.3 above.

(198) Several parties questioned the target profit used for the calculation of the injury margin. These comments are addressed in paragraphs (111) to (116) above. On the basis of the analysis of those comments it is concluded that the target profit of 6% should be maintained.

(199) In the absence of other comments concerning the injury elimination level, the methodology described in recitals (230) to (234) of the provisional Regulation is hereby confirmed.

2. Definitive measures

(200) In view of the conclusions reached with regard to dumping, injury, causation and Union interest, and in accordance with Article 9(4) of the basic Regulation, definitive anti-dumping measures should be imposed on imports of the product concerned at the level of the lower of the dumping and the injury margins, in accordance with the lesser duty rule. Accordingly, all duty rates should be set at the level of the dumping margins.

(201) The small adjustments referred to in paragraphs (92) and (108) above resulted in slightly revised underselling margins as reflected in the injury margins listed below. The proposed definitive anti-dumping duties are the following:

Company	Dumping margin	Injury margin	Definitive duty rate
Hunan Hualian China Industry Co., Ltd; Hunan Hualian Ebillion Industry Co., Ltd; Hunan Liling Hongguanyao China Industry Co., Ltd and Hunan Hualian Yuxiang China Industry Co., Ltd	18,3%	44,8%	18,3%
Guangxi Sanhuan Enterprise Group Holding Co., Ltd	13,1%	92,6%	13,1%
CHL Porcelain Industries Ltd	23,4%	110,1%	23,4%
Shandong Zibo Niceton-Marck Huaguang Ceramics Limited; Zibo Huatong Ceramics Co., Ltd; Shandong Silver Phoenix Co., Ltd;	17,6%	79,1%	17,6%

Niceton Ceramics (Linyi) Co., Ltd; Linyi Jingshi Ceramics Co., Ltd; Linyi Silver Phoenix Ceramics Co., Ltd; Linyi Chunguang Ceramics Co., Ltd, and Linyi Zefeng Ceramics Co., Ltd			
Guangxi Province Beiliu City Laotian Ceramics Co., Ltd	22,9%	45,7%	22,9%
All other co-operating exporting producers	17,9%	79,0%	17,9%
All other companies	36,1%	110,1%	36,1%

H. DISCLOSURE

(202) All parties are hereby informed of the essential facts and considerations on the basis of which it is intended to recommend the imposition of the above definitive anti-dumping duty. They are also granted a period within which they can make representations subsequent to this disclosure.