

COMMISSION REGULATION (EU) No 402/2012

of 10 May 2012

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

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community⁽¹⁾ ('the basic Regulation'), and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Initiation

(1) On 12 August 2011, the European Commission (the 'Commission') announced, by a notice published in the *Official Journal of the European Union* ⁽²⁾ ('Notice of Initiation'), the initiation of an anti-dumping proceeding with regard to imports into the Union of aluminium radiators originating in the People's Republic of China ('PRC').

(2) The proceeding was initiated following a complaint lodged by the International Association of Aluminium Radiator Manufacturers Limited Liability Consortium (AIRAL Srl - 'the complainant'), representing a major proportion, in this case more than 25 % of the total Union production of aluminium radiators. The complaint contained *prima facie* evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of an investigation.

2. Parties concerned by the proceeding

(3) The Commission officially advised the complainant, other known Union producers, the exporting producers in the PRC, producers in the analogue country, importers,

distributors, and other parties known to be concerned, and representatives of the PRC of the initiation of the proceeding. Interested parties were given an opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.

(4) The complainant, other Union producers, the exporting producers in the PRC, importers and distributors made their views known. All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

(5) In view of the apparent high number of Union producers, importers and exporting producers sampling was envisaged in the notice of initiation, in accordance with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and if so, to select a sample, importers and exporting producers were asked to make themselves known to the Commission and to provide, as specified in the notice of initiation, basic information on their activities related to the product concerned (as defined in section 3 below) during the period from July 2010-June 2011.

(6) In order to allow exporting producers to submit a claim for market economy treatment ('MET') or individual treatment ('IT'), if they so wished, the Commission sent claim forms to the Chinese exporting producers known to be concerned and to the authorities of the PRC. Only one group of companies, Sira (Tianjin) Aluminium Products Co. Ltd and Sira Group (Tianjin) Heating Radiators Co. Ltd (the 'Sira Group'), came forward and requested MET. Requests for IT were received from Zhejiang Flyhigh Metal Products Co., Ltd. and Metal Group Co., Ltd.

(7) As regards the Union producers and as duly explained in recital 24 below, eight Union producers provided the requested information and agreed to be included in a sample. On the basis of the information received from the cooperating Union producers, the Commission selected a sample of four Union producers on the basis of their sales/production volume, their size and geographic location in the Union.

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

⁽²⁾ OJ C 236, 12.8.2011, p. 18.

- (8) As explained in recital 27 below, only three unrelated importers provided the requested information and agreed to be included in a sample. However two of these importers did not import/purchase the product concerned. Therefore, in view of the limited number of cooperating importers, sampling was deemed to be no longer necessary.
- (9) As explained in recital 28 below, 18 exporting producers in the PRC provided the requested information and agreed to be included in a sample. On the basis of the information received from these parties, the Commission selected a sample of two exporting producers having the largest volume of exports to the Union.
- (10) The Commission sent questionnaires to all parties known to be concerned and to all the other companies that made themselves known within the deadlines set out in the notice of initiation, namely to the exporting producers in the PRC, the four sampled Union producers, the cooperating importers in the Union and to the European Consumers' Organization BEUC, with the request to send the users' questionnaire to its associated companies.
- (11) Replies were received from the two sampled exporting producers in the PRC, from the four sampled Union producers and one unrelated importer. None of the users replied to the questionnaire.
- (12) In addition, one claim for individual examination in accordance with Article 17(3) of the basic Regulation was received from one group of related exporting producers. The examination of these claims at the provisional stage would have been too burdensome to be carried out. A decision whether individual examination will be granted to this group of companies will be taken at the definitive stage.
- (13) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, resulting injury and Union interest. Verification visits were carried out at the premises of the following companies:

Producers in the Union

- Armatura Krakow SA, UL. Zakopianska 72, 30-418 Krakow, Poland;
- Fondital S.p.A., via Cerreto 40, 25079 Vobarno, Brescia, Italy;
- Global Srl, via Rondinera 51, 24060 Rogno, Bergamo, Italy;

- Radiatori 2000 S.p.A., via Francesca 54/A, 24040 Ciserano, Bergamo, Italy

Importers in the Union

- Hydroland Chorobik Gawęda Malec Wojtycza Sp.j., Jawornik 658, 32-400 Myślenice, Poland.

Exporting producers in the PRC

- Zhejiang Flyhigh Metal Products Co., Ltd. ('Zhejiang Flyhigh'), Jinyun
- Metal Group Co., Ltd., Wuyi

3. Investigation period

- (14) The investigation of dumping and injury covered the period from 1 July 2010 to 30 June 2011 (the 'investigation period' or the 'IP'). The examination of trends relevant for the assessment of injury covered the period from January 2008 to the end of the IP ('period considered').

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

- (15) The product concerned is aluminium radiators and elements or sections of which such radiator is composed, whether or not such elements are assembled in blocks, excluding radiators and elements and sections thereof of the electrical type ('the product concerned'). The product concerned currently falls within CN codes, ex 7615 10 10, ex 7615 10 90, ex 7616 99 10 and ex 7616 99 90.
- (16) The product definition was contested by the Sira Group based on an alleged difference between the two production processes which are used to manufacture radiators. Within the Sira Group there are two Chinese exporting producers one of which used the die-casting production technique whereas the second company used the extrusion method. Sira Group argued that the extrusion method should be excluded from the definition of the product concerned because of alleged differences in physical and technical characteristics, raw materials, production costs and sales prices and because the extrusion technique is uncommon in the EU and in the PRC.
- (17) Another Chinese party, the China Chamber of Commerce for Imports and Exports of Machinery and Electronic Products (CCCME) requested clarification of this issue because of differences in costs and prices of radiators manufactured by the two production techniques.

(18) In this respect, although there are minor differences it is clear that the radiators produced by both methods have the same basic physical and technical characteristics and have the same uses. Radiators produced by both methods are highly substitutable. These basic characteristics are, primarily, lightness, low thermal inertia and high heat conductivity. Differences in costs and prices and the fact that the extrusion technique may involve the use of a slightly different aluminium alloy do not change these basic characteristics. In terms of price comparisons, any differences are properly accounted for in the structure of the product type comparison system employed in this investigation ('PCN-system') which means that only like for like comparisons would be made.

(19) Furthermore, aluminium radiators should be considered as one single product whatever their manufacturing process because they are sold through the same channels of sales and because end-user and consumer perception of them is that they are made of aluminium (with well-known characteristics as mentioned above) rather than any differentiation based on production method. In view of the above, this claim is therefore rejected.

(20) CCCME also contested the fact that steel plate or even cast iron radiators are not included within the product scope. However, although such products have similar uses, they have different basic physical and technical characteristics as the basic raw material (aluminium alloy) is replaced by steel or iron which have different physical and technical characteristics in terms of weight, thermal inertia and conductivity. This claim is therefore rejected.

(21) CCCME made further comments relating to references in the complaint to sales via 'tender processes'. These comments revealed that it assumed that this concerned public procurement. The tender processes referred to in the complaint, however, related to normal business practice whereby an EU purchaser of radiators asks potential suppliers to quote prices before placing orders. None of the Chinese imports used in the calculations involved a public procurement process.

(22) CCCME also commented on references in the Complaint to 'design radiators', assuming that such radiators are excluded from the product definition. Again, these comments were based on a misunderstanding as the product definition does not exclude such radiators. These comments were therefore dismissed.

2. Like product

(23) The investigation has shown that aluminium radiators produced in and exported from the PRC and aluminium radiators manufactured and sold in the Union by the Union producers have the same basic

physical and technical characteristics as well as the same basic uses and are therefore considered to be alike within the meaning of Article 1(4) of the basic Regulation.

C. SAMPLING

1. Sampling of Union producers

(24) In view of the apparent large number of Union producers, sampling was provided for in the notice of initiation for the determination of injury, in accordance with Article 17 of the basic Regulation.

(25) In the notice of initiation the Commission announced that it had provisionally selected a sample of Union producers. This sample consisted of four companies, out of the eight Union producers that were known to produce the like product prior to the initiation of the investigation, selected on the basis of their sales volume, their size and geographic location in the Union. They represented 66 % of the total estimated Union production during the IP. Interested parties were invited to consult the file for inspection by interested parties and to comment on the appropriateness of this choice within 15 days of the date of publication of the notice of initiation. One interested party requested to take also production volume into consideration for the selection of the sample. It was accepted to change the sample accordingly. No interested party opposed to the final sample composed of four companies.

2. Sampling of unrelated importers

(26) In view of the potentially large number of importers involved in the proceeding, sampling was envisaged for importers in the notice of initiation in accordance with Article 17 of the basic Regulation.

(27) Only three unrelated importers provided the requested information and agreed to cooperate. Since two of these importers did not report imports or purchases the product concerned, sampling was no longer deemed to be necessary.

3. Sampling of exporting producers

(28) A total of 18 exporting producers in the PRC provided the requested information and agreed to be included in a sample. These companies exported around 5 million elements⁽¹⁾ or slightly less than 50 % of the Chinese exports to the EU market in the IP. On the basis of the information received from these parties, the Commission selected a sample of two exporting producers having the largest representative volume of

⁽¹⁾ In general, the aluminium radiator is presented in an array of identical and assemblable elements. The elements can be assembled vertically or horizontally to form a prevalently horizontal or prevalently vertical radiator.

production, sales and exports which could reasonably be investigated within the time available. The two exporting producers, Zhejiang Flyhigh Metal Products Co., Ltd. and Metal Group Co., Ltd., represented around 62 % of the sales volume of the 18 exporting producers which provided data for the sampling exercise.

- (29) One group of exporting producers (the Sira Group) contested their exclusion from the sample on the basis that it manufactured a certain type of radiator (using the extrusion production method) and that its inclusion in the sample would, therefore, increase the representativity of the sample. However, the addition of one extra group was not required as the sample originally selected yet represented more than 60 % of the exports reported by the co-operating companies. In addition, it is not necessary for the sample to cover all types of the product concerned. The claim for inclusion of Sira Group was therefore rejected and the original sample was confirmed.

D. DUMPING

1. Market Economy Treatment and Individual treatment

1.1. Market Economy Treatment (MET)

- (30) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in the PRC, normal value shall be determined in accordance with paragraphs 1 to 6 of the said Article for those exporting producers which were found to meet the criteria laid down in Article 2(7)(c) of the basic Regulation.
- (31) However, the two sampled exporting producers only requested Individual Treatment ('IT'). MET criteria were therefore not investigated.

1.2. Individual Treatment (IT)

- (32) Pursuant to Article 2(7)(a) of the basic Regulation, a country-wide duty, if any, is established for countries falling under that Article, except in those cases where companies are able to demonstrate that they meet all criteria set out in Article 9(5) of the basic Regulation. Briefly, and for ease of reference only, these criteria are set out below:

- In the case of wholly or partly foreign owned firms or joint ventures, exporters are free to repatriate capital and profits;
- Export prices and quantities, and conditions and terms of sale are freely determined;

- The majority of the shares belong to private persons. State officials appearing on the Boards of Directors or holding key management positions shall either be in minority or it must be demonstrated that the company is nonetheless sufficiently independent from State interference;

- Exchange rate conversions are carried out at the market rate; and

- State interference is not such as to permit circumvention of measures if individual exporters are given different rates of duty

- (33) Both sampled exporting producers claimed IT. These claims were examined. The investigation showed that the sampled companies fulfilled all the conditions of Article 9(5) of the basic Regulation.

- (34) Both sampled exporting producers were therefore granted IT.

2. Analogue country

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

- (36) In the notice of initiation, the Commission indicated its intention to use Russia as an appropriate analogue country for the purpose of establishing normal value for the PRC and invited interested parties to comment on this.

- (37) No comments were received concerning Russia as proposed analogue country. None of the interested parties suggested alternative analogue country producers of like product in addition to those mentioned in the complaint during the course of investigation.

- (38) No co-operation from Russia was received although all known Russian producers were contacted repeatedly during the investigation and received analogue country questionnaires.

- (39) The Commission through its own research tried to identify any additional producers in third countries.

- (40) Letters and questionnaires were therefore sent to all known producers in other third countries (i.e. Turkey, Iran, Croatia, India, South Africa and Switzerland). However, despite follow-up action ultimately no co-operation was received.

(41) As explained in the recitals 38, 39 and 40 above, the investigation revealed no other market economy third country which could be used as an analogue country in this proceeding. Consequently, in absence of such market economy third country, it was provisionally concluded in accordance with Article 2(7)(a) of the basic Regulation, that it was not possible to determine normal value for the sampled producers based on the domestic prices or constructed normal value in a market economy third country or the price from such a third country to other countries, including the Union, and that it was therefore necessary to determine normal value based on any other reasonable basis, in this case on the basis of the prices actually paid or payable in the Union for the like product. This was considered appropriate due to the lack of cooperation as mentioned above but also because of the size of the EU market, the existence of imports and the strong internal competition on the EU market for this product.

3. Normal Value

(42) As MET was not claimed by the two sampled companies, the normal value for all Chinese exporting producers was determined, as explained in recital 41 above, on the basis of the prices actually paid or payable in the Union for the like product. Following the choice of the prices paid or payable in the Union, normal value was calculated on the basis of the data verified at the premises of the sampled Union producers listed in recital 13 above.

(43) In accordance with Article 2(2) of the basic Regulation, the Commission first examined whether the EU sales of the like product to independent customers were representative. The Union sales of the Union producers of the like product were found to be representative compared to the product concerned exported to the Union by the exporting producers included in the sample.

(44) 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 EU sales to independent customers. EU sales transactions were considered profitable where the unit price was equal to or above the cost of production. Cost of production on the Union market during the IP was therefore determined. This analysis showed that EU sales of some product types were profitable, i.e. the unit net sales price was above the calculated unit cost of production.

(45) The normal value of each product type was based on the actual sales price (ex-works) for profitable sales and on a constructed normal value for non profitable sales.

(46) Normal value was constructed by adding to the cost of manufacturing of the EU industry its SG&A and profit. Pursuant to Article 2(6) of the basic Regulation, the amounts for SG&A and profit of 4,43 % were established on the basis of the actual data pertaining to production and sales in the ordinary course of trade of the like product of the EU producers.

4. Export prices

(47) As the sampled exporting producers were granted IT and made export sales to the Union directly to independent customers in the Union, the export prices were based on the prices actually paid or payable for the product concerned, in accordance with Article 2(8) of the basic Regulation.

5. Comparison

(48) The comparison between normal value and export price was made on an ex-works basis. For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. Appropriate adjustments for indirect taxes, freight, insurance, packing, handling and credit costs were granted in all cases where they were found to be reasonable, accurate and supported by verified evidence.

(49) For one of the exporting producers it was clear that the company had not classified the product concerned correctly when using the system as required by the questionnaire. One of the specifications of product concerned related to the thermal output of the radiators. However the company did not possess evidence to support the thermal output reported for its exported models. The thermal output actually reported was not correct and did not correspond to other specifications, such as weight and dimensions. Therefore it was necessary to use only the remaining specifications for comparison purposes.

(50) Using the PCN-system to classify product types, there was a high degree of matching for one sampled exporting producer. However, for the other sampled exporting producer a resembling technique was employed because no direct matches could be identified. Where the resembling technique was employed the details were disclosed to the party involved.

6. Dumping margins

(51) According to Article 2(11) and (12) of the basic Regulation, the dumping margin for the sampled exporting producers was established based on the comparison of

the weighted average normal value with the weighted average export price expressed as a percentage of the CIF Union frontier price, duty unpaid.

- (52) A weighted average of these two dumping margins was calculated for the non sampled co-operating companies.
- (53) Given the low degree of co-operation from the PRC (below 50 %), it is considered appropriate that the countrywide dumping margin applicable to all other exporting producers in the PRC should be based on the most dumped transactions to a particular customer of the cooperating exporters.
- (54) The provisional dumping margins thus established, expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Table 1

Company Name	Status	Dumping Margin
Zhejiang Flyhigh	IT	23,0 %
Metal Group Co. Ltd.	IT	70,8 %
Other co-operating companies		32,5 %
Countrywide dumping margin		76,6 %

E. INJURY

1. Total Union production

- (55) All available information concerning Union producers, including information provided in the complaint, data collected from Union producers before and after the initiation of the investigation, and the verified

questionnaire responses of the sampled Union producers, was used in order to establish the total Union production for the period considered.

- (56) Aluminium radiators were manufactured by eight producers in the Union during the IP. All available information concerning Union producers, including information provided in the complaint and data collected from Union producers before and after the initiation of the investigation, was used in order to establish the total Union production during the IP.
- (57) On this basis, the total Union production, in number of elements, was estimated to be around 64 million during the IP. Given that the Union producers supporting the complaint accounted for the total Union production, they constitute the Union industry within the meaning of Articles 4(1) and 5(4) of the basic Regulation and will be hereafter referred to as the 'Union industry'.

2. Union consumption

- (58) Eurostat import statistics could not be used in this investigation since the CN codes covering aluminium radiators include other aluminium products, such as electrical radiator, as well.
- (59) Union consumption was thus established on the basis of the data contained in the complaint concerning in particular the sales volume of the Union industry in the Union and the imports made by the exporting producers in the PRC. This data was cross-checked with the received replies to the sampling questionnaires and the data obtained and verified at the premises of the sampled Union producers and the exporting producers in the PRC.
- (60) On this basis the Union consumption was found to have developed as follows:

Table 2

	2008	2009	2010	IP
Union consumption (elements)	46 000 000	40 500 000	39 000 000	44 246 066
<i>Index (2009 = 100)</i>	114	100	96	109

Source: Complaint data and questionnaire replies

- (61) Total consumption on the EU market decreased by 3,8 % during the period considered. Between 2008 and 2009 there was a decrease by about 12 %, in line with the global negative effects of the economic crisis, after which consumption decreased further by 3,7 %. It however recovered from 2010 to the IP, when it increased by 13,5 %, but it did not reach the initial level of 2008. The above table also shows that consumption increased by 9 % in the period from 2009 to the IP.

3. Imports from the country concerned

- (62) Imports into the Union from the PRC developed as follows during the period considered:

Table 3

	2008	2009	2010	IP
Volume of imports from the PRC (elements)	6 000 000	7 000 000	8 000 000	10 616 576
<i>Index (2009 = 100)</i>	86	100	114	152
Market share	13,0 %	17,3 %	20,5 %	24,0 %
<i>Index (2009 = 100)</i>	75	100	119	139

Source: Complaint data and questionnaire replies

- (63) Notwithstanding the evolution of consumption, the volume of imports from the PRC increased significantly by 77 % over the period considered. The increase was continuous and was the sharpest between 2010 and the IP (+ 33 %). Similarly, the market share held by Chinese exporting producers shows a steady increasing trend over the period considered, passing from 13 % in 2008 to 24 % during the IP. This trend should be seen in the light of the overall decrease in consumption by 3,8 % during the same period.

3.1. Prices of imports and price undercutting

Table 4

Imports from the PRC	2008	2009	2010	IP
Average price in EUR/elements	4,06	3,25	4,07	4,02
<i>Index (2009 = 100)</i>	125	100	125	123

Source: Complaint data and questionnaire replies

- (64) The above table shows that the average import price from the PRC slightly decreased during the period considered. In a first step, between 2008 and 2009, it decreased significantly by 20 %, then it increased by 25 % between 2009 and 2010. Finally it decreased again towards the end of the period considered.
- (65) The investigation also showed that the import prices from the PRC consistently remained below the sales prices of the Union industry during the period considered. The drop in prices in 2009 coincided with a sharp increase in Chinese market share from 13 % to 17,3 % of the Union market and the constant price undercutting explains the steady increase in the market share held by Chinese exporting producers in particular between 2009 and the IP.
- (66) In order to determine price undercutting during the IP, the weighted average sales prices per product type of the

sampled Union Producers charged to unrelated customers on the Union market, adjusted to an ex-works level, were compared to the corresponding weighted average prices of the imports from the cooperating Chinese producers to the first independent customer on the Union market, established on a CIF basis, with appropriate adjustments for the existing customs duties and post-importation costs.

- (67) The price comparison was made on a type-by-type basis for transactions at the same level of trade, duly adjusted where necessary, and after deduction of rebates and discounts. The result of the comparison, when expressed as a percentage of the sampled Union producers turnover during the IP, showed a weighted average undercutting margin of 6,1 % by the Chinese exporting producers.

4. Economic situation of the Union industry

4.1. Preliminary remarks

- (68) As mentioned in recitals 24 and 25 above, sampling was used for the examination of the possible injury suffered by the Union industry. It should be noted that one of the Union producers included in the sample only started producing aluminium radiators in 2009. In order to provide a consistent trend analysis for the period considered, it was considered appropriate to set 2009 as benchmark year for the injury analysis, namely index 100. For the sake of completeness an index for 2008 has been also established based on the data available.
- (69) The data provided and verified by the four sampled EU producers was used in order to establish micro indicators, such as unit price, unit cost, profitability, cash flow, investments, return on investments, ability to raise capital and stocks. The index for 2008 was established on the basis of the data available for the three existing producers in 2008 compared to the data of the same three producers in 2009 (index 100).

- (70) The data provided for the eight EU producers of aluminium radiators was used to establish macro indicators, such as Union industry production, production capacity, capacity utilization, sales volume, market share and employment. The index for 2008 was established on the basis of the data available for the seven existing producers in 2008 compared to the data available for the same seven producers in 2009 (index 100).
- (71) In the context of Article 3(5) of the basic Regulation, the examination of the economic situation of the Union industry over the period considered includes an evaluation of all economic factors established mentioned in that Article.

4.2. Production, production capacity and capacity utilization

Table 5

	2008	2009	2010	IP
Production volume (<i>elements</i>)		55 533 555	60 057 377	64 100 484
<i>Index (2009 = 100)</i>	116	100	108	115
Production capacity (<i>elements</i>)		93 426 855	95 762 788	107 218 125
		100	103	115
Capacity utilisation	70 %	59 %	63 %	60 %
<i>Index (2009 = 100)</i>	119	100	106	101

Source: Complaint data and questionnaire replies

- (72) All available information concerning Union producers, including information provided in the complaint, data collected from Union producers before and after the initiation of the investigation, and the verified questionnaire responses of the sampled Union producers, was used in order to establish the total Union production for the period considered.
- (73) The table above shows that production decreased over the period considered. In line with a decrease in demand, production decreased sharply in 2009, after which it recovered in 2010 and during the IP. Production remained relatively stable between 2009 and the IP despite an increase in consumption by 9 %. The level of production is also dependent on the export activity of the Union industry which remained significant throughout the period considered.
- (74) Despite the limited decrease in consumption capacity utilisation decreased from 70 % in 2008 to 60 % during the IP. It remained relatively stable in the period between 2009 and the IP.

4.3. Sales volume and market share

Table 6

	2008	2009	2010	IP
Sales volume (<i>elements</i>)	40 000 000	33 500 000	31 000 000	33 629 490
<i>Index (2009 = 100)</i>	119	100	93	100
Market share	87 %	82,7 %	79,5 %	76 %
<i>Index (2009 = 100)</i>	105	100	96	92

Source: Complaint data and questionnaire replies

- (75) The Union industry sales volume decreased by 16 % over the period considered and its market share continuously dropped from 87 % in 2008 to 76 % during the IP. In 2009 the Union industry sales volume decreased by 16 %, hence it lost more than four percentage points of market share. In 2010 sales volume further dropped by 7 % and its market share decreased from 82,7 % to 79,5 %. During the IP, in a context of increasing consumption (+ 13,5 %), the Union industry market share dropped further to 76 %. It was thus unable to benefit from the growing consumption and to regain some of the market share previously lost.

4.4. Growth

- (76) During the period considered it emerged that Union consumption decreased slightly by 3,8 %, while sales volume and market share of the Union industry decreased significantly, respectively by 15,9 % and by 12,6 %, during the same period. At the same time, imports from the PRC increased significantly by 76,9 % over the period considered. As a consequence, the market share of the Union industry decreased by 11 percentage points over the same period.

4.5. Employment

Table 7

	2008	2009	2010	IP
Number of employees		1 598	1 642	1 641
<i>Index (2009 = 100)</i>	102	100	103	103
Productivity (unit/employee)	114	100	105	112
<i>Index (2009 = 100)</i>				

Source: Complaint data and questionnaire replies

- (77) The number of employees increased slightly over the period considered, but this in turn led to a decrease in productivity. However, it should be noted that the upwards trend regarding employment is only due to the fact that one of the sampled companies, the smallest of the sample started producing in 2009. Otherwise the trend in employment would have been negative.
- (78) Productivity of the Union industry workforce, measured as output per person employed per year, decreased slightly over the period considered. It reached its lowest

level in 2009, after which it started to recover towards the IP, without reaching the initial levels. Between 2009 and the IP productivity increased by 12 %.

4.6. Average unit prices in the Union and cost of production

Table 8

	2008	2009	2010	IP
Unit price in EU to unrelated customers (Euro per element)		5,31	5,47	5,62
<i>Index (2009 = 100)</i>	113	100	103	106
Unit Cost EUR/Element		4,92	5,34	5,61
<i>Index (2009 = 100)</i>	113	100	109	114

Source: questionnaire replies sampled producers

- (79) The trend of the average sales prices shows a significant decrease by 6 % over the period considered. In the period from 2009 to the IP, in line with an increasing consumption and a recovery in the market, prices recovered by 6 % but did not reach the level of 2008.
- (80) In parallel, the relative costs to produce and sell the like product slightly decreased over the period considered but it was far from allowing the Union industry to remain profitable in 2010 and during the IP. If in 2009, the 11,5 % decrease in costs matched with a 11,5 % decrease in sales prices, in 2010 and during the IP, the Union industry experienced a sharp increase in costs and could only slightly increase its prices to cover the extra costs. This resulted in a further loss in profitability and in market share since the Union industry prices were constantly higher than the Chinese imports prices.

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

Table 9

	2008	2009	2010	IP
Profitability of EU sales (% of net sales)	7,4 %	7,5 %	2,4 %	0,2 %
<i>Index (2009 = 100)</i>	99	100	32	2
Cash Flow		27 712 871	14 228 145	843 570
<i>Index (2009 = 100)</i>	112	100	51	3
Investments (EUR)	25 404 161	15 476 164	12 072 057	8 945 470
<i>Index (2009 = 100)</i>	165	100	78	58
Return on Investments	36 %	49 %	21 %	2 %
<i>Index (2009 = 100)</i>	73	100	43	4

Source: Questionnaire replies sampled EU producers

- (81) Profitability of the Union industry was established by expressing the pre-tax net profit of the sales of the like product as a percentage of the turnover of these sales. Over the period considered, and also on the period from 2009 to the IP, profitability of the Union industry decreased dramatically and barely reached the break even level.
- (82) The trend in cash flow, which is the ability of the industry to self-finance its activities, followed to a large extent the negative trend in profitability. The lowest level was achieved during the IP. Similarly, the return on investment decreased from 36 % in 2008 to 2 % in the IP.
- (83) The evolution of profitability, cash flow and return on investment during the period considered limited the ability of the Union industry to invest in its activities and undermined its development. The Union industry managed to invest heavily in the beginning of the period considered and modernize its machineries to produce more efficiently, but investments thereafter steadily decreased by 64,7 % during the remainder of the period considered.

4.8. Stocks

Table 10

	2008	2009	2010	IP
Closing stock of Union industry Index (2009 = 100)	137	100	131	299

Source: Questionnaire replies sampled EU producers

- (84) The stock level of the sampled Union industry increased significantly during the period considered. In 2009 the level of closing stock decreased by 27 %; afterwards, in 2010 and in the IP increased by 30,8 % and 128,4 % respectively.

5. Magnitude of the actual dumping margin

- (85) The dumping margins are specified above in the dumping section. All margins established are significantly above the de minimis level. Furthermore, given the volume and the prices of dumped imports from the PRC the impact on the EU market of the actual margin of dumping cannot be considered negligible.

6. Conclusion on injury

- (86) The investigation showed that most of the injury indicators pertaining to the economic situation of the Union industry deteriorated or did not develop in line with

consumption during the period considered. This observation particularly applies to the period from 2009 up to the end of the IP.

- (87) Over the period considered, in the context of a decreasing consumption, volume of imports from the PRC increased steadily and significantly. At the same time, the Union industry sales volume decreased overall by 16 % and its market share dropped from 87 % in 2008 to 76 % in the IP. Even when consumption recovered by 9 %, from 2009 to the IP, the Union industry market share continued to decrease further. The Union industry was unable to regain the market share previously lost in view of the significant expansion of the dumped imports from the PRC in the EU market. The low-priced dumped imports increased steadily over the period considered, constantly undercutting the prices of the Union industry.
- (88) Furthermore, the injury indicators related to the financial performance of the Union industry, such as cash flow and profitability were seriously affected. This means that the ability of the Union industry to raise capital and to invest was undermined.
- (89) In the light of the foregoing, it was concluded that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.

F. CAUSATION

1. Introduction

- (90) In accordance with Article 3(6) and 3(7) of the basic Regulation, it was examined whether the dumped imports originating in the PRC have caused injury to the Union industry to a degree that enables it to be classified as material. Known factors other than the dumped imports, which might have injured the Union industry, were examined to ensure that any injury caused by those other factors was not attributed to the dumped imports.

2. Effect of the dumped imports

- (91) The investigation showed that the Union consumption decreased by 3,8 % over the period considered, while the volume of dumped imports from the PRC increased dramatically by about 77 %, their market share also increased from 13 % in 2008 to 24 % in the IP. At the same time, sales volume of the Union industry decreased by 16 % and market share dropped from 87 % in 2008 to 76 % in the IP.
- (92) In the period from 2009 up to the IP, Union consumption increased by 9 %, while the Union industry market share dropped again, in contrast to an annual increase in dumped imports from the PRC by 52 % in that period.

- (93) With regard to price pressure, it should be highlighted that in 2009 average import prices from the PRC decreased by 20 % forcing the Union industry to significantly decrease its sales prices by about 11,5 %. In 2010 and during the IP, the Union industry tried to increase its prices, because of increased costs. This resulted in a further loss of market share, since the Union industry prices were constantly higher than the prices of dumped imports from the PRC. This situation led in particular to a significant deterioration in profitability, sales volume and market share of the Union industry.
- (94) Prices of dumped imports from the PRC decreased in the period considered. Even if in the period from 2009 to the IP, import price from the PRC increased by 23 %, they consistently remained significantly lower than sales prices of the Union industry during the period considered and in particular during the IP, thus keeping price in the Union market.
- (95) Based on the above it is concluded that the massive increase of the dumped imports from the PRC at prices constantly undercutting those of the Union industry have had a determining role in the material injury suffered by the Union industry, which is reflected in particular in its poor financial situation, in the drop in sales volume and in market share and in the deterioration of most of the injury indicators.
- (98) The performances of the low-priced dumped imports contrast with those of the Union industry. Indeed, the investigation showed that as from 2009 and up to the IP, even if Union consumption increased in line with the general economic recovery, the Union industry market share kept decreasing. Even if production volume tended to increase, there was a surplus which had to be put into the stocks.
- (99) Under normal economic conditions and in the absence of strong price pressure and surge in import of dumped products, the Union industry might have had some difficulty in coping with the decrease in consumption and the increase in fixed costs per unit due to the decreased capacity utilisation it experienced. However, the investigation clearly suggests that the dumped imports from the PRC have intensified the effect of the economic downturn. Even during the general economic recovery, the Union industry was unable to recover and to regain sales volumes and the market share lost throughout the period considered.
- (100) Therefore, although the economic crisis may have contributed to the Union industry's poor performance, overall, it cannot be considered to have an impact such as to break the causal link between the dumped imports and the injurious situation of that industry suffered in particular during the IP.

3. Effect of other factors

3.1. Imports from third countries

- (96) As clarified in recital 58 above, Eurostat import statistics could not be used in this investigation since the CN codes covering aluminium radiators and elements and sections thereof include all sorts of aluminium products. In the absence of any other reliable information, it was established on basis of the complaint, that apart from the PRC, there is no other non-EU country which produced and exported aluminium radiators to the EU during the period considered.

3.2. Economic crisis

- (97) The economic crisis partially explains the contraction of the Union consumption in particular in 2009 and 2010. However, it is noteworthy that in a situation of decreasing consumption in the period considered and in a situation of increasing consumption in the period between 2009 and the IP, the volume of dumped imports from the PRC at prices undercutting those of the Union industry kept on increasing in the Union market.

3.3. Development of the Union industry cost of production

- (101) The investigation showed that the cost to produce aluminum radiators is directly linked to the price development of aluminum, the main raw material used to produce this product. Even if, as shown in table 8 above, Union industry cost of production decreased significantly in 2009, sales prices decreased at the same pace. In 2010 and during the IP, costs increased more than sale prices and thus did not allow for a recovery, in particular in the profitability of the Union industry. This situation occurred when the import price of the products imported from the PRC were consistently undercutting those of the Union industry.
- (102) In a market economy, it could be expected that prices on the market would regularly adapt to reflect the development in the various components of the cost of production. This did however not happen. The investigation confirmed that dumped imports from the PRC, undercutting the Union industry prices, continued to depress the Union market prices and thus prevented the Union industry from keeping its market share and adjusting prices to cover for its costs and achieve a reasonable profit level in particular during the IP.

- (103) The increase in raw material prices was therefore not such as to break the causal link between the dumped imports and the material injury suffered by the Union industry in particular during the IP.

3.4. Export performance of the sampled Union industry

Table 11

	2008	2009	2010	IP
Export sales in elements		18 280 847	20 245 515	17 242 607
Index (2009 = 100)	126	100	111	94

Source: Questionnaire replies sampled EU producers

- (104) The export activity of the Union industry constituted an important share of its business during the period considered. The core exports markets of the Union industry were mainly Russia and other East European countries where the products sold were of relatively lower quality and were thus cheaper compared to the radiators sold in the Union market.
- (105) The above table shows that the export turnover of the Union industry decreased in the period considered. This may partly be explained by the fact that, as available information suggests, growing export volumes of aluminium radiators from the PRC were also present in those export markets.
- (106) Nevertheless, it is clear that the export activity allowed the Union industry to achieve economies of scales and thus to reduce its overall costs of production. Hence, it can reasonably be considered that the export activity of the Union industry could not be a potential cause of the material injury it had suffered in particular during the IP. Any negative impact the export sales decrease may have had on the Union Industry, it cannot be such as to break the causal link between that injury and the low-priced dumped imports from China.

4. Conclusion on causation

- (107) The above analysis demonstrated that there was a substantial increase in the volume and market share of the dumped imports originating in the PRC in the period considered and also from the period from 2009 up to the IP. It was found that these imports were constantly undercutting the prices charged by the Union industry on the Union market and in particular during the IP.
- (108) This increase in volume and market share of the low-priced dumped imports from the PRC was continuous and coincided with the negative development in the economic situation of the Union industry. This situation worsened in the IP, when the Union industry

was unable to regain its lost market share and profitability and other financial indicators such as cash flow and return on investments reached their lowest levels.

- (109) The analysis of the other known factors, including the economic crisis, showed that any negative impact of these factors cannot be such as to break the causal link established between the dumped imports from the PRC and the injury suffered by the Union industry.
- (110) Based on the above analysis, which has properly distinguished and separated the effects of all known factors on the situation of the Union industry from the injurious effects of the dumped exports, it was provisionally concluded that the dumped exports from the PRC have caused material injury to the Union industry within the meaning of Article 3(6) of the basic Regulation.

G. UNION INTEREST

1. Preliminary remarks

- (111) In accordance with Article 21 of the basic Regulation, the Commission examined whether, despite the provisional conclusion on injurious dumping, compelling reasons existed for concluding that it is not in the Union interest to adopt measures in this particular case. The analysis of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, importers, and users of the product concerned.

2. Interest of the Union industry

- (112) The Union industry has suffered material injury caused by the dumped imports from the PRC. It is recalled that most of the injury indicators showed a negative trend during the period considered. In the absence of measures, a further deterioration in the Union industry's situation appears unavoidable.

(113) It is expected that the imposition of provisional anti-dumping duties will restore effective trade conditions on the Union market, allowing the Union industry to align the prices of the product investigated to reflect the costs of the various components and the market conditions. It can also be expected that the imposition of provisional measures would enable the Union industry to regain at least part of the market share lost during the period considered, with a further positive impact on its profitability and overall financial situation.

(114) Should measures not be imposed, further losses in market share could be expected and the Union industry would remain loss-making. This would be unsustainable in the medium to long-term. In view of the losses incurred and the high level of investment in production made at the beginning of the period considered it can be expected that most Union producers would be unable to recover their investments, should measures not be imposed.

(115) It is therefore provisionally concluded that the imposition of anti-dumping duties would be in the interest of the Union industry.

3. Interest of users and importers

(116) There was no cooperation from users in this investigation.

(117) As regards importers, only one importer located in Poland cooperated in this investigation by responding to the questionnaire and accepting a verification visit. This importer had small losses for the product concerned during the IP. However, the business of the product concerned is relatively small in relation to the total company's activities. Therefore, imposition of measures is not likely to have a severe impact on its total profits.

4. Conclusion on Union interest

(118) In view of the above, it is provisionally concluded that based on the information available concerning the Union interest, there are no compelling reasons against the imposition of provisional measures on imports of the product concerned originating in the PRC.

H. PROPOSAL FOR PROVISIONAL ANTI-DUMPING MEASURES

1. Injury elimination level

(119) In view of the conclusions reached with regard to dumping, injury, causation and Union interest,

provisional anti-dumping measures should be imposed in order to prevent further injury being caused to the Union industry by the dumped imports.

(120) For the purpose of determining the level of these measures, account was taken of the dumping margins found and the amount of duty necessary to eliminate the injury sustained by the Union industry, without exceeding the dumping margins found.

(121) When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measures should allow the Union industry to cover its costs of production and to obtain a profit before tax that could be reasonably achieved by an industry of this type in the sector under normal conditions of competition, i.e. in the absence of dumped imports, on sales of the like product in the Union. It is considered that the profit that could be achieved in the absence of the dumped imports should be based on the average pre-tax profit margin of the sampled Union producers in the year 2008. It is thus considered that a profit margin of 7, 4 % of turnover could be regarded as an appropriate minimum which the Union industry could have expected to obtain in the absence of injurious dumping.

(122) On this basis, a non-injurious price was calculated for the Union industry for the like product. The non-injurious price was obtained by adjusting the sales prices of the sampled Union producers by the actual profit/loss made during the IP and by adding the above mentioned profit margin.

(123) The necessary price increase was then determined on the basis of a comparison of the weighted average import price of the cooperating exporting producers in the PRC, as established for the price undercutting calculations, with the non-injurious price of the products sold by the Union industry on the Union market during the IP. Any difference resulting from this comparison was then expressed as a percentage of the average total CIF import value.

2. Provisional measures

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

- (125) On the basis of the above, the anti-dumping duty rates have been established by comparing the injury elimination margins and the dumping margins. Consequently, the proposed anti-dumping duty rates are as follows:

Company	Dumping margin	Injury margin	Provisional Duty
Zhejiang Flyhigh Metal Products Co., Ltd	23,0 %	12,6 %	12,6 %
Metal Group Co. Ltd.	70,8 %	56,2 %	56,2 %
Other co-operating companies	32,5 %	21,2 %	21,2 %
Countrywide dumping margin	76,6 %	61,4 %	61,4 %

- (126) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the country-wide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the PRC and produced by the companies and thus by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.
- (127) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission⁽¹⁾ forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, that name change or that change in the production and sales entities. If appropriate, the Regulation will accordingly be amended by updating the list of companies benefiting from individual duty rates.

I. FINAL PROVISION

- (128) In the interest of sound administration, a period should be fixed within which the interested parties which made themselves known within the time limit specified in the notice of initiation may make their views known in writing and request a hearing. Furthermore, it should

be stated that the findings concerning the imposition of duties made for the purposes of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive measures,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of aluminium radiators and elements or sections of which such radiator is composed, whether or not such elements are assembled in blocks, excluding radiators and elements and sections thereof of the electrical type, currently falling within CN codes, ex 7615 10 10, ex 7615 10 90, ex 7616 99 10 and ex 7616 99 90 (TARIC codes 7615 10 10 10, 7615 10 90 10, 7616 99 10 91, 7616 99 90 01 and 7616 99 90 91) and originating in the People's Republic of China.

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

Company	Duty (%)	TARIC additional code
Zhejiang Flyhigh Metal Products Co., Ltd	12,6	B272
Metal Group Co. Ltd.	56,2	B273
Jinyun Shengda Industry Co., Ltd..	21,2	B274
Ningbo Ephriam Radiator Equipment Co., Ltd	21,2	B275
Ningbo Everfamily Radiator Co., Ltd	21,2	B276
Ningbo Ningshing Kinhil Industrial Co. Ltd.	21,2	B277
Ningbo Ninhshing Kinhil International Co., Ltd.	21,2	B278
Sira (Tianjin) Aluminium Products Co., Ltd	21,2	B279
Sira Group (Tianjin) Heating Radiators Co., Ltd.	21,2	B280
Yongkang Jinbiao Machine Electric Co., Ltd	21,2	B281
Yongkang Sanghe Radiator Co., Ltd.	21,2	B282
Zhejiang Aishuibao Piping Systems Co., Ltd	21,2	B283
Zhejiang Botai Tools Co., Ltd	21,2	B284
Zhejiang East Industry Co., Ltd	21,2	B285

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

Company	Duty (%)	TARIC additional code
Zhejiang Guangying Machinery Co., Ltd	21,2	B286
Zhejiang Kangfa Industry & Trading Co., Ltd.	21,2	B287
Zhejiang Liwang Industrial and Trading Co., Ltd.	21,2	B288
Zhejiang Ningshuai Industry Co., Ltd	21,2	B289
Zhejiang Rongrong Industrial Co., Ltd.	21,2	B290
Zhejiang Yuanda Machinery & Electrical Manufacturing Co., Ltd	21,2	B291
All other companies	61,4	B999

3. The release for free circulation in the Union of the product referred to in paragraph 1 shall be subject to the provision of a security, equivalent to the amount of the provisional duty.

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

Article 2

1. Without prejudice to Article 20 of Regulation (EC) No 1225/2009, interested parties may request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted, make their views known in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

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

Article 3

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

Article 1 of this Regulation shall apply for a period of six months.

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

Done at Brussels, 10 May 2012.

For the Commission
The President
 José Manuel BARROSO