

COMMISSION REGULATION (EC) No 1827/2001

of 17 September 2001

imposing a provisional anti-dumping duty on imports of certain zinc oxides originating in the People's Republic of China

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾, as last amended by Regulation (EC) No 2238/2000 ⁽²⁾, and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

within the above time limit and showed that there were particular reasons why they should be heard were granted the opportunity to be heard.

- (5) 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. Replies were received from the six complainant Community producers, five exporting producers in the country concerned as well as from six importers in the Community which were not related to exporting producers. The Commission also received replies from 13 users, five suppliers and two users' associations. Six other producers of zinc oxide in the Community, which were not involved in the complaint, also provided the Commission with some general information on their activities.

A. PROCEDURE

- (1) On 20 December 2000 the Commission announced by a notice ('notice of initiation') published in the *Official Journal of the European Communities* ⁽³⁾ the initiation of an anti-dumping proceeding with regard to imports into the Community of certain zinc oxides originating in the People's Republic of China ('PRC').
- (2) The proceeding was initiated as a result of a complaint lodged in November 2000 by the European Association of Metals ('Eurometaux') on behalf of Asturiana de Zinc SA, Co.ge.fin. SpA, Elementis Pigments, Grillo Zinkoxid GmbH, Metaleurop GmbH and Union Minière Zinc Chemicals ('the complainant Community producers'), together representing a major proportion, in the current case 75 %, of the Community production of certain zinc oxides. The complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of an anti-dumping proceeding.
- (3) The Commission officially advised the exporting producers and importers/traders known to be concerned as well as their associations, the representatives of the exporting country concerned, users, suppliers and the complainant Community producers, of the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.
- (4) A number of exporting producers in the country concerned, as well as Community producers, Community users and importers/traders made their views known in writing. All parties who so requested
- (6) In order to allow exporting producers in the PRC to submit a claim for market economy treatment ('MET') or individual treatment if they so wished, the Commission sent to Chinese companies known to be concerned a market economy status and an individual treatment claim form. No other companies made themselves known within the deadlines set out in the notice of initiation. Five companies requested MET pursuant to Article 2(7)(b) of Regulation (EC) No 384/96 ('the basic Regulation') or individual treatment should the investigation establish that they did not meet the conditions for MET.
- (7) The Commission sought and verified all the information it deemed necessary for the purpose of a determination of dumping, injury and Community interest. Verification visits were carried out at the premises of the following companies:
- (a) Exporting producers in the PRC
- Liuzhou Nonferrous Metals Smelting Co. Ltd, Liuzhou
 - Liuzhou Fuxin Chemical Industry Co. Ltd, Liuzhou
 - Gredmann Guigang Chemical Ltd, Guigang
 - Liuzhou Zinc Products Co. Ltd, Liuzhou
 - Liuzhou Longcheng Chemical General Plant, Liuzhou
- (b) Analogue country
- United States of America: US Zinc Co. Millington, Tennessee

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 257, 11.10.2000, p. 2.

⁽³⁾ OJ C 366, 20.12.2000, p. 7.

- (c) Community producers
- Asturiana de Zinc SA, Madrid, Spain
 - Co.ge.fin SpA, Bellusco, Italy
 - Elementis Pigments, Durham, United Kingdom
 - Grillo Zinkoxid GmbH, Goslar, Germany
 - Metaleurop GmbH, Goslar, Germany
 - Union Minière, Angleur, Belgium
- (d) Unrelated importers in the Community
- Almiberia SA, San Antonio de Benageber, Spain
- (e) Users
- Esmalglass SA, Villarreal-Onda, Spain.
- (8) The investigation of dumping and injury covered the period from 1 January 2000 to 31 December 2000 ('IP'). The examination of trends relevant for the assessment of injury covered the period from 1 January 1996 to the end of the IP ('analysis period').

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

- (9) The product concerned is zinc oxide (chemical formula: ZnO) with a purity in net weight of not less than 93 % zinc oxide. It is currently classifiable within CN code ex 2817 00 00 (TARIC code 2817 00 00*10). It should be noted that technical zinc oxide and feed grade zinc oxide have a zinc oxide content of less than 93 % and are therefore outside the scope of the product concerned. In addition, technical and feed grade zinc oxide differ from the product concerned in terms of both zinc content and appearance. Technical zinc oxide is a greyish to brownish powder whereas feed grade zinc oxide is a yellow brownish material. The product concerned is itself commercialised as a fine white powder. These three types of zinc oxide have different chemical properties and thus end uses they do not compete with each other, furthermore technical and feed grade zinc oxide are significantly less expensive. It should be noted that zinc peroxide (ZnO₂) is a completely different product: it does not have the same chemical characteristics and is considerably more expensive than zinc oxide.
- (10) Zinc oxide has a wide range of applications including, amongst others, the rubber, chemical, paint, ceramic and pharmaceutical industries.
- (11) A number of interested parties argued that there existed different grades of the product concerned and that these constituted different products and as such should be treated separately for the purposes of the investigation. This contention was rejected and it was determined that

all grades of the product concerned should be considered as a single product for the following reasons:

- all grades have the same basic chemical characteristics in that they share the same basic chemical composition (ZnO),
- they share the same physical characteristics in that zinc oxide is normally presented as a white powder and any further processing, such as granulation does not change the product's basic physical characteristics,
- grades are defined in terms of purity of zinc oxide content and impurities (such as lead and cadmium). There are, however no precise definition or standard norms for the definition of various grades. Each producer has its own classification system which supports their marketing effort and serves to differentiate their products from those of their competitors, but nevertheless, there are overlaps between grades offered in these various classifications,
- there is a significant degree of interchangeability between the grades as regards their end-use. This interchangeability can depend as much on the nature of any impurities in the product concerned as it can on the purity of the product in terms of its zinc oxide content. It was found, for example, that the purity of the zinc oxide used in the ceramic industry ranged between 98 % and 99,5 %, but that a more pure product could also be used. It is therefore concluded that a significant degree of competition and overlap exists between different grades of zinc oxide with a purity in net weight of not less than 93 % and that as such all grades should be considered as a single product.

2. Like product

- (12) Comments made by a number of users of the product concerned show clearly that imports originating in the PRC are perfect substitutable for zinc oxide purchased from the Community industry, since they share the same physical and chemical characteristics.
- (13) The Commission therefore established that zinc oxide produced by the Community producers and sold on the Community market is a like product to zinc oxide produced in the PRC and exported to the Community as well as that produced and sold domestically in the analogue country, since there are no differences in the basic characteristics and uses. The same is true with regard to zinc oxide produced by the Chinese producers which received MET and that sold on their domestic market.
- (14) Therefore, these products are alike within the meaning of Article 1(4) of the basic Regulation.

C. DUMPING

1. Market economy treatment

- (15) 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 producers which were found to meet the criteria laid down in Article 2(7)(c), i.e. where it is shown that market economy conditions prevail in respect of the manufacture and sale of the product concerned.
- (16) Five Chinese companies requested MET pursuant to Article 2(7)(b) of the basic Regulation and replied to the MET claim for exporting producers.
- (17) The Commission sought all information deemed necessary and verified on the spot all information submitted in the MET applications at the premises of the companies in question.
- (18) For three companies it was established that, overall, their decisions regarding prices and costs were made without significant state interference within the meaning of Article 2(7)(c) and that costs and prices reflected market values. These companies had accounts independently audited in line with international accounting standards and their production costs and financial situation was not subject to significant distortions carried over from the former non-market-economy system. Finally, the three companies were found to be subject to bankruptcy and property laws which guaranteed legal certainty and stability and exchange rate conversions were carried out at the market rate. Consequently, it was concluded that the following three companies fulfilled the conditions set out in Article 2(7)(c) of the basic Regulation:
- Liuzhou Nonferrous Metals Smelting Co. Ltd,
 - Liuzhou Fuxin Chemical Industry Co. Ltd,
 - Gredmann Guigang Chemical Ltd.
- (19) For the other two companies it was found that there was significant state interference in business decisions, including decisions relating to and costs for one company and that the financial situation, especially costs and accounts, were subject to significant distortions for both of them. Consequently, the two companies concerned did not fulfil one or more of the conditions set out in Article 2(7)(c) of the basic Regulation.
- (20) The companies concerned and the complainant Community producers were given an opportunity to comment on the above findings.
- (21) The exporting producers not granted MET contested the Commission's findings, in particular regarding state interference and distortion of the financial situation. However no new arguments were brought forward to alter the MET determination.

- (22) The Community industry opposed the granting of MET to the three Chinese companies. It argued that these companies were operating in a macroeconomic environment where state intervention was the predominant factor, that the State fixed the price of the zinc raw material, which was the main raw material in the production of zinc oxide and that certain companies did not apply all of the key international accounting principles.
- (23) In order to be granted MET, the companies concerned had to show that market economy conditions prevailed for their individual companies in respect of the manufacture and sale of the like product. The three companies' accounts had been audited in line with international accounting standards. The Commission had not found any indication of significant state interference in the trading of zinc raw materials.
- (24) It was therefore decided to grant MET to three companies and to reject the MET claims for the other two. The Advisory Committee was consulted and did not object to the Commission's conclusions.

2. Individual treatment

- (25) In accordance with Article 9(5) of the basic Regulation, it is the Commission's policy to calculate a countrywide duty for countries falling under Article 2(7), except in those cases where companies are either granted MET or are able to demonstrate that their export activities are determined by market forces and free from State interference. This would justify a departure from the determination of a single countrywide duty. In the latter case, an individual dumping margin would be based on a comparison of the company's own export prices with the normal value for the analogue country.
- (26) The two Chinese companies, which were not granted MET, also requested individual treatment. The Commission sought and verified all information deemed necessary for the purposes of determining whether or not these companies qualified for individual treatment. For one of these companies, it was found that the export prices and quantities and conditions and terms of sale are freely determined, the exporter is free to repatriate capital and profits and any state interference was not such as to permit circumvention of the measures if that exporter were granted an individual dumping margin. For the second company, it was found that the state interference, in particular the degree of state ownership, was such as to permit circumvention of the measures if the company were granted an individual dumping margin.

(27) It was therefore considered justified to grant individual treatment to Liuzhou Longcheng Chemical General Plant, and to its related company Yinli Import and Export Co. Ltd and to reject individual treatment for the other company concerned, namely Liuzhou Zinc Products Co. Ltd.

3. Normal value

Determination of normal value for exporting producers not granted MET

Selection of the analogue country

(28) According to Article 2(7) of the basic Regulation, for non-market-economy countries and for companies to which MET could not be granted, normal value has to be established on the basis of the price or constructed value in an analogue country.

(29) In the notice of initiation, the Commission indicated its intention to use the United States of America ('USA') as an appropriate analogue country for the purpose of establishing normal value for the PRC.

(30) The exporting producers in the PRC objected to this proposal. The main arguments against the USA were: differences in the level of economic development between Asia and the USA; the oligopolistic position of zinc oxide producers on the US market which was alleged to lead to artificially high prices; differences in end-uses, as the rubber industry is the major US market for zinc oxide whereas Chinese exports to the Community seem to be used primarily in the ceramic industry; furthermore, it was claimed that the cost structure in the USA could not be compared with that in the PRC, where labour costs, environmental compliance costs, etc. are lower than in the USA.

(31) The interested parties in question suggested South Korea, Malaysia, Indonesia, Taiwan, or Thailand as an appropriate analogue country but did not substantiate their proposals.

(32) The Commission sent a request for information on sales and market conditions to all known producers of the product concerned in the six market economy countries suggested above. Replies were received from one producer in Taiwan, one in Thailand and one in the USA. None of the producers in Indonesia, South Korea or Malaysia replied to the request for information.

(33) The Commission subsequently sent a more detailed questionnaire to the producers in the USA, Taiwan and Thailand requesting information on domestic sales prices and costs of production for the product concerned.

(34) The replies showed that:

- of the four known producers in Thailand, the sole company willing to cooperate had a low production volume and the Thai domestic market appeared to be influenced by high import duties,
- of several domestic producers in Taiwan, the sole company willing to cooperate had both a very low production volume and a very low domestic sales volume,
- the cooperating US producer had a significant volume of production as well as a high domestic sales volume.

(35) Further analysis of the replies showed that the USA had a highly competitive market for the product concerned with eight Nafta producers operating on the US/Nafta market, a high number of end users in both the rubber and ceramic sectors, significant imports from third countries and no import duties. Moreover, both production methods, the indirect, or French process, and the direct, or American, process, are used in the PRC and the USA and give the same range of grades of purity of zinc oxide. The cost items in the USA could be compared to those in the PRC. The arguments on differences in costs between the PRC and the USA, like environmental compliance costs, labour costs, etc, were without proper basis and therefore found not to be relevant. USA's domestic sales were also representative as compared to Chinese export sales of the product concerned to the Community.

(36) In view of the above it was concluded that the USA was the most appropriate and reasonable analogue country in accordance with Article 2(7) of the basic Regulation.

Determination of normal value in the analogue country

(37) Pursuant to Article 2(7)(a) of the basic Regulation, normal value for the exporting producers not granted MET was established on the basis of verified information received from the producer in the analogue country, i.e. on the basis of the prices paid or payable on the domestic market of the USA for products comparable to those sold by the Chinese exporting producers to the Community.

(38) The Commission examined whether sales of the product concerned in the USA were made in the ordinary course of trade. With regard to costs of production, the verification showed that the cost of the main raw material was based on the London Metal Exchange ('LME') quotations which provide reference prices for the world-wide pricing of activities relating to non-ferrous metals, in this case zinc materials and related zinc products.

(39) As domestic sales by the USA producer concerned were made in the ordinary course of trade, normal value was established on the basis of the weighted average domestic sales prices of zinc oxide to unrelated customers by the cooperating USA producer in accordance with Article 2(4) of the basic Regulation.

Determination of normal value for exporting producers granted MET

(40) The companies granted MET were requested to submit a full questionnaire reply including domestic sales information and information on costs of production of the product concerned and these replies were verified at the premises of the companies concerned.

(41) As far as the determination of normal value is concerned, the Commission first established, for each exporting producer granted MET, whether its total domestic sales of zinc oxide were representative in comparison with its total export sales to the Community. In accordance with Article 2(2) of the basic Regulation domestic sales were considered representative when the total domestic sales volume of each exporting producer was at least 5 % of its total export sales volume to the Community.

(42) The Commission subsequently identified those grades of zinc oxide, sold domestically by the companies having representative domestic sales, that were identical or directly comparable with the grades sold for export to the Community.

(43) For each grade sold by the exporting producers on their domestic market which was found to be directly comparable with the grade sold for export to the Community it was established whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the basic Regulation. Domestic sales of a particular grade of zinc oxide were considered sufficiently representative when the total domestic sales volume of that grade during the IP represented 5 % or more of the total sales volume of the comparable grade of zinc oxide exported to the Community.

(44) An examination was also made as to whether the domestic sales of each grade could be regarded as having been made in the ordinary course of trade by establishing the proportion of profitable sales to independent customers of the grade in question. In cases where the sales volume of zinc oxide, sold at a net sales price equal to or above the calculated cost of production, represented 80 % or more of the total sales volume, and where the weighted average price of that grade was equal to or above the cost of production ('profitable sales'), normal value was based on the weighted average of the prices of all domestic sales made during the IP

irrespective of whether these sales were profitable or not. In all other cases normal value was based on the actual domestic price calculated as a weighted average of profitable sales only, provided these sales represented 10 % or more of the total sales volume.

(45) In cases where the volume of profitable sales of any grade of zinc oxide represented less than 10 % of the total sales volume, it was considered that this particular grade was sold in insufficient quantities for the domestic price to provide an appropriate basis for the establishment of the normal value.

(46) In establishing the profitability of the three companies concerned the Commission's investigation revealed that the purchase prices of the basic zinc raw materials for the production of zinc oxide appeared to be below market prices. This finding was based on a comparison between actual prices paid by the three companies and zinc quotations on the LME, generally recognised in the metals trade as an accurate reference for establishing prices.

(47) For all three companies granted MET it was found that, after adjusting their costs for zinc raw materials in accordance with the LME quotations, their domestic sales appeared not to be made in the ordinary course of trade. It was consequently not possible to use the domestic prices of any of the three exporters and recourse had to be made to constructed normal value. Normal value was constructed for the three companies in accordance with Article 2(3) of the basic Regulation. Costs for zinc raw materials were corrected in line with LME quotations. Domestic sales, general and administrative expenses reported by the exporting producers, where considered to be reliable, were applied without any adjustment. For the reasons noted above, none of the methods set out in the chapeau and in subparagraphs (a) and (b) of Article 2(6) of the basic Regulation could be used as domestic sales appeared not to be made in the ordinary course of trade and none of the companies concerned recorded a profit after adjustments had been made to their zinc raw material costs in accordance with the LME quotation. Therefore, profit was provisionally established by reference to the producer's profit in the analogue country, which, pursuant to Article 2(6)(c) of the basic Regulation, was considered to be the most reasonable approach in the circumstances.

4. Export prices

(48) All export sales to the Community were made directly to independent importers in the Community and the export price was established pursuant to Article 2(8) of the basic Regulation by reference to the prices actually paid or payable.

5. Comparison

- (49) For one company in the PRC sales to the Community were made through a related company in Hong Kong. This company carried out the functions of a trader and an adjustment was made to the export price from this company in Hong Kong by deducting a commission from the export price to take account of the functions performed by it.
- (50) The comparison was made on an ex-factory basis and at the same level of trade. In order to ensure a fair comparison, account was taken, in accordance with Article 2(10) of the basic Regulation, of differences in factors which were claimed and demonstrated to affect prices and price comparability. On this basis, allowances for differences in transport, insurance, handling, loading and ancillary costs, credit, commissions, import charges and after sales costs (warranty/guarantee, etc.) were made.

6. Dumping margin

For the cooperating exporting producers granted MET/IT

- (51) For the three companies granted MET, the weighted average normal value of each grade of the product concerned exported to the Community was compared with the weighted average export price of the corresponding grade of the product concerned, as provided for under Article 2(11) of the basic Regulation.
- (52) For the company granted individual treatment, the weighted average normal value for each grade exported to the Community established for the analogue country was compared with the weighted average export price of the corresponding grade exported to the Community, as provided for under Article 2(11) of the basic Regulation.
- (53) The provisional weighted average dumping margins expressed as a percentage of the cif Community frontier price duty unpaid are:

	(%)
Liuzhou Nonferrous Metals Smelting Co. Ltd	16,9
Liuzhou Fuxin Chemical Industry Co. Ltd	17,8
Gredmann Guigang Chemical Ltd	24,7
Liuzhou Longcheng Chemical Plant	64,5

For all other exporting producers

- (54) In order to calculate the countrywide duty applicable to all other exporters in the PRC, the Commission first established the level of cooperation. A comparison was made between the total imports of the product concerned originating in the PRC calculated on the basis of Eurostat and the actual questionnaire replies received from exporters in the PRC. On this basis it was established that the level of cooperation was 65 %.
- (55) The dumping margin was consequently calculated as a weighted average of the dumping margin established for the sole remaining cooperating exporter which was neither granted MET nor IT and the dumping margin calculated on the basis of Article 18 of the basic Regulation for the remaining unknown exporters. The dumping margin for the sole remaining cooperating exporter mentioned above was calculated by comparing the weighted average normal value established for the analogue country and the weighted average export price reported by the exporter concerned. The dumping margin for the unknown exporters was established as the difference between the weighted average normal value established in the analogue country and the weighted average export price for the most dumped transactions of the abovementioned company. The resulting dumping margin was applied to the volume (extracted from Eurostat) exported by the unknown Chinese producers. It was considered that non-cooperating producers did not dump at a lower level and that there should be no bonus for non-cooperating.
- (56) On this basis the countrywide level of dumping was provisionally established at 69,8 % of the cif Community frontier price.

D. COMMUNITY INDUSTRY

1. Community production

- (57) Zinc oxide is manufactured in the Community by the following companies:
- six complainant producers who cooperated in the investigation and are the largest producers of zinc oxide in the Community,
 - six smaller non-complainant producers who provided some general information on their activities to the Commission but did not cooperate in the investigation. Of these six producers, five supported the complaint and one took no position,
 - Nine other small non-complainant producers who neither cooperated in the investigation nor expressed an opinion.

- (58) The zinc oxide produced by all these companies therefore constitutes the Community production within the meaning of Article 4(1) of the basic Regulation.

2. Definition of the Community industry

- (59) The six cooperating complainant Community producers fulfil the requirements of Article 5(4) of the basic Regulation, since they account for around 75 % of the total Community production of zinc oxide. They are therefore deemed to constitute the Community industry within the meaning of Article 4(1) of the same Regulation and will hereinafter be referred to as 'the Community industry'.

E. INJURY

1. Preliminary remarks

Import data

- (60) Import figures were established using Eurostat information. The CN heading under which the product concerned is currently classified, also includes feed grade zinc oxide and zinc peroxide. Evidence given in the complaint shows that only negligible quantities of such products are imported. Therefore no specific adjustment was made to estimate total imports.

LME zinc metal quotation and its importance to zinc oxide

- (61) The Commission established during the investigation that for all operators subject to normal market conditions, the quotation for zinc metal on the LME plays a fundamental role in determining the prices of both raw materials and end product. The LME quotation serves as a recognised reference point to which the zinc content of any item, be it zinc concentrate or zinc oxide, can be related. During the analysis period the LME evolved as described below. In 1997, the activities of speculators on the zinc market resulted in a price peak. The quotation is made in US dollars with the result that the price rise between 1999 and 2000 is magnified by the depreciation of the euro against the dollar.

	1996	1997	1998	1999	IP 2000
LME flat yearly average	807	1 160	914	1 010	1 220

(EUR/tonne)

2. Community consumption

- (62) Apparent consumption of zinc oxide in the Community was established on the basis of:
- the total imports of the product concerned into the Community as reported by Eurostat,
 - the total verified sales of the Community industry on the Community market,
 - the sales data of the six other Community producers who provided some general information to the Commission,
 - and evidence contained in the complaint concerning the remaining other Community producers.

- (63) Community consumption of zinc oxide reached approximately 257 000 tonnes during the IP. As shown in the table below, it increased by 9 % over the analysis period mostly due to the development of the use of zinc oxide in the ceramic industry.

Community consumption	1996	1997	1998	1999	IP 2000
Tonnes	236 415	244 446	256 989	248 250	257 058
1996 = 100	100	103	109	105	109

3. Imports from the PRC

Volume of dumped imports

- (64) The volume of the dumped imports originating in the PRC increased by nearly tenfold between 1996 and the IP from 4 459 tonnes to 47 367 tonnes. The most significant increase occurred in the IP when the imports concerned were 2,5 times the level of the previous year.
- (65) The market share of the imports concerned reached 18,4 % during the IP compared to less than 2 % at the start of the analysis period.

Imports from the PRC	1996	1997	1998	1999	IP 2000
Tonnes	4 459	10 081	15 892	19 070	47 367
1996 = 100	100	226	356	428	1 062
Market share (%)	1,9	4,1	6,2	7,7	18,4

Prices of dumped imports

Price evolution

- (66) The prices of the imports concerned increased by 23 % over the analysis period with significant movements being recorded in 1997 when prices rose by 10 % as the price of zinc metal on the world market reached record levels. Prices fell back in 1999, only to rebound strongly during the IP.

Cif prices	1996	1997	1998	1999	IP 2000
EUR/tonne	715	788	796	745	876
1996 = 100	100	110	111	104	123

Price undercutting

- (67) For the purposes of analysing price undercutting, weighted average sales prices to independent customers of the Community industry per grade at an ex-works level were compared to the corresponding weighted average export prices of Chinese exporting producers on the Community market during the IP on a cif basis.

- (68) Export prices of Chinese exporting producers were duly adjusted for customs duties and post-importation costs. These adjustments have been made on the basis of information collected during the investigation, notably from cooperating unrelated importers.
- (69) On this basis, the price-undercutting margin, expressed as a percentage of the Community industry's prices was found to be in the range of 6,0 to 13,7 % for those companies granted MET or IT, and 10,8 % on a weighted average basis.

4. Situation of the Community industry

Preliminary remarks

- (70) Community industry data were obtained from the verified questionnaire responses of the six cooperating Community producers. Three of the six cooperating producers had several production facilities producing zinc oxide, more often than not in different Member States of the Community. In these cases, individual replies to the Commission's questionnaires were received from each plant and verified by the Commission before being aggregated to give data for the Community industry as a whole.
- (71) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Community industry included an evaluation of all economic factors and indices having a bearing on the state of the industry.

Production, production capacity and capacity utilisation

- (72) The Community industry's production decreased by 6 % over the analysis period while the volume of imports originating in the PRC increased by almost tenfold. Over the same period, the Community industry increased its capacity by 2 % as a result of a relatively minor investment to meet the needs of a particular customer. The capacity utilisation rate of the Community industry declined over the period by six percentage points.

	1996	1997	1998	1999	IP 2000
Production (tonnes)	169 028	169 001	172 142	165 048	159 184
1996 = 100	100	100	102	98	94
Capacity (tonnes)	216 961	216 961	221 961	221 961	221 961
1996 = 100	100	100	102	102	102
Capacity utilisation (%)	78	78	78	74	72

Stocks

- (73) Year-end stock levels decreased by 15 % over the analysis period but remained relatively stable when expressed as a percentage of production.

	1996	1997	1998	1999	IP 2000
Stocks (tonnes)	12 183	10 783	13 263	11 233	10 380
1996 = 100	100	89	109	92	85

Sales volume, market share and growth

- (74) The sales made by the Community industry on the Community market during the analysis period decreased by 8 % in volume terms, whilst Community consumption went up by 9 % during the same period and imports concerned increased by more than tenfold.

	1996	1997	1998	1999	IP 2000
Sales volume (tonnes)	153 962	157 439	157 647	151 332	141 619
1996 = 100	100	102	102	98	92
Market share (%)	65	64	61	61	55

- (75) Consequently, the Community industry's market share decreased by 10 percentage points over the analysis period from 65 % of Community consumption in 1996 to 55 % during the IP. Thus, the Community industry did not benefit from the growth in consumption on the Community market.

Sales prices and costs

- (76) Over the analysis period the selling prices of the Community industry increased by 19 % while unit costs increased by 31 %. The necessary price increases were therefore suppressed due to the massive presence of low priced imports. Thus, the Community industry suffered price suppression over the analysis period.

	1996	1997	1998	1999	IP 2000
Average selling price delivered (EUR/tonne)	1 047	1 202	1 144	1 090	1 247
1996 = 100	100	115	109	104	119
Average cost of production (EUR/tonne)	979	1 180	1 117	1 187	1 283
1996 = 100	100	121	114	121	131

Profitability

- (77) The Community industry's profitability expressed in terms of return on net sales on the Community market fell sharply over the analysis period from a figure of + 8 % in 1996 to - 1 % in the IP.

	1996	1997	1998	1999	IP 2000
Profitability (%)	8	4	4	0	- 1

Investments and ability to raise capital

- (78) The level of investments decreased over the analysis period from EUR 5,2 million in 1996 to EUR 2,8 million in the IP. Approximately 86 % of expenditure over the analysis period was recorded under the category of machinery, equipment and other items. The investigation showed that most of this capital expenditure was spent on replacing or maintaining existing facilities.
- (79) It has been established that over the analysis period it became increasingly difficult for the Community industry to justify capital expenditure related to zinc oxide, especially for those plants mostly dedicated to the supply of the ceramic industry. This resulted in the cancellation of a number of investment programmes in the second half of the analysis period and in some cases, severe cut backs in even routine maintenance programmes. Furthermore, the Community industry's ability to raise capital from external providers of finance also became more difficult at this time as its deteriorating financial situation raised concerns in some lenders' minds.

Investment	1996	1997	1998	1999	IP 2000
EUR	5 230 899	2 731 329	3 432 534	4 288 935	2 809 980
1996 = 100	100	52	66	82	54

Return on investments

- (80) In assessing the impact of the dumped imports on the Community industry's return on investments, the Commission examined the pre-tax profit or loss on sales of zinc oxide compared to the assets employed in the zinc oxide sector.
- (81) In a limited number of cases, it was found that certain assets were used both in the production of zinc oxide and other products. The Commission satisfied itself that the method used to allocate assets relating solely to zinc oxide were appropriate. The data and trends shown in the table below demonstrate the considerable deterioration in its financial performance that occurred over the analysis period.

	1996	1997	1998	1999	IP 2000
Return on total assets	12	7	3	- 1	- 6

(%)

Cash flow

- (82) The following table clearly demonstrates the marked deterioration in the cash flow generated by the Community industry's zinc oxide activities.

	1996	1997	1998	1999	IP 2000
Net cash inflow (outflow) from operating activities (thousand EUR)	13 197	4 234	8 852	4 830	- 2 356

Employment, productivity and wages

- (83) The following table shows the number of employees in the zinc oxide activities of the Community industry and the average total employment cost per employee (i.e. wage and social costs).

	1996	1997	1998	1999	IP 2000
Number of employees	551	544	532	509	484
1996 = 100	100	99	97	92	88
Average employment cost per employee (thousand/EUR)	40	39	42	43	46
1996 = 100	100	99	104	108	116
Productivity (production in tonnes per employee)	307	311	325	322	329
1996 = 100	100	101	106	105	107

- (84) The Community industry's number of employees at the end of the IP was 484. This represents a decrease of 12 % over the analysis period with the rate of decline accelerating from 1998 onwards. Productivity increased by 7 % over the analysis period.
- (85) The average wage per employee however rose by 16 %. Part of this increase can be attributed to exchange rate movements between the euro and the pound sterling. Approximately 18 % of the Community industry's workforce is located in the United Kingdom. Over the analysis period, the euro depreciated against the pound by 25 %.

Magnitude of dumping

- (86) Given the volume and the price of the dumped imports, the impact of the actual margins of dumping, which are significant, cannot be considered negligible.

5. Conclusion on injury

- (87) Between 1996 and the IP, the volume of dumped imports of zinc oxide originating in the PRC increased by 962 % from under 4 500 tonnes to over 47 000 tonnes. This resulted in an overall increase in their market share of 16 percentage points. The prices of the imports concerned remained below those of the Community industry throughout the analysis period with a weighted average price undercutting of 10,8 %.
- (88) Between 1996 and the IP the situation of the Community industry deteriorated both in terms of production (- 6 %) and sales volume (- 7 %) despite the increase in consumption. As a consequence, the Community industry's market share fell from 65 % to 55 %, i.e. by 10 percentage points. This decline was particularly significant between 1999 and the IP when imports originating in the PRC were growing at their fastest rate. Over the analysis period, the Community industry's profitability deteriorated and was negative during the IP. In the face of declining profitability, the Community industry was compelled to reduce its costs in an attempt to remain competitive. Levels of both employment and investment were cut back. Despite these efforts, costs rose rapidly because of the increase of zinc prices while average selling prices were prevented from increasing commensurately due to the presence of massive quantities of low priced dumped imports.

- (89) In view of the above, as evidenced most notably by the decrease in production, sales and employment, loss of market share, price suppression and declining profitability, it is provisionally concluded that the Community industry has suffered material injury within the meaning of Article 3 of the basic Regulation.

F. CAUSATION OF INJURY

1. Introduction

- (90) In accordance with Article 3(6) and (7) of the basic Regulation, the Commission examined whether the dumped imports originating in the country concerned have caused injury to the Community industry to a degree that enables it to be classified as material. Known factors other than the dumped imports, which could at the same time be injuring the Community industry, were also examined to ensure that possible injury caused by these other factors was not attributed to the dumped imports.

2. Effect of the dumped imports

- (91) The substantial increase in the volume of imports originating in the country concerned and their gain in market share over the analysis period, at prices which undercut those of the Community industry coincided with a serious deterioration in the situation of the Community industry notably in terms of production, sales volume, market share and profitability.
- (92) This deterioration was most marked between 1999 and the IP as the volume of the dumped imports originating in the PRC increased by approximately 150 % to reach record levels.
- (93) The Community industry's prices have always been at a level to ensure that the cost of raw material is covered by the selling price while the imports concerned have for extended periods been at levels below the cost of the zinc metal they contain. However, from 1999 onwards the Community industry's selling price has not been sufficient to cover the total costs of production and this resulted in losses being incurred. The Commission found that the effect of the dumped imports had been to suppress the selling prices of the Community industry and subsequently reduce its profitability. Evidence obtained as part of the investigation supported the claim that the increased offer of imports from the country concerned at dumped prices on the Community market had been used by some of the Community industry's customers to drive down prices during contract negotiations.
- (94) It is therefore considered that the pressure exerted by the imports concerned, which significantly increased their volume and market share from 1998 onwards and which were made at particularly low prices, undercutting those of the Community industry, resulted in a deterioration of the situation of the Community industry.

3. Effect of other factors

Imports originating in other third countries

- (95) Over the analysis period, the volume of imports originating in other third countries declined by 18 % from a level of approximately 23 000 tonnes in 1996 to 19 000 tonnes in the IP. These imports therefore did not benefit from the growth of consumption recorded over the analysis period and have lost 3 percentage points in market share, from 10 to 7 %.
- (96) Of the above imports, only those originating in Turkey and Poland were at levels above 1 % of Community consumption during the IP. The table below shows the development in both volume and price of the imports originating in third countries other than the PRC.

	1996	1997	1998	1999	IP
Other third countries					
Quantity (tonnes)	23 150	22 442	27 900	22 787	18 873
Market share (%)	9,8	9,2	10,9	9,2	7,3
Cif prices (EUR/tonne)	822	961	985	946	1 107
Of which Turkey					
Quantity (tonnes)	1 633	3 345	4 289	3 172	3 451
Market share (%)	0,7	1,4	1,7	1,3	1,3
Cif prices (EUR/tonne)	546	683	770	749	873
Of which Poland					
Quantity (tonnes)	3 236	2 843	2 168	2 669	2 961
Market share (%)	1,4	1,2	0,8	1,1	1,2
Cif prices (EUR/tonne)	720	716	823	806	846

- (97) In the case of imports originating in Turkey, they were very close to *de minimis* and appeared to contain a certain proportion of products other than the product concerned i.e. feed grade, which is less expensive than zinc oxide. In this respect it has to be noted that feed grade zinc oxide produced and sold by the Community industry on the Community market was at a lower price than its sales of zinc oxide (in the region of 20 % less expensive reflecting its lower quality).
- (98) Imports originating in Poland decreased over the analysis period to a level of under 3 000 tonnes in the IP. Their market share also decreased over the period from 1,4 % in 1996 to 1,2 % in the IP. Prices of the imports originating in Poland, although at low levels, were higher than those of imports originating in the country concerned for much of the analysis period.
- (99) On the basis of the above, it is provisionally concluded that imports originating in Turkey, Poland and other third countries did not contribute to the material injury suffered by the Community industry.

The export performance of the Community industry

- (100) The volume of the Community industry's exports increased by nearly 40 % over the analysis period to reach a figure of 15 748 tonnes. The exports of the Community industry during the IP represented approximately 10 % of production.
- (101) One interested party commented that this increase demonstrated the competitiveness of the Community industry and its robust financial state. Whilst it is accepted that the growth of export markets has been considerable, it should be noted that the actual tonnage concerned remains marginal when compared to the volume of total sales. Furthermore, it is to be remembered that the increase in exports did not prevent the decline in the production of the Community industry.
- (102) In conclusion, the Community industry has proven itself to be competitive as shown by the performance of its export activities. Thus, its export activities did not contribute to the injury suffered by the Community industry.

Changes in the pattern of consumption

- (103) Consumption of zinc oxide in the Community increased by 9 % over the analysis period. It is therefore considered that the material injury suffered by the Community industry cannot be attributed to a contraction of demand on the Community market.

Conclusion on causation

- (104) The substantial increase in the volume and market share of imports from the country concerned over the analysis period and their level of price undercutting during the IP had material negative consequences on the volumes and prices of the Community industry's sales. This in turn affected a number of the Community industry's economic indicators, in particular profitability. No other factors were found that could have contributed to the injury suffered by the Community industry.
- (105) It is therefore provisionally concluded that the dumped imports from the country concerned have caused material injury to the Community industry within the meaning of Article 3(6) of the basic Regulation.

G. COMMUNITY INTEREST**1. General remarks**

- (106) The Commission examined whether, despite the conclusion on injurious dumping, compelling reasons existed that could lead to the conclusion that it is not in the Community interest to adopt measures in this particular case. For this purpose and in accordance with Article 21(1) of the basic Regulation, the impact of possible measures on all parties involved in this proceeding and also the consequences of not taking measures were considered on the basis of all evidence submitted.

2. The investigation

- (107) The Commission sent questionnaires to importers, suppliers of raw materials, industrial users of the product concerned, and to associations representing user groups as well as other interested parties who made themselves known within the time limit set in the notice of initiation.
- (108) In total, 108 questionnaires were sent out, but only 24 replies were received within the time limits set.
- (109) Questionnaire responses were received within the time limits from:

Six unrelated importers of the product concerned:

- Explorer SRL (Italy)
- I.T.A.C.O Chimica SRL (Italy)
- I.T.A.C.O. International SRL (Italy)
- Almiberia SA (Spain)
- Quimialmel SA (Spain)
- L'Approchimide SRL (Italy)

Five direct suppliers of raw materials:

- Il.co.met Sas (Italy)
- Mapral SAS (France)

- Rezinal NV (The Netherlands)
- Nuova Eurozinco SpA (Italy)
- Wilhelm Grillo GmbH (Germany)

13 users of the product concerned including:

Ten producers of frits and glazes, a major input for the ceramic industry:

- Johnson Matthey Ceramics SA (Spain)
- Ramacolor (Italy)
- Fritta SL (Spain)
- Ferro Enamel Española SA (Spain)
- Torrecid S.A (Spain)
- Esmaltes SA (Spain)
- Esmalglass SA (Spain)
- Vernis SA (Spain)
- Cerdec Ceramics Iberica SA (Spain)
- Color Esmalt SA (Spain)

and three producers of chemicals and steel products:

- Sikel NV (Belgium)
- Hans Heubach GmbH & Co. KG (Germany)
- Infineum Italia Srl (Italy).

- (110) The Commission was also contacted by two professional associations, which provided aggregated information concerning the activities of their sector and also made representations on behalf of their members. They were:
- ASCER (Asociación Española de Fabricantes de Azulejos y Pavimentos Cerámicos), i.e. the Spanish ceramic tile manufacturers' association,
 - ANFFECC (Asociación Nacional de Fabricantes de Fritas, Esmaltes, y Colores Cerámicos), i.e. the Spanish frit and glaze manufacturers' association.

3. Likely effect of the imposition of measures on the Community industry

- (111) The Community industry is composed of six companies with production facilities for zinc oxide in the following Member States: France, Germany, Italy, the Netherlands, Spain and the United Kingdom. Substantial competition exists on the Community market due to the number of producers and production facilities.
- (112) In spite of the material injury suffered by the Community industry during the IP, there is no reason to doubt its long-term viability and competitiveness in a market where normal conditions of fair trade exist.
- (113) It should be noted that the Community industry's loss-making situation has resulted from its difficulty to compete with the low-priced, dumped imports, which have gained considerable market share over the analysis period. It is considered that the imposition of measures will restore fair competition to the market and allow the Community industry to increase its sales volume and market share. It is anticipated that an increase in the volumes of sales and production would also safeguard employment in the industry. The higher contribution towards its fixed costs which would result from an increase in the volume of sales at fair prices should also help to restore the profitability of the Community industry.
- (114) Should measures not be imposed, the continued decline in the profitability of the Community industry observed over the analysis period is likely to continue since it will not be able to compete with the low-priced, dumped imports. Its viability may be threatened and the continued existence of certain production facilities put in question. Without the imposition of measures, it is likely that Chinese zinc oxide will progressively gain market share in user markets other than the ceramic industry. Indeed, there is already some evidence that the Community industry has lost some market share in the technical rubber sector to Chinese zinc oxide.

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

4. Likely effect of the imposition of measures on other Community producers

- (116) Other producers of zinc oxide located in the Community share the concerns expressed by the Community industry. The sales of the six non-complainant producers, who provided some general information on their activities to the Commission, remained stable over the analysis period. Their market share in the IP was 7,3 % as opposed to 7,8 % at the start of the analysis period. These producers therefore did not benefit as a whole from the growth in Community consumption recorded over the same period. There is no reason to believe that the situation of the six non-complainant producers who provided information to the Commission and of the remaining producers of zinc oxide in the Community would differ greatly from that of the Community industry.
- (117) It is therefore provisionally concluded that the imposition of anti-dumping measures would be in the interest of the other Community producers.

5. Likely effects of the imposition of measures on importers

- (118) The Commission received questionnaire replies from six unrelated importers in the Community. These companies accounted for 46 % of the imports of the product concerned originating in the PRC during the IP.
- (119) Sales of zinc oxide during the IP represented between 8 % and 23 % of the turnover of the cooperating unrelated importers. It is to be noted that the impact on employment levels is expected to be minimal, i.e. around 25 employees in these companies may be considered to be directly linked to zinc oxide activities. This figure however has barely changed over the analysis period in spite of the dramatic increase in the level of imports from the country concerned, as these employees also work on other products not concerned by this investigation and would in all likelihood continue to do so even if measures were imposed.
- (120) Therefore, it is provisionally concluded that the situation of unrelated importers will not be greatly affected should anti-dumping measures be imposed.

6. Likely effects of the imposition of measures on suppliers of raw materials and zinc recycling activities

- (121) Suppliers of raw material to the Community industry can be categorised according to the type of products they offer which are mainly special high grade zinc, drosses from the galvanising industry and other zinc waste materials. Special high grade zinc represented 34 % by value of the Community industry's raw material purchases during the IP. However, the Commission did not receive any replies from suppliers of this raw material. It was therefore considered that most probably their situation would not be significantly affected by the imposition of any anti-dumping measures.
- (122) Five companies, which together employed 25 people in their activities supplying materials to the producers of zinc oxide, cooperated in the investigation. It was found that these companies were mostly active in collecting, recycling and trading the zinc residues of the galvanising industry. Indeed, a third of pure zinc used in the Community, by sectors such as the galvanising industry, is recycled and half of this recycled material is then used to produce zinc oxide. These suppliers represented 14 % of the Community industry's purchases of raw material by value in the IP.
- (123) The majority of these suppliers worked closely with the Community industry and other producers of zinc oxide located in the Community. A large part of their turnover was derived from sales made to zinc oxide producers. Therefore, any reduction in the Community industry's purchases, as the most significant producer of zinc oxide in the Community, would have a significant effect on the situation of these companies.

- (124) The imposition of measures would help to restore fair conditions of competition on the Community market, thus permitting the recycling of an important part of zinc residues to continue. The Commission has therefore provisionally concluded that the imposition of anti-dumping measures is in the interest of the upstream industries.

7. Likely effects of the imposition of measures on users

- (125) Zinc oxide has a wide range of applications. The most significant uses of zinc oxide are in the ceramic industry, which accounted for approximately 39 % of actual Community consumption in the IP, in rubber compounding (30 %), chemical and pharmaceutical applications (17 %) and other sectors, including paints (14 %). Most markets for zinc oxide, with the exception of the ceramic industry, which has recently increased its consumption due to technological advances, are generally mature and changes in demand are linked to the general state of the economy.

Tyre and rubber producers

- (126) As mentioned above, the manufacturers of tyres and other rubber products are important users of zinc oxide in the Community. However, the Commission did not receive any answers to its questionnaires from these companies. In the absence of evidence to suggest the contrary, it has been provisionally considered that they would not be significantly impacted by the imposition of any anti-dumping measures.

The ceramic tile industry

- (127) The ceramic tile industry consists of two tiers: the manufacturers of frits and glazes and the producers of tiles. These two tiers are interdependent. Indeed, the Community demand for frits and glazes is completely governed by the tile makers. The Community frits have acquired a world leadership in terms of technological advance and quality and thus have no serious competitors outside the Community. For this reason, it has been decided to consider these two tiers as one industry in the assessment of the impact of the imposition of measures although only the frit and glaze makers are direct users of zinc oxide in its primary form.
- (128) The Commission received replies from 10 frit and glaze companies. These companies accounted for 19 % of the consumption of zinc oxide in the Community in the IP, i.e. approximately half of the consumption of zinc oxide by the ceramic industry.
- (129) The Commission did not receive any replies to their questionnaires from tile makers and have therefore used the information provided by the Spanish ceramic tile manufacturers association and industry publications to estimate the impact of measures on the finished product of this industry. This association represents the vast majority of Spanish ceramic tile producers.
- (130) The consumption of zinc oxide in the tile industry increased dramatically from 1996 onwards due to the introduction of the single firing technique in the production process, which required a higher percentage of zinc oxide, compared to other techniques.
- (131) The Community producers of tiles are principally located in Spain (Castellón area) and Italy. Both Member States produced in excess of 600 million square metres of tiles in the IP. According to the Spanish trade association, direct employment in the Spanish ceramic tile industry exceeds 26 000 people, of whom 3 000 work in the manufacture of frits and glazes. The production of frits and glazes in the Community is increasingly concentrated in Spain. The largest market for Spanish produced frits and glazes outside Spain is Italy.

Impact of measures on frit and glaze makers

- (132) According to the information made available to the Commission, zinc oxide accounts, on average, for 20 % of the total manufacturing cost of frits and glazes. The imposition of measures would lead to an increase in the average price paid for their zinc oxide supplies and in turn to an estimated increase of less than 4 % in terms of their total cost, in view of the large weight of research and design and other costs in the full costs of production.

- (133) The producers argued that they would be unable to pass on any increase in their costs to their customers should measures be imposed on the product concerned from the PRC. They also contended that they would become less competitive on world markets, lose market share, with a possible threat to employment in the Community and be forced to move production overseas (delocalise). They also argued that the increase in the use of zinc oxide originating in the PRC was based entirely on economic reasons in that the industry did not require the more expensive higher purity grades produced by the Community industry.
- (134) With regard to the first argument, according to the replies received by the Commission, frit and glaze companies recorded profits in excess of 10 % of net turnover for the whole of the analysis period. The level of investment in new production capacity and research and development facilities has been substantial and ongoing for the last decade. It is therefore considered that they are in a sufficiently strong financial position to be able to absorb this increase in their costs if it could not be passed on to their customers.
- (135) Furthermore, the research and development undertaken by the frit and glaze makers allows them to constantly present new formulations and tile designs to their customers in the tile producing sector as this market has to renew its offer regularly in order to remain the leading player on the world market in terms of design style. Indeed, the speed with which new designs are brought to the market can be a crucial factor in gaining competitive advantage. It is therefore considered that there is a very strong operational link between the tile producers and the frit makers so that the former will accept an increase in the prices they have to pay if they are to continue to have access to the Community frit makers' new designs and technological advances.
- (136) With regard to the second argument, the frit and glaze industry has a distinct competitive advantage in terms of the quality and innovative characteristics of its products. This is borne out by the number of countries to which these producers export their products. Approximately 37 % of Spanish-produced glazes were exported outside the Community during the IP. The claim that the frit and glaze industry will be forced to delocalise appears unsubstantiated when one considers both the level of investment made by the industry recently in production facilities within the Community and its strong export competitiveness. Therefore, there is no threat to the level of employment in the Community due to delocalisation. There are also strong economic reasons for these producers to be located near to their customers in the Community. This is borne out by the concentration of these activities in the Castellón region of Spain.
- (137) As regards the final argument that the products of the Community producers no longer met the requirements of these users, the types of zinc oxide purchased by users in this sector were found to be comparable with those produced by the Community industry.
- (138) It is therefore considered in the light of the overall financial performance of the Community frit and glaze industry, its continued expansion and investment in new technology and facilities and its reputation for quality and innovation, that the likely impact of measures would not have a major adverse impact on its activities.

Impact of measures on ceramic tile producers

- (139) The Spanish association of tile manufacturers argued that the imposition of measures on zinc oxide originating in the PRC would increase the price of glazes used in the production of ceramic tiles and also increase the cost of the finished tile. It was further suggested that the impact of the imposition of measures would erode competitiveness and cause social-economic damage that would be more serious than could result from the alleged dumping itself.
- (140) As noted above, the Commission did not receive any cooperation from individual companies operating in this sector. Nor did the information submitted by the association provide detailed evidence of costs of production for individual producers. Therefore, in the absence of information concerning their costs of production, the Commission used official statistics concerning the volume and value of their production. It was estimated that each square metre of tile contains on average 48 g of zinc oxide and that each 10 % increase in the cost of this input would only raise the unit value of each square metre produced by 0,06 %.

- (141) In conclusion, it is provisionally considered that the likely impact of measures on ceramic tile producers would be limited.

Other users

- (142) The Commission received very few replies to their questionnaires from users in sectors other than those already mentioned. Only three other companies cooperated in the investigation. This lack of cooperation on the part of the majority of other users is considered to indicate that the impact of measures on them would be limited.
- (143) The three respondents operate in distinct sectors, comprising engine oils, zinc phosphate and electro-galvanised steel sheets for the automotive industry. All three purchased zinc oxide only from Community producers during the analysis period and represented 3 % of Community consumption in the IP.
- (144) One of these companies mentioned it would not be affected while the others argued that the imposition of measures would lead to an overall increase in the price of zinc oxide on the market.
- (145) Even though zinc oxide represents between 10 % and 26 % of the costs of these companies, it is considered that the imposition of measures would impact them only to the extent that the prices of the Community industry are likely to rise following the imposition of measures. Moreover, it is to be noted that any such rise in the prices of the Community industry would be the result of a return to normal market conditions.
- (146) It is therefore provisionally considered that in view of the above, i.e. the low level of cooperation and the situation of the cooperating users, that the imposition of anti-dumping measures on other users would not have a significant impact on their situation.

Conclusion

- (147) Recalling the conclusions reached above in respect of the users of zinc oxide in the present investigation, it is provisionally concluded that the imposition of measures would not significantly affect their situation.

8. Competition and trade distorting effects

- (148) With respect to the effects of possible measures on competition in the Community, one interested party argued that duties would unnecessarily strengthen the position of EU zinc oxide producers.
- (149) The Commission does not consider that measures would have such a distorting effect on the market. The consequence of measures would be to remove the distorting effects of the dumped imports and to re-establish fair market conditions for all operators. Moreover, given the number of producers of zinc oxide in the Community and the existence of various sources of supply outside the Community, it was considered that measures would not affect the existing high degree of competition on the market.
- (150) In view of the above, the imposition of provisional anti-dumping duties would not limit the choice of the user industries or weaken competition.

9. Conclusion

- (151) In view of the above, the Commission provisionally concluded that no compelling reasons exist not to impose provisional anti-dumping measures in the present case.

H. PROVISIONAL ANTI-DUMPING MEASURES

1. Injury elimination level

- (152) In order to prevent further injury being caused by the dumped imports, it was considered appropriate to adopt anti-dumping measures in the form of provisional duties.
- (153) For the purpose of determining the level of these duties, the Commission took account of the dumping margins found and the amount of duty necessary to eliminate the injury sustained by the Community industry.

- (154) To this end, the Commission determined a non-injurious price based on production costs of the Community industry, together with a reasonable profit margin of 8 %. This margin is regarded as an appropriate minimum that this industry could expect in the absence of injurious dumping. This is supported by the fact the Community industry recorded this profit margin at the beginning of the analysis period when the level of dumped imports was relatively low. The non-injurious price was compared with the prices of the dumped imports used to establish price undercutting, as outlined above. Differences resulting from this comparison were then expressed as a percentage of the total cif import value to establish the injury margin.
- (155) In order to calculate the residual injury margin applicable to all other exporting producers in the PRC, the export prices and methodology used to calculate the countrywide dumping margin as detailed at recital 55 were used.

2. Provisional measures

- (156) In the light of the foregoing, it is considered that a provisional anti-dumping duty should be imposed at the level of the dumping margin found, but should not be higher than the injury margin calculated above in accordance with Article 7(2) of the basic Regulation.
- (157) On the basis of the above, anti-dumping duty rates have been established by comparing the injury margins and the dumping margins. The injury margin was lower than the dumping margin for the following company: Liuzhou Longcheng Chemical General Plant and consequently the duty rate should be based on this margin. For the three remaining cooperating exporting producers the duty has been set at the level of the dumping margins found as these were lower than the injury margins.
- (158) As regards the countrywide duty to be applied to the remaining exporting producers, it was determined at the level of the injury margin as this was found to be lower than the countrywide dumping margin.
- (159) 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 countrywide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the country concerned 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 with its name and address, 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'.
- (160) 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 forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with e.g. that name change or that change in the production and sales entities. The Commission, if appropriate, will, after consultation of the Advisory Committee, amend the Regulation accordingly by updating the list of companies benefiting from individual duty rates.

I. FINAL PROVISION

- (161) 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 purposes of any definitive duty,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of zinc oxide (chemical formula: ZnO) with a purity in net weight of not less than 93 % zinc oxide, falling within CN heading ex 2817 00 00 (TARIC code 2817 00 00*10) and originating in the People's Republic of China.
2. The rate of the provisional anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, for products manufactured by the companies listed below, shall be as follows:

Companies	Provisional duties (%)	TARIC additional code
Liuzhou Nonferrous Metals Smelting Co. Ltd and its related export company Guangxi Liuzhou Nonferrous Metals Smelting Import & Export Co. Ltd	16,9	A277
Liuzhou Fuxin Chemical Industry Co. Ltd	17,8	A278
Gredmann Guigang Chemical Ltd and its related export company Rickeed Industries Ltd, Hong Kong	24,7	A279
Liuzhou Longcheng Chemical General Plant and its related export company Yinli Import and Export Co. Ltd	31,7	A280
All other companies	33,5	A999

3. Unless otherwise specified, the provisions in force concerning customs duties shall apply.
4. The release for free circulation in the Community 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.

Article 2

1. Without prejudice to Article 20 of Regulation (EC) No 384/96 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 384/96, the parties concerned may comment on the application of this Regulation within one month of the date of its entry into force.

Article 3

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

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, 17 September 2001.

For the Commission
Pascal LAMY
Member of the Commission