

**COMMISSION REGULATION (EC) No 439/2006****of 16 March 2006****imposing a provisional anti-dumping duty on imports of chamois leather 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 <sup>(1)</sup> of 22 December 1995 on protection against dumped imports from countries not members of the European Community (the basic Regulation), and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

**A. PROCEDURE****1. Initiation**

- (1) On 25 June 2005, the Commission announced by way of a notice (notice of initiation) published in the *Official Journal of the European Union* <sup>(2)</sup>, the initiation of an anti-dumping proceeding concerning imports of chamois leather originating in the People's Republic of China (the PRC).
- (2) The proceeding was initiated following a complaint lodged in May 2005 by The British Leather Confederation (the complainant) on behalf of producers representing a major proportion, in this case more than 70 %, of the total Community production of chamois leather. 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 a proceeding.

**2. Parties concerned by the proceeding**

- (3) The Commission officially advised the complainant, the Community producers mentioned in the complaint, other known Community producers, the authorities of the PRC, the exporting producers, importers, as well as the associations known to be concerned of the initiation of the investigation. 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. One exporter in the PRC, as well as producers and importers in the Community, made their views known in writing. All parties who so requested within the above time-limit and showed that there were particular reasons why they should be heard were granted the opportunity to be heard.
- (4) In view of the anticipated large number of exporting producers and importers involved in the investigation, the application of sampling techniques was envisaged in the notice of initiation, in accordance with Article 17 of the basic Regulation.
- (5) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, exporting producers and importers were requested to make themselves known and to provide information as specified in the notice of initiation. No exporting producers came forward to comment on the possible selection of a sample.

<sup>(1)</sup> OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).

<sup>(2)</sup> OJ C 154, 25.6.2005, p. 12.

- (6) Seven importers came forward and provided information within the time-limit set for this purpose, but only three companies were willing to cooperate in the investigation. Given the limited number of importers who replied to the sampling questionnaire and indicated their willingness to cooperate, it was decided that sampling was not necessary. Questionnaires were sent to all three importers. However, subsequently none of the importers cooperated in the investigation and declined to return a complete questionnaire reply. Two of them stated that the product concerned was not a major part of their activity and therefore neither their available resources in terms of staff nor the financial implications could support cooperation in the investigation.
- (7) In order to allow exporting producers in the PRC to submit a claim for market economy treatment (MET) pursuant to Article 2(7) of the basic Regulation or individual treatment (IT) pursuant to Article 9(5) of the basic Regulation, if they so wished, the Commission sent MET and IT claim forms to the Chinese companies known to be concerned. In this respect, no exporting producers requested MET or IT.
- (8) In view of the absence of responses from any exporting producers in the PRC, it was not necessary to select any sample of exporting producers. In addition, since no exporting producers in the PRC provided the necessary information or made requests for MET or for IT within the time-limits set in accordance with the basic Regulation, it was decided that findings in respect of the assessment of dumping would be made on the basis of Article 18 of the basic Regulation. The authorities of the PRC were advised of this and raised no objections.
- (9) The Commission sent questionnaires to all parties known to be concerned and to all other companies that made themselves known within the deadlines set out in the notice of initiation. Replies were received from three Community producers mentioned in the complaint.
- (10) The Commission sought and verified all information it deemed necessary for the purpose of a preliminary determination of dumping, resultant injury and Community interest. Verification visits were carried out at the following companies:
- Community producers*
- Marocchinerie e Scamoscerie Italiane (MESI), Italy,
  - Hutchings & Harding Ltd, UK,
  - Beaven Ltd, UK.
- (11) In the absence of any claims for MET or IT and of the need to establish a normal value for exporting producers in the PRC, a verification visit to establish normal value on the basis of data from an analogue country took place at the premises of the following company:
- Acme Sponge & Chamois Co., Inc., USA.
- (12) The investigation of dumping and injury covered the period from 1 April 2004 to 31 March 2005 (investigation period or IP). The examination of trends relevant for the assessment of injury covered the period from 1 January 2001 to the end of the IP (period considered).

## B. PRODUCT CONCERNED AND LIKE PRODUCT

### 1. General

- (13) Chamois and combination chamois leather is leather usually made from the skins of sheep and lambs, but can also be made from the skins of other animals. It is made from skins from which the grain surface has been removed, which is then tanned using solely fish or other animal oil, in the case of chamois leather, or by partial tanning with aldehydes or other tanning agents and then with fish or other animal oils, in the case of combination chamois leather. The leather obtained after tanning is crust chamois leather, which is normally further processed through a finishing process involving buffing to give it a soft, suede-like finish. The products primary characteristics of water absorbency and softness, which derive from the tanning or partial tanning with fish oil or other animal oil, make it ideally suited to its main use for cleaning and polishing.

### 2. Product concerned

- (14) The product concerned is chamois leather, or combination chamois leather, whether or not cut to shape, including chamois and combination crust chamois leather (chamois leather) originating in the PRC (the product concerned), currently classifiable within CN codes 4114 10 10 and 4114 10 90. All these presentations were found to be sufficiently similar for them to constitute a single product for the purpose of the proceeding, given that they share the same basic physical characteristic and uses.

### 3. Like product

- (15) On the basis of information available from the complainant, no differences were found between the product concerned and chamois leather produced and sold in the USA, which served as analogue country for the purpose of establishing normal value in respect of the PRC.
- (16) On the basis of information available from the complainant, no differences were found between the product concerned and chamois leather produced and sold in the Community by the Community industry.
- (17) It is therefore provisionally concluded that, in accordance with Article 1(4) of the basic Regulation and for the purpose of this investigation, chamois leather produced and sold on the domestic market of the PRC, that produced and sold in the USA and that produced and sold by the Community industry on the Community market have the same basic physical characteristics and uses and are therefore considered to be alike to the product concerned.

## C. DUMPING

### 1. Sampling

- (18) As explained in recital 6 above, due to the absence of responses from any exporting producers in the PRC, it was not necessary to apply sampling in respect of exporting producers in the PRC.

### 2. Market economy treatment and individual treatment

- (19) As explained in recital 7 above, due to the absence of responses, or requests for MET or IT, no exporting producer in the PRC was granted MET or IT.

### 3. Normal value

#### 3.1. *Analogue country*

- (20) Pursuant to Article 2(7) of the basic Regulation, normal value was established on the basis of the prices or constructed value in an analogue country. In the notice of initiation, it was envisaged to use the USA as an appropriate analogue country for the purpose of establishing normal value for the PRC and interested parties were invited to comment on the appropriateness of this choice. No comments or objections were received from any parties in this respect.
- (21) Nevertheless, through contacts with associations or Chambers of Commerce which could be identified in third countries, the suitability of other countries which were considered as possibly having chamois leather production was examined. It was found that in the case of Brazil and India, there were either no producers of chamois leather or none were selling on the domestic markets of those countries. In the case of Turkey, information provided by a Turkish producer indicated that the Turkish domestic market is very limited. On the basis of the above, it was decided to maintain the USA as the choice for analogue country. The Commission therefore sought and obtained full co-operation from one producer in the USA.
- (22) The USA has a relatively large and open domestic market for chamois leather (tariff protection of 3,2 %), with a number of suppliers and a considerable level of imports. In addition, similar processes as in the PRC are used for the production of the product concerned.

#### 3.2. *Determination of normal value*

- (23) Pursuant to Article 2(7) of the basic Regulation, normal value was established on the basis of the verified information received from a producer in a market economy third country, i.e. on the basis of prices paid or payable on the domestic market of the USA, for product types which were found to be sold in the ordinary course of trade.
- (24) As a result, normal value was established as the weighted average domestic sales price to unrelated customers by the co-operating producer in the USA.

### 4. Export price

- (25) In the absence of cooperation by exporting producers in the PRC, the export price was established on the basis of Eurostat data on the quantity and value of imports into the Community of the product concerned originating in the PRC, this being the best information available in accordance with Article 18 of the basic Regulation. The information used was cross-checked with information submitted by one trading company in the PRC. Data provided by the trading company was in line with the statistical data used as the basis to establish the export price.

### 5. Comparison

- (26) The normal value and export prices were compared 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 concerning differences in physical characteristics, discounts, transport and insurance, packing, credit and after-sales costs were granted where they were found to be appropriate and supported by verified evidence.

## 6. Dumping margin

- (27) The dumping margin was established on the basis of a comparison of a weighted average normal value with a weighted average export price, in accordance with Article 2(11) and (12) of the basic Regulation. The country wide dumping margin, expressed as a percentage of the CIF Community frontier price, duty unpaid, is 73,5 %.

## D. INJURY

### 1. Community production

- (28) The investigation established that the like product is at present mainly manufactured by eight producers in the Community accounting for about 95 % of total Community production with the remaining 5 % being produced by a number of very small tanneries throughout the Community.

### 2. Definition of the Community industry

- (29) The complaint was supported by eight Community producers (six complainant and two supporting companies) out of which three of the complainant companies fully cooperated. One complainant company did not provide a full response to the questionnaire and therefore was considered as non-cooperating although it reaffirmed its support for the complaint. One more complainant and one supporting company provided only limited information concerning their production. Both companies are considered as non-cooperating with the proceeding. The remaining two companies did not cooperate in the investigation.
- (30) The three cooperating companies account for more than 56 % of Community production of the product concerned. They are therefore deemed to constitute the Community industry within the meaning of Articles 4(1) and 5(4) of the basic Regulation.

### 3. Community consumption

- (31) Consumption was established by adding the Community sales of the cooperating Community producers, the estimated sales of the non-cooperating Community producers in the Community and total imports as set out in Eurostat, duly adjusted where evidence existed of incorrect import statistics for certain countries. The sales of the non-cooperating producers were based on information submitted by three non-cooperating producers and on the complaint, in the absence of other sources of information. As for the imports, the Eurostat figures were expressed in tonnes and therefore a conversion rate was used in order to express them in square feet. This shows that demand for the product concerned in the Community increased slightly by 5 % over the period considered representing an annual growth of approximately 1 %.

Apparent consumption in the Community	2001	2002	2003	2004	IP
Square feet (in thousands)	19 872	20 424	21 565	20 582	20 873
Index 2001 = 100	100	103	109	104	105

Source: Verified questionnaire replies of the Community industry, complaint, Eurostat, information provided by non-cooperating producers.

#### 4. Volume of the imports from the country concerned and market share

- (32) The volume of imports of the product concerned originating in the PRC derived from Eurostat and expressed in square feet using the methodology described in recital 31, increased from approximately 2,1 million square feet in 2001 to 6,6 million square feet in the IP.

	2001	2002	2003	2004	IP
Volume of imports (in thousands of square feet)	2 130	1 627	5 037	6 273	6 607
Index 2001 = 100	100	76	236	295	310

- (33) During the period considered, imports from the PRC increased their share of the Community market from 10,7 % in 2001 to 31,7 % in the IP. This rapid increase in market share took place against a background of relatively small growth in consumption.

	2001	2002	2003	2004	IP
Market share	10,7 %	8,0 %	23,4 %	30,5 %	31,7 %

##### (i) Import prices

- (34) Price information for the imports concerned was derived from Eurostat data based on the import volumes established using the methodology described in recital 31 above. This information showed that the average CIF prices of imports originating in the PRC fluctuated during the period considered. Prices initially increased by 25 % in 2002 before decreasing by 20 % in 2003. 2004 saw an increase of 9 % before a further decrease in the IP.

	2001	2002	2003	2004	IP
Prices in EUR/square feet of chamois leather	0,63	0,79	0,50	0,69	0,66
Index	100	125	80	109	104

Source: Eurostat.

##### (ii) Price undercutting and price depression

- (35) For the purpose of calculating the level of price undercutting in the IP, the prices of the product concerned sold by the Community industry producers were compared to the prices of imports on the Community market during the IP on the basis of a weighted average price for all types of chamois leather, based on Eurostat figures. The prices of the Community industry were adjusted to an ex-works basis. The prices of the imports concerned were on a CIF basis with an appropriate adjustment for quality differences found, the customs duties and post importation costs.

- (36) This comparison showed that during the IP, the products concerned originating in the PRC were sold in the Community at prices which undercut the Community industry prices, when expressed as a percentage of the latter, by 30 %.

## 5. Economic situation of the Community industry

- (37) Pursuant to 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 having a bearing on the state of the Community industry during the period considered.

### (i) Production capacity, production, capacity utilisation

- (38) The Community industry's production capacity remained stable during the period considered. Over the same period, the Community industry continuously decreased its production by a total of 20 % and its capacity utilisation rate dropped from 71,2 % in 2001 to 57 % in the IP.

	2001	2002	2003	2004	IP
Production capacity in thousand square feet of chamois leather	16 754	16 754	16 754	16 754	16 754
Index 2001 = 100	100	100	100	100	100
Production in thousand square feet of chamois leather	11 934	11 583	11 262	10 469	9 554
Index 2001 = 100	100	97	94	88	80
Production capacity utilisation rates	71,2 %	69,1 %	67,2 %	62,5 %	57,0 %

Source: Verified questionnaire replies of the Community industry.

### (ii) Sales volume and market share

- (39) The sales of the Community industry in the Community declined sharply by 17 percentage points over the period considered from 8,1 million square feet in 2001 to some 6,7 million square feet in the IP, in spite of the increase in consumption over the same period. This is fully reflected in their market share which decreased continuously from 41,1 % in 2001 to 32,3 % during the IP.

	2001	2002	2003	2004	IP
Sales of the Community industry (in thousand square feet)	8 163	8 166	7 478	6 423	6 746
Index 2001 = 100	100	100	92	79	83
Market share	41,1 %	40,0 %	34,7 %	31,2 %	32,3 %

### (iii) Stocks

- (40) The figures below represent the volume of stocks at the end of each period.

	2001	2002	2003	2004	IP
Stocks (in thousand square feet)	4 508	3 321	3 157	4 298	4 243
Index 2001 = 100	100	74	70	95	94

- (41) Stocks decreased sharply by 26 percentage points in 2002 and then they continually increased until the IP. This evolution is due to the export activity of the cooperating Community producers which, after a significant increase in 2002 mainly due to some big sale contracts in the USA market, declined in 2004 and the IP, as demonstrated in the figures below.

	2001	2002	2003	2004	IP
Export sales of the Community industry (in thousand square feet)	3 068	5 273	4 817	3 825	3 283
Index 2001 = 100	100	172	157	125	107

- (42) The Community industry alleged that the decline in its export activity was partially due to the competition with the Chinese exports on the USA market. In this respect, it is noteworthy to observe that there was a substantial increase of the imports of the product concerned into the USA originating in the PRC, from 780 thousand square feet in 2002 up to 1 209 thousand square feet in 2004.

(iv) *Growth*

- (43) While the cooperating Community industry producers' production decreased by 20 percentage points over the period considered, the Community consumption increased by 5 % over the same period, and in parallel the volume of the imports concerned increased more than threefold. Thus, the Community industry lost part of its market share, whereas the imports concerned managed to increase theirs.

(v) *Employment and productivity*

- (44) The level of employment of the Community industry decreased over the period considered by 6 %. Over the same period, its productivity, measured as output per person employed per year, decreased by 15 %.

	2001	2002	2003	2004	IP
Number of employees	128	129	127	124	120
Index 2001 = 100	100	101	99	97	94
Productivity (thousand square feet/person): production/employee	93	90	89	84	79
Index 2001 = 100	100	96	95	91	85

Source: Verified questionnaire replies of the Community industry.

(vi) *Sales prices and factors affecting domestic prices*

- (45) The Community industry producers' average net sales price dropped by 8 percentage points between 2001 and 2003 before showing a small increase of 1 percentage point in 2004. In the IP, prices fell again by a further 3 percentage points. This evolution shows the substantially depressed market conditions that the Community industry faced over the period considered.

	2001	2002	2003	2004	IP
Average selling price (EUR/square feet)	1,24	1,22	1,15	1,16	1,13
Index 2001 = 100	100	98	92	93	90

Source: Verified questionnaire replies of the Community industry.

(vii) *Profitability*

- (46) The Community industry's return on net sales in the Community market, before taxes, suffered a marked deterioration during the period considered as demonstrated below.

	2001	2002	2003	2004	IP
Profitability	4,2 %	5,5 %	1,3 %	- 7,6 %	- 6,1 %

Source: Verified questionnaire replies of the Community industry.

- (47) The Community industry was profitable in the years 2001 and 2002. However, from 2003 onwards, profitability decreased dramatically recording high losses in 2004 and the IP.

(viii) *Investments and return on investments*

- (48) The level of investments in the production of the product concerned made by the cooperating Community industry producers increased during the period considered from approximately EUR 354 000 to some EUR 407 000. This investments increase focused mainly on the replacement of existing assets and the acquisition of additional and/or new equipment with the aim of better handling existing production.

- (49) The cooperating Community industry producers' return on investment, which expresses their pre-tax result as a percentage of the average opening and closing net book value of assets employed in the production of the product concerned, was positive during the period 2001 to 2003, reflecting their profit situation. In 2004 and the IP, their return on investment was negative reflecting thus their loss making situation.

	2001	2002	2003	2004	IP
Investments (in EUR)	354 626	691 087	558 887	423 142	407 456
Index 2001 = 100	100	195	158	119	115
Return on investments	40 %	32 %	10 %	- 28 %	- 37 %

Source: Questionnaire replies of the Community industry.

(ix) *Ability to raise capital*

- (50) There was no claim from the Community industry, or indication, that the Community industry encountered problems in raising capital for its activities. It should be, however, noted that the losses encountered in 2004 and the IP established a rather unfavourable context in this respect. Furthermore, it is noteworthy that small and family-run enterprises such as the cooperating Community industry producers have only external providers of finance. These are in general not willing to take risks that parent companies, in the case of larger groups, would be more susceptible to take in a longer term view of the business trusting that a recovery from the current difficult situation in which the industry finds itself will be possible.

*(x) Cash flow*

- (51) The cooperating Community industry producers recorded a net cash inflow from operating activities in the period from 2001 to 2003. However, this turned negative in 2004 and the IP reflecting thus the significant losses registered during these years. The same is shown when the cash flow is expressed as a percentage of turnover. During the period considered, there were some substantial short-term cash flow variations which were due to stock level variations (see recitals 41 above).

	2001	2002	2003	2004	IP
Cash flow (in EUR '000)	988	2 608	839	- 1 650	- 1 567
Index 2001 = 100	100	264	85	- 167	- 159

Source: Verified questionnaire replies of the cooperating Community industry producers.

*(xi) Wages*

- (52) The total wage bill of the cooperating Community industry producers remained relatively stable over the period considered, with the exception of a 7 % decrease in 2003. The movement in wages is below movements in the cost of living.

	2001	2002	2003	2004	IP
Wages per employee (in EUR)	27 081	27 375	25 093	27 402	27 373
Index 2001 = 100	100	101	93	101	101

Source: Questionnaire replies of the Community industry.

*(xii) Magnitude of dumping margin*

- (53) As concerns the impact on the Community industry of the magnitude of the actual margin of dumping, given the volume and the prices of the imports from the PRC, this impact is substantial.

*(xiii) Recovery from past dumping*

- (54) The Community industry was not in a situation where it had to recover from the past effects of injurious dumping.

**6. Conclusion on injury**

- (55) The examination of the above mentioned factors shows that between 2001 and the IP, the dumped imports increased sharply in terms of volume and market share. In fact, their volume increased almost threefold during the period considered and they achieved a market share of 31,7 % in the IP. It is to be noted that in the IP, they accounted for 72,7 % of total imports of the product concerned into the Community. Moreover in the IP, the sales prices of the Community industry were substantially undercut by 30 % by those of the imports concerned.

- (56) During the period considered almost all injury indicators developed negatively. Production and capacity utilisation decreased (– 20 % and – 14 percentage points respectively), whereas in light of the increase in Community consumption of 5 % during the same period, these indicators could have been expected to develop in a rather positive manner. The sales volume and prices have also fallen considerably (– 17 % and – 10 % respectively).
- (57) The Community industry lost significant market share during the period considered at a time when total Community consumption grew from approximately 19,8 million square feet to nearly 20,9 million square feet. The Community industry suffered a dramatic decline in profitability (– 10 percentage points), cash flow (– 20,6 % of turnover) and return on investments (– 37 percentage points).
- (58) In the light of the foregoing, it is provisionally concluded that the Community industry has suffered material injury, characterised by severe price depression, declining profitability as well as declining returns on investment, within the meaning of Article 3 of the basic Regulation.

## E. CAUSATION

### 1. Introduction

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

### 2. Effects of the dumped imports

- (60) Imports from the PRC have increased considerably during the period concerned, by 4,5 million square feet in terms of volume, and by 21 percentage points in terms of market share. Prices of imports originating in the PRC significantly undercut Community industry prices by 30 %.
- (61) The effects of dumped imports can be illustrated by the fact that over the period considered, the producers in the PRC increased their market share at the expense of the Community industry.
- (62) Overall, between 2001 and the IP, the Community industry's loss of market share of 8,8 percentage points was totally absorbed by the increase in market share of imports of the PRC.
- (63) The loss of market share and insufficient price levels of the Community industry also coincided with the injurious situation of the industry evidenced by the significant losses, the sharp deterioration in its cash flow and return on investment and the unfavourable development of employment.
- (64) These factors, coupled with the fact that the Community industry was not able to take advantage of the slightly growing Community market, due to the depressed prices, had the effect that in spite of investments geared towards modernising the production facilities, it suffered material injury during the period. The expansion of the dumped imports' market share and the drop in the import prices coincided with the sharp change in the conditions for the Community industry.

### 3. Effects of other factors

#### 3.1. Imports from other countries

- (65) The imports in volumes and prices from the main other countries are shown in the table below.

Imports from third main countries	2001	2002	2003	2004	IP
Turkey (thousands square feet)	353	380	237	893	1 677
Average prices (EUR/square feet)	1,01	0,73	0,33	0,81	0,52
Other countries excluding those mentioned above: In volume (thousands square feet)	1 732	2 078	1 933	1 825	2 485
Average prices (EUR/square feet)	1,14	0,93	0,79	0,91	0,60

- (66) The imports from Turkey increased substantially throughout the period considered representing an increase of 6,2 percentage points in market share. However, the investigation showed that a significant part of these imports in 2003, 2004 and the IP was made by one cooperating Community producer. A small part of these imported products served in completing that producer's product range and the rest was re-exported to third countries after having been trimmed and repackaged. Therefore, these quantities could not have caused injury to the Community industry. The remaining quantities imported from Turkey represent a low and rather steady market share of around 2 % during the period considered with the exception of the IP when they reached 6 %. As for the prices of these quantities, they were lower than those of imports from the PRC in 2002, 2003 and the IP but higher in 2001 and 2004. In light of the above, it is concluded that these imports may have contributed, *albeit* not significantly, to the material injury suffered by the Community industry.
- (67) With regard to the imports from countries other than Turkey, while prices of these imports were lower than those of the Community industry during the period considered, they were substantially higher than those of the imports from the PRC throughout the whole period considered with the exception of the IP. Import volumes increased from 1,7 million square feet in 2001 to 2,5 million square feet in the IP, representing a market share increase of 3,2 percentage points over the period considered as compared with an increase of 21 percentage points over the same period for the imports from the PRC. In light of the above, it is therefore provisionally concluded that imports from other third countries could not be a determining reason for the injurious situation of the Community industry.

#### 3.2. Performance of other Community producers

- (68) Non-cooperating Community producers of the product concerned held a market share of around 24 % during the IP, down from almost 40 % in 2001. During the period considered, their sales volume decreased substantially by 36 %. In addition, the average prices of non-cooperating producers moved at the same level as the complainant producers' average prices. This evidence suggests that they are in a similar situation to the Community industry, i.e. that they have suffered injury from the dumped imports. Therefore it cannot be concluded that other Community producers caused material injury to the Community industry.

#### 3.3. Exports by the Community industry

- (69) As for the exports of the Community industry, as shown in the table in recital (41) above, they increased by 7 % during the period considered, in contrast to sales on the EU market which decreased by 17 % during the same period. Export sales prices were on average at profitable or breakeven level during the period considered. In these circumstances, it is provisionally concluded that the export performance of the Community industry did not contribute to the injury suffered.

- (70) No other factors, which could at the same time have injured the Community industry, were raised by interested parties or identified during the course of the investigation.

#### **4. Conclusion on causation**

- (71) It must be underlined that the injury in this case was primarily in the form of price depression and decreasing sales causing significant losses in the Community industry. This coincided with the rapidly increasing imports at dumped prices from the PRC which undercut substantially the Community industry prices. There is no indication that the above mentioned other factors could have been a significant cause of the material injury suffered by the Community industry.
- (72) Given the above analysis which has properly distinguished and separated the effects of all the known factors on the situation of the Community industry from the injurious effects of the dumped imports, it is provisionally concluded that there is a causal link between the dumped imports from the PRC and the material injury suffered by the Community industry.

#### **F. COMMUNITY INTEREST**

- (73) In accordance with Article 21 of the basic Regulation, the Commission considered whether, despite the conclusion on injurious dumping, the imposition of the anti-dumping measures would be contrary to the interests of the Community as a whole. The determination of the Community interest was based on an examination of all the various interests involved, i.e. those of the Community industry, the importers and traders of the product concerned.
- (74) In order to assess the Community interest, the Commission analysed the likely effects of the imposition/non-imposition of anti-dumping measures on the economic operators concerned.

##### **1. Interest of the Community industry**

- (75) The Community industry is mainly composed of small companies. The production activity is currently only at 57 % of its production capacity.
- (76) The imposition of measures is expected to prevent a continuing distortion of the market and a deterioration of prices. Measures would enable the Community industry to increase its sales and thereby recover lost market share, while selling at prices that would cover costs and allow for a profit. In conclusion, it is expected that mainly the decrease in unit costs (due to a higher capacity utilisation resulting from increased sales and subsequently the higher productivity) and to a lesser extent a slight price increase, would allow the Community industry to improve its financial situation.
- (77) Otherwise, should anti-dumping measures not be imposed, it is likely that the negative trend of the financial situation of the Community industry will continue. The Community industry is particularly marked by a loss of revenue due to depressed prices, falling market share and significant losses. Indeed, in view of the decreasing revenue and the material injury suffered during the IP, it is most likely that the financial situation of the Community industry will deteriorate further in the absence of any measures. This would ultimately lead to cuts in production and closures of production sites, which would therefore threaten employment and investments in the Community.

- (78) Accordingly, it is provisionally concluded that the imposition of anti-dumping measures would allow the Community industry to recover from the injurious dumping suffered and would be in the interest of the Community industry.

## **2. Interest of unrelated importers/traders in the Community**

- (79) As stated in recital (6) above, three importers made themselves known after initiation of the investigation but all subsequently declined to cooperate in the investigation. None of them expressed views on the possible imposition of measures. In these circumstances, a full assessment of the possible effects of taking measures or not taking measures was not possible. However, it should be recalled that anti-dumping measures are not intended to prevent imports, but rather to ensure that they are not made at injuriously dumped prices. As fairly-priced imports will still be allowed to enter into the Community market, and as imports from third countries will also continue, it is likely that the traditional business of importers will not be substantially affected even if anti-dumping measures against dumped imports are imposed. In addition, it should be noted that comments received from importers against the imposition of measures were not substantiated and therefore as such they were rejected.
- (80) Therefore, it can be provisionally concluded that the likely effects of the imposition of anti-dumping measures on unrelated importers/traders would not be significant.

## **3. Interest of users and consumers**

- (81) No user or consumer associations made themselves known within the time-limit set in the notice of initiation. Given the non-cooperation of these parties, it can be provisionally concluded that the imposition of any anti-dumping measure would not unduly affect their situation. Furthermore, the large number of producers in the Community and the volume of imports from other third countries will ensure that users and retailers will continue to have a wide choice of different suppliers of the product concerned at reasonable prices. The measures are expected to trigger an increase in prices to the benefit of the Community industry in order for the latter to return to a reasonable profitable situation. However, such increase is unlikely to be substantial as the existence of significant imports from other countries at competitive prices will prevent the Community industry from increasing its prices excessively.

## **4. Conclusion on Community interest**

- (82) In the light of the above, it is provisionally concluded that no compelling reasons exist against imposing measures in the present case and that the application of measures would not be contrary to the interest of the Community.

# **G. PROVISIONAL ANTI-DUMPING MEASURES**

## **1. Injury elimination level**

- (83) In view of the conclusions reached with regard to dumping, injury, causation and Community interest, provisional measures should be imposed in order to prevent further injury to the Community industry by the dumped imports.
- (84) The provisional measures should be imposed at a level sufficient to eliminate the injurious effect caused to the Community industry by the dumped imports, without exceeding the dumping amounts found. When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measures should allow the Community industry to cover its costs and obtain overall a profit before tax that could be reasonably achieved under normal conditions of competition, i.e. in the absence of dumped imports.

- (85) It is considered that in the period 2001 to 2002 there was a normal competitive situation on the Community market where the Community industry, in the absence of injurious dumping, made a normal profit margin which, on average attained the level of 5 %. Consequently, on the basis of the information available, it was preliminarily found that a profit margin of 5 % of turnover could be regarded as an appropriate level which the Community industry could be expected to obtain in the absence of injurious dumping.
- (86) The required price increase was then determined on the basis of a comparison, at the same level of trade, of the weighted average import price, as established for the price undercutting calculations, with the non-injurious price of products sold by the Community industry on the Community market. The non-injurious price was obtained by adjusting the sales price of each Community industry producer to a break-even point and by adding the above mentioned profit margin. Any difference resulting from this comparison was then expressed as a percentage of the total CIF import value.
- (87) On this basis, the injury elimination margin found was 62 %.

## 2. Provisional measures

- (88) In the light of the foregoing, it is considered that, in accordance with Article 7(2) of the basic Regulation, provisional anti-dumping duties should be imposed in respect of imports of chamois leather originating in the PRC at the level of the injury elimination margin found as this was lower than the dumping margin found.

## H. FINAL PROVISION

- (89) 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 chamois leather and combination chamois leather, whether or not cut to shape, including chamois and combination crust chamois leather originating in the People's Republic of China, falling within CN codes 4114 10 10 and 4114 10 90.
2. The rate of the provisional anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, for products produced by all companies in the People's Republic of China shall be 62 %.
3. 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.
4. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

*Article 2*

Without prejudice to Article 20 of Council 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.

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 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, 16 March 2006.

*For the Commission*  
Peter MANDELSON  
*Member of the Commission*

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