II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2023/265

of 9 February 2023

imposing a definitive anti-dumping duty on imports of ceramic tiles originating in India and Türkiye

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ([1]) ('the basic Regulation'), and in particular Article 9 thereof,

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 13 December 2021, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports of ceramic tiles originating in India and Türkiye ('the countries concerned') on the basis of Article 5 of the basic Regulation. It published a Notice of Initiation in the *Official Journal of the European Union* ([2]) ('the Notice of Initiation').

(2) The Commission initiated the investigation following a complaint lodged on 3 November 2021 by the European Ceramic Tile Manufacturers' Association ('CET' or 'the complainant'). The complaint was made on behalf of the Union industry of ceramic tiles in the sense of Article 5(4) of the basic Regulation. The complaint contained evidence of dumping and of resulting material injury that was sufficient to justify the initiation of the investigation.

1.2. Interested parties

(3) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission specifically informed the complainant, other known Union producers, the known exporting producers and the India's and Türkiye's authorities, known importers, suppliers and users, traders, as well as associations known to be concerned about the initiation of the investigation and invited them to participate.

(4) Interested parties had an opportunity to comment on the initiation of the investigation and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings. The Commission held hearings with an exporting producer from Türkiye and its related companies, the Government of Türkiye ('GoT') and the Cement, Glass, Ceramic and Soil Products Exporters Association from Türkiye ('CGCSA').

([1]) OJ L 176, 30.6.2016, p. 21.

([2]) Notice of initiation of an anti-dumping proceeding concerning imports of ceramic tiles originating in India and Türkiye. OJ C 501, 13.12.2021, p. 25.

1.3. **Comments on the initiation of the investigation**

(5) The GoT, the Bien & Qua Group, CGCSA, Morbi Ceramic Association, Indian Council of Ceramic Tiles and Sanitaryware ('Indian Council and Association'), and a number of Indian producers/exporters provided comments on the complaint and the initiation of the investigation. The complainant also submitted comments rebutting the interested parties' submissions.

(6) At the outset, the Commission noted that it carried out its examination of the complaint in accordance with Article 5 of the basic Regulation and came to the conclusion that the requirements for initiation of an investigation were met, i.e. that there was sufficient evidence to initiate the investigation.

(7) According to Article 5(2) of the basic Regulation, a complaint shall contain such information as is reasonably available to the complainant. The legal standard of evidence required for the purpose of initiating an investigation ('sufficient' evidence) is different from that which is necessary for the purpose of a preliminary or final determination of the existence of dumping, injury or of a causal link. Therefore, evidence which is insufficient in quantity or quality to justify a preliminary or final determination of dumping, injury or causation, may nevertheless be sufficient to justify the initiation of an investigation ([3]).

(8) The GoT, Indian exporting producers, the Bien & Qua Group, Indian Council and Association and CGCSA took issue with the Commission's analysis of the degree of support for the complaint ('standing analysis').

(9) These parties remarked that only a "small portion" of domestic producers supported the complaint, namely 25,8 % of the total ceramic tiles production in the Union in 2020 according to the complaint.

(10) These parties also claimed that such percentage could not be considered a major proportion of the domestic industry according to Article 4 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ('WTO ADA'), and that it was doubtful that the complaint was made by or on behalf of domestic producers fulfilling the 25 % threshold set in Article 5(4) of WTO ADA. They also remarked that some ceramic tiles producers in the Union were not even listed in Annex 4 of the complaint as Union producers and requested that the Commission disclosed its standing analysis and methodology, or that the complainant did not provide evidence that the decision to lodge the complaint was supported by all its members.

(11) All claims on standing were dismissed. The Commission carried out its own standing analysis. It contacted all know producers of ceramic tiles in the Union before initiation and asked them to express their position regarding the initiation of the investigation and report their production for the investigation period (1 July 2020 to 30 June 2021). Over 30 % of the total EU production expressed support and no producer expressed opposition or a neutral position regarding the initiation of the investigation. Therefore, the relevant thresholds as set out in Article 5(4) of the basic Regulation were met. The result, the companies contacted, the non-confidential replies, and the methodology, were made available in the non-confidential file of the investigation ('note for the file on standing').

(12) Article 5(2)(a) of the basic Regulation requires that the complaint contains a list of all domestic producers known to the complainant; this is not necessarily all producers. The standing analysis was carried out on the basis of the producers known at the time, as explained in recital (11). This list of domestic producers might not have been complete; however, no other Union producers came forward following the initiation of the investigation that would have made the assessment of representativeness of the complaint invalid.

(13) Interested parties provided no evidence why the complaint, notably the injury indicators based on the companies that provided data for the complaint, would result in a distorted analysis that would not be representative of the Union industry as a whole. They merely remark that 25,8 % of domestic producers supporting the complaint is "very low" and "uncommon".

([3]) Judgment of the General Court of 11 July 2017, Viraj Profiles Ltd v Council of the European Union, Case T-67/14, ECLI:EU:T:2017:481, para. 98.

(14) Regarding the definition of the Union industry, interested parties were mixing Article 4 of the basic Regulation regarding the definition of the Union industry and Article 5 of the basic Regulation that sets the rules for the initiation of proceedings. The threshold of 25 % of production required for initiation does not necessarily address the standard of "major proportion" ([4]).

(15) Indian exporting producers claimed that, when establishing production in the Union for year 2020, the complainant unreasonably set aside PRODCOM production figures on frivolous grounds.

(16) The Commission disagreed. Interested parties did not provide any evidence of why the data reported to the complainant by its members (national associations of producers) would be deficient, other than stating that no methodology was provided, and that the CET data were neither audited nor verified by any government or agency. The complainant in fact crosschecked PRODCOM figures against data gathered directly from the national associations, and duly explained why it considered the latter more reliable. The Commission considered the argumentation in the complaint to be reasonable.

(17) Indian exporting producers and the Bien & Qua Group claimed that the companies that decided not to cooperate in the investigation as sampled companies did therefore not provide support to the complaint. The Commission should therefore assess the level of support taking away the production of these companies.

(18) The claim was dismissed. The support for the complaint at pre-initiation stage, as well as the standing analysis, are governed by Article 5 of the basic Regulation, and relate to the initiation of proceedings. Sampling, on the other hand, is based on Article 17 of the basic Regulation and relates to the investigation. The fact that a company that supports the initiation of the investigation later decides to withdraw from the sample chosen by the Commission has no impact on the standing analysis. These companies are still Union producers that supported the initiation of the investigation.

(19) The GoT, Indian exporting producers, Indian Council and Association challenged the Commission's granting of anonymity to some Union producers on various grounds. These parties claimed that to make allegations about injury, the identity of the complainants had to be disclosed, as injury claims could not be assessed without this knowledge. They also claimed that the anonymity was a deliberate attempt by the complainant to avoid legitimate protests from the Union user industry. Further, they claimed a breach of rights of defence as, without knowing the identities, the Union producers' data could not be crosschecked with public sources.

(20) The Commission disagreed. The granting of confidential treatment of identity did not affect the possibility of interested parties to assess the injury alleged in the complaint. Indeed, the complaint contained all the necessary injury indicators as well as an explanation of its sources, including the number of companies that provided relevant indicators. Interested parties had the opportunity to provide, and in fact provided, comments on the injury assessment of the complaint. The Commission also noted that anonymity was granted only to those companies that showed a good cause and substantiated the risk of retaliation, as explained in the note on the file on standing.

(21) Regarding standing, as explained in recital (11), the result was available on the non-confidential file, and it included the non-confidential replies of all companies that participated. These replies, although anonymous, still contained the data necessary to allow other interested parties to assess the Commission's analysis, namely data per company on production and sales, among other factors.

([4]) European Communities – definitive anti-dumping measures on certain iron or steel fasteners from China, Report of the Appellate Body (WT/DS397/AB/R), para 418. See also Judgment of 8 September 2015, *Philips Lighting*, C-511/13 P, ECLI:EU:C:2015:553, paras. 60 - 73.

(22) The allegation that this was a deliberate attempt to avoid legitimate protests from the user industry was without grounds. The reason behind the granting of anonymity was the risk of retaliation. This did not in any way prevent users from providing their views. The Commission contacted all known users upon initiation and invited them to cooperate in the investigation and make submissions in the framework of the assessment of Union interest ([5]). Those that registered as interested parties had access to the non-confidential version of the complaint and were granted the opportunity to provide comments on the complaint and initiation ([6]).

(23) The GoT, the Bien & Qua Group and CGCSA challenged the period used in the complaint (1 January 2017 to 31 December 2020) as it was not as close as possible to the date of initiation and was different from the investigation period chosen by the Commission. The GoT referred to the final report of the panel in the WTO dispute settlement case Mexico – Steel Pipes and Tubes ([7]) in this regard.

(24) The Commission noted that there was no legal requirement in the basic Regulation regarding the period chosen by the complainants, nor any that the period chosen for the investigation had to be the same as the one chosen by the complainants. The Commission can however, as it did in this case, choose a more recent period, normally covering a period of no less than six months immediately prior to the initiation of proceedings for the purpose of a representative finding as required by Article 6 of the basic Regulation. This did not mean that the period chosen by the complainants was not valid for the purpose of the complaint. Further, interested parties did not provide any evidence to the contrary.

(25) Finally, the WTO panel cited by the GoT does not apply to the period chosen by the complainant as the matter at issue in that dispute was the choice of the investigation period by the investigating authority, which in that case coincided with the period in the complaint. Moreover, the contentious point as quoted by the GoT was a gap of eight months between the investigation period chosen by the investigating authority and the initiation of the proceeding. In this case, the gap was less than six months.

(26) The GoT remarked that the constructed normal value used in the dumping calculations by the complainant for Türkiye was overly inflated due to the source used in the complaint for the calculation of salaries in Türkiye. It also remarked that under Annex 10 of the complaint, in the document titled "Dumping calculation for Türkiye – Methodology and SG&A" in Step 5 of dumping calculation, Indian EXW and CIF export prices were mentioned in the title and text. It requested the Commission to clarify whether this was a typo or whether Indian EXW and CIF prices were used for Turkish exports in order to calculate the dumping.

(27) The figures on which the normal value was based were supported by sufficient evidence as confirmed by the Commission services' analysis. As pointed out in recital (7), the figures used by the complainant were those reasonably available to it. The Commission confirmed that the mention to Indian EXW and CIF export prices was a typo and that Turkish EXW and CIF prices were used for Turkish exports in order to calculate dumping.

(28) Indian exporting producers submitted that the complaint included no evidence of dumping regarding India because the complainant constructed normal value. According to them, Article 5.2 of WTO ADA required the applicant to provide such information as was reasonably available to it on the prices at which the product in question was sold when destined for consumption in the domestic market of the subject countries.

([5]) Notice of initiation, section 5.5.
([6]) Notice of initiation, section 5.2.
([7]) Mexico - Anti-dumping Duties on Steel Pipes and Tubes from Guatemala - Final Report of the Panel (WT/DS331/R), paras. 7.234-7.236.

(29) The claim was dismissed. As set out in the complaint, the complainant first attempted to obtain domestic prices in India. It asked all its member associations to collect domestic invoices, quotes or price lists referring to year 2020. One of the national manufacturers' associations specifically commissioned a report for that purpose, and provided the report to the complainant. This report included domestic Indian invoices for only two months of the investigation period used in the complaint. The complainant therefore recurred to constructing the normal value. Article 5.2 of WTO ADA, and Article 5(2)(c) of the basic Regulation, clearly state that the normal value can be based on the constructed value of the product.

(30) Indian exporting producers submitted that the complaint had an excessive use of confidentiality and that this precluded them from assessing important elements and adequately addressing the claims in the complaint.

(31) The Commission disagreed. It considered that the version open for inspection by interested parties of the complaint contained all the essential evidence and non-confidential summaries of data provided confidentially, in order for interested parties to exercise their rights of defence throughout the proceeding.

(32) Article 19 of the basic Regulation allows for the safeguarding of confidential information in circumstances where disclosure would be of significant competitive advantage to a competitor or would have a significantly adverse effect upon a person supplying the information or upon a person from whom that person acquired the information. The Commission assessed the information provided in the sensitive annexes to the complaint and considered that it fell under those categories.

(33) In any event, the Commission noted that Indian exporting producers simply flagged the parts of the complaint labelled as "sensitive" as problematic, without explaining why. For each and every part flagged, the complainant provided a meaningful summary of the information contained in the sensitive annexes of the complaint so that interested parties could have a "reasonable understanding of the substance of the information submitted in confidence" as set forth by Article 19(2) of the basic Regulation.

(34) For example, it was clear from the non-confidential version of the complaint that it was lodged on behalf of 29 Union producers of ceramic tiles, what the size of these Union producers was, and that two additional Union producers officially supported the complaint. Non-confidential annexes 7, 8 and 9 included the lists of Indian and Turkish producers. Non-confidential annex 10 contained a comprehensive explanation of the constructed normal value and the dumping margin for India. Non-confidential annex 11 contained the data on the trade flows analysis. Non-confidential annex 12, as well as the non-confidential body of the complaint, contained all injury indicators (aggregated). Undercutting and underselling calculations, including the prices and methodology used, were explained in the body of the complaint. Non-confidential annexes 22 and 23 both explained what information was submitted in confidence and contained a summary of that information.

(35) The Bien & Qua Group and CGCSA challenged the complaint's cumulation of Turkish and Indian imports. They based this challenge on the different import prices between both countries and between Türkiye and the Union prices, the different imports trends, the geographical distribution of imports, alleged product differences, and the EU-Türkiye Association Agreement.

(36) The Commission disagreed. At the outset, and as the complainant argued in its submission on initiation, the EU-Türkiye Association Agreement was immaterial for the purpose of the analysis under Article 3(4) of the basic Regulation.

(37) On the other reasons raised by interested parties, the Commission found that the conditions for cumulation of the countries concerned under Article 3(4) of the basic Regulation were met at the stage of the complaint on the basis of the available information and statistics. The dumping margins were found to be above *de minimis*. As shown by available official import statistics, dumped imports were above *de minimis* for all countries concerned.

(38) Furthermore, the conditions of competition were considered similar, as

— There was overlap in terms of geographical presence among the products from the countries concerned and the Union industry's, as also argued by the complainant in its submission. Moreover, the Union is one single market and the fact that imports from India and Türkiye were more predominant in some Member States than others did not imply that these products were not competing in the same market, among themselves and with domestic Union production;

— Prices from both India and Türkiye were below Union industry price and full cost levels. The different trends of imports and the difference between Türkiye and Indian prices were not a reason for decumulation. As stated above, both countries imports are above *de minimis* and the complainant provided evidence of dumping for both;

— There was a significant market presence of imports from both countries concerned, whether in absolute or relative terms, during the period examined.

— The complaint provided sufficient evidence that Turkish and Indian products were very similar within a wide range of product types, from small to large tiles to large slabs, porcelain and non-porcelain.

(39) The GoT, Indian exporting producers, the Bien & Qua Group and CGCSA submitted that some injury indicators as analysed in the complaint (for example production capacity, sales volume in the Union market, sales prices in the Union market, employment and stocks) developed positively over the period examined, and this clearly showed that the complainants were not injured. The GoT also claimed that the injury differed depending on the group (large, medium-sized and small Union companies) and that the Commission should analyse injury as a whole.

(40) As a preliminary comment, at complaint stage, the assessment of sufficiency of evidence of injury requires an examination, *inter alia*, of the relevant factors as described in Article 5(2)(d) of the basic Regulation. Article 5(2) of the basic Regulation does not require that all injury factors mentioned in Article 3(5) of the basic Regulation show deterioration in order for material injury to be established. Indeed, the wording of Article 5(2) of the basic Regulation states that the complaint shall contain the information on changes in the volume of the allegedly dumped imports, the effect of those imports on prices of the like product on the Union market and the consequent impact of the imports on the Union industry, as demonstrated by relevant (not necessarily all) factors and indices having a bearing on the state of the Union industry, such as those listed in Articles 3(3) and 3(5) of the basic Regulation. Therefore, not all factors must show deterioration in order for sufficient evidence of injury to be established, nor did the complaint need to necessarily examine all of them.

(41) Regarding injury, the specific analysis of the complaint showed that there was sufficient evidence pointing to increased penetration of the Union market (both in absolute and relative terms) by imports of ceramic tiles from India and Türkiye.

(42) Specifically, according to evidence provided in the complaint, from 2017 to 2020, imports in volumes from Türkiye increased by 48 % (from 32 million m^2 in 2017 to 46 million m^2 in the IP), resulting in a market share of 5,7 % in 2020 (from 4,1 % in 2017). Turkish prices decreased on average by 3 % in this period. During the same period, imports from India tripled in volume (from approximately 8 million m^2 to more than 25 million m^2), resulting in a market share of 3,1 % in 2020 (from slightly over 1 % in 2017). Also according to the evidence provided in the complaint, these imports were made at dumped prices which substantially undercut the Union industry's prices. This appeared to have had a materially injurious impact upon the state of the Union industry, shown for example by decreases in market share or by a deterioration of financial results.

(43) The GoT argued that the split of the Union industry into three different groups according to production per company was a deliberate attempt on the part of the complainant to underline the alleged injury for the small group of the complainants.

(44) The Commission disagreed. The complaint included the micro-economic injury indicators for all three groups separately and for the three of them together, and the macro-economic injury indicators for the whole Union industry. Therefore, the complaint contained sufficient evidence of injury to the whole Union industry and allowed a more detailed analysis as the trends were not the same for the three groups.

(45) The GoT, Indian exporting producers, Indian Council and Association, CGCSA, the Bien & Qua Group claimed that the complaint did not contain sufficient evidence of a causal link between the allegedly dumped imports and the claimed injury to the Union industry. These parties claimed that the alleged injury had other causes, such as the Covid-19 pandemic, increases in the Union industry's costs or its poor export performance.

(46) The Commission disagreed. In section 6, the complaint analysed other known factors that may have had an impact on the performance of the Union industry, including its export performance, its rising costs, the impact of the Covid-19 pandemic, or imports from countries other than India and Türkiye.

(47) Concretely, the complaint acknowledged that the exports of the companies that provided data for the complaint decreased but they still represented 24 % of their total sales. It also stated that the outbreak of the Covid-19 pandemic affected the Union tiles industry. Factories were closed for several months in some Member States, i.e. Italy, Spain, due to strict sanitary measures and these lockdowns affected largely the production but the industry could maintain their volume of sales by selling from stocks. Regarding imports from other third countries, no third country other than the countries concerned achieved a market share above the *de minimis* level of 1 %. Regarding costs, the complaint also acknowledged the increase, but provided evidence that unit prices increased less than the cost of production, and this was due to the increased penetration of imports from India and Türkiye at dumped prices that undercut the prices of the Union industry.

(48) In the Commission's view, none of these factors, as analysed in the complaint, disproved the conclusion that there was sufficient evidence for the initiation of an anti-dumping proceeding with regard to the point that dumped imports had a materially injurious impact on the state of the Union industry, as explained in recital (42).

(49) CGCSA and the Bien & Qua Group submitted that the threat of injury analysis provided in the complaint did not meet the relevant legal standard by covering only up to the second quarter of 2021.

(50) These comments were irrelevant regarding the Commission's analysis of the complaint and the initiation of the case. As summarised in section 4 of the Notice of Initiation, there was sufficient evidence that the complaint met the requirements for initiation on the basis of material injury. Concretely, the complainant provided sufficient evidence that imports of the product under investigation from the countries concerned increased overall in absolute terms and in terms of market share, and that such increase and the price levels of imports had a negative impact on the level of prices charged and on the market share held by the Union industry, resulting in substantial adverse effects on the overall performance of the Union industry.

(51) On the basis of the above, the Commission confirmed that the relevant thresholds for the initiation of the investigation as set out in Article 5(4) of the basic Regulation were met, and that the complainant provided sufficient evidence of dumping, injury and a causal link, thereby satisfying the requirements set out in Article 5.2 of WTO ADA and Article 5(2) of the basic Regulation. Therefore, the complaint met the requirements for initiation.

(52) Following final disclosure, a number of interested parties reiterated some of their comments made at the initiation of the investigation.

(53) The GoT, CGCSA, Sogutsen Seramik from Türkiye and sixteen Indian exporting producers reiterated their claims concerning standing made after initiation. In particular, they recalled that the two Union producers, which were replaced in the sample when they informed the Commission that they would not be able to fill in the questionnaire, should not be considered as supporting the initiation. Furthermore, they repeatedly submitted that the support to initiation of the proceeding was too low and could not be considered a major proportion of the domestic industry according to Article 4 of WTO ADA.

(54) Claims concerning standing were addressed in recitals (11) to (16) and (18). Since the parties did not bring forward any new arguments, the Commission confirmed their rejection.

(55) Sixteen Indian exporting producers and the Turkish company Sogutsen Seramik reiterated that their rights of defence were breached by granting anonymity to some Union producers.

(56) Claims concerning the anonymity of certain Union producers and the alleged breach of rights of defence were addressed in recitals (20) to (22). The Commission confirmed the rejection of these claims.

1.4. **Sampling**

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

1.4.1. *Sampling of Union producers*

(58) In its Notice of Initiation, the Commission stated that it had provisionally selected a sample of six Union producers. The Commission selected the sample on the basis of the largest representative volume of sales and production, taking into account geographical spread and also the high fragmentation of the ceramic tiles industry in line with the methodology detailed in recitals (59) to (63).

(59) In previous investigations concerning dumped imports of ceramic tiles ([8]), the Commission concluded that the ceramic tiles industry is significantly fragmented. Therefore, to ensure that the results of large companies did not dominate the injury analysis and that the situation of small and medium-sized producers, which collectively account for a significant share of the Union production, was adequately reflected, the Commission decided to establish three producer categories based on the annual production quantity:

— Category 1: large producers – annual production over 10 million m^2,

— Category 2: medium-sized producers – annual production between 5 and 10 million m^2,

— Category 3: small producers – annual production below 5 million m^2.

(60) Although the present investigation revealed a shift towards large producers, the Union industry remained highly fragmented with small and medium-sized producers accounting for approximately half of the Union production in the investigation period. Accordingly, the Commission considered that the fragmentation of the Union industry should also be taken into consideration in this investigation. It, therefore, decided to apply the same methodology for the selection of the sample as in the previous investigations and considered that all categories of producers should be represented in the sample.

(61) The provisional sample consisted of six Union producers. The sampled Union producers accounted for 6 % of total estimated Union production and 8 % of total Union industry's sales in the investigation period. Companies from all three categories were represented: one large producer, two medium-sized producers and three small producers.

(62) To reflect different situations that could be encountered in the Union in the different Member States, when selecting the sample, the Commission also took into account the geographical spread as mentioned in recital (58). The sampled producers were situated in Italy, Poland, Spain and a central European country. The sample thus covered Member States where approximately 90 % of the production was situated.

(63) Consequently, the Commission considered that the methodology applied ensured the sample was representative of the Union production as a whole and thus complied with Article 17(1) of the basic Regulation.

([8]) Council Implementing Regulation (EU) No 917/2011 of 12 September 2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of ceramic tiles originating in the People's Republic of China (OJ L 238, 15.9.2011, p. 1) and Commission Implementing Regulation (EU) 2017/2179 of 22 November 2017 imposing a definitive anti-dumping duty on imports of ceramic tiles originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council (OJ L 307, 23.11.2017, p. 25).

(64) The Commission invited interested parties to comment on the provisional sample. No comments were received within the deadline and the provisional sample was therefore confirmed. The sample was considered representative of the Union industry.

(65) Following the confirmation of the sample, one small producer from Italy included in the sample informed the Commission that it was not in a position to provide a questionnaire reply. Subsequently, the Commission replaced this company by another small producer from Italy and informed the interested parties of the revision to the definitive sample.

(66) After the first revision of the definitive sample, the newly added company informed the Commission that it was not able to submit a questionnaire reply either. The Commission revised the definitive sample again and replaced the company with another small producer from Italy. The second revision of the definitive sample was disclosed to the interested parties.

(67) The definitive sample after the second revision represented 6 % of total estimated Union production and 8 % of total Union industry's sales in the investigation period and covered four Member States where approximately 90 % of the Union production was located. The Commission considered that the definitive sample was representative in terms of total Union production and sales, geographical spread and it took into account the fragmentation of the Union industry.

(68) Following final disclosure, the GoT, CGCSA and four Turkish companies (EGE Seramik, Kale Seramik, Sogutsen Seramik, and Yurtbay Seramik) made comments concerning the sample of Union producers. In particular, they claimed that a sample representing 6 % of Union production was not sufficiently representative. The GoT and Yurtbay Seramik claimed that the Commission should have examined all 29 companies that provided information for the complaint. The GoT and CGCSA accused the Commission of manipulating the selection of the sample by selecting either companies with financial difficulties or companies that produced high-end ceramic tiles, e.g. artisanal or designer products.

(69) The GoT furthermore submitted that the Commission failed to explain the composition of the sample, i.e. the number of companies selected in each producer category.

(70) First, the Commission noted that none of the parties mentioned in recital (68) commented on the sample of the Union producers within the applicable deadline.

(71) Further, the Commission was neither obliged nor able to sample all Union producers that provided information for the complaint or expressed support for the initiation of the investigation for that matter. The Commission selected a representative sample of Union producers "which can reasonably be investigated within the time available", in accordance with Article 17 of the basic Regulation. To increase the representativeness of the sample, the Commission sampled double the number of Union producers than it usually samples. To reflect the fragmentation of the Union industry, where small and medium-sized producers accounted for approximately half of the Union production in the investigation period, as explained in recital (60), instead of sampling the three largest Union producers as per usual practice, the Commission sampled six companies in the three categories discussed in recital (59). Had the Commission sampled only the three largest Union producers, such sample would not increase in a meaningful way in terms of proportion of the production (from 6 % to 9 % of the Union production) and would not reflect the "largest *representative* volume of production" as it would not take into consideration the fragmentation of the Union industry.

(72) The Commission sampled a number of Union producers that could reasonably be investigated in the time available. The Commission chose the largest producers in each producer category while also taking into account the geographical spread. The number of Union producers in each category reflected the structure of the Union industry known to the Commission at the moment of initiation.

(73) Finally, the Commission disagreed with the assertion by the GoT and CGCSA of having manipulated the sample in favour of companies with higher costs and prices or companies in financial difficulties. The selection of the sample was based on objective criteria and information available to the Commission at initiation. Interested parties had opportunity to comment on the selection of the sample but no comments were received within the deadline. The Commission recalled that the parties' subsequent allegations were not supported by any evidence.

(74) Consequently, all claims concerning the sampling of Union producers were rejected.

1.4.2. *Sampling of importers*

(75) To decide whether sampling is necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation.

(76) Five companies provided the requested information and agreed to be included in the sample. One of the companies, OBI Group Holding SE & Co. KGaA, almost exclusively purchased the product under investigation originating in India and Türkiye from independent importers acting as wholesalers. Therefore, the Commission considered that the company should be investigated as a user.

(77) In view of the low number of replies from importers, the Commission decided that sampling was not necessary. The Commission informed the interested parties of its decision. No comments were received in this respect.

1.4.3. *Sampling of exporting producers in India*

(78) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all exporting producers in India to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of India to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.

(79) More than 140 exporting producers in India provided the requested information and agreed to be included in the sample. In accordance with Article 17(1) and 17(2) of the basic Regulation, the Commission announced, through a Note to the open file published on 22 December 2021, the selection of a preliminary sample of three groups of exporting producers based on the largest representative volume of exports to the Union which could reasonably be investigated within the time available. The authorities of India were also consulted on the preliminary sample selection.

(80) Three parties commented on the preliminary sample. Two of them asked for their inclusion in the sample; however, they did not contest that the three preliminarily sampled companies were the largest exporting producers, nor did they claim that their inclusion instead of one of those three would improve the representativity of the sample. One non-sampled group of exporting producers submitted that the combined volume of Union sales reported in the sampling forms individually by the related entities of this group would qualify it for the sample as it would be ranked within the top three. The Commission checked the issue and confirmed that indeed it was amongst the three largest exporting producers. Consequently, the Commission published, on 3 January 2022, a Note to the open file announcing a revised sample of three Indian exporting producers. The revised sample, consisting of the Lavish Granito Group, the Icon Granito Group and the Conor Granito Group, accounted for 20 % - 25 % of the sales to the European Union in the investigation period in m^2 reported by all Indian companies that submitted sampling replies and 16.5 % - 20.5 % of m^2 of the ceramic tiles imports from India in that period. The sample was therefore considered representative.

(81) Following this Note, the group of exporting producers that had initially been sampled but was excluded from the revised sample requested to be re-included in the sample. The submission included revised export figures, which showed bigger Union sales volumes than initially reported in the sampling form. The party argued that by including them in the sample – either by re-establishing the initial sample or by adding it to the sample as a fourth party – its representativeness would improve. The Commission rejected the request. It noted that the revised export figures did not have an impact on the representativeness of the sample and that these figures were submitted after the deadline to submit sampling information. The Commission also noted that adding a fourth party to the sample could prevent completion of the investigation in good time. Consequently, the Commission confirmed the sample in a Note to the open file of 12 January 2022.

(82) Following final disclosure, Biuro Handlowe Netto PLUS Sp. z o.o. Sp. k., Cortina Outlet & Salon Płytek Cezary Krzysztof Dąbrowski and Cortina Outlet & Salon Płytek Izabela Awier ('Netto and Cortina' or 'Ceramika Netto' ([9])) argued that the Commission should have investigated all exporting producers that came forward. According to the company, the technical complexity of the case and complex structures of the cooperating Indian exporting producers did not warrant the limitation of the investigation to a sample of companies.

(83) The Commission disagreed. Given the large number of Indian exporting producers, under Article 17(1) of the basic Regulation, the Commission was entitled to use sampling. The Commission selected a representative sample "which can reasonably be investigated within the time available", in accordance with Article 17 of the basic Regulation. Moreover, Ceramika Netto did not comment on the sample of Indian exporting producers within the applicable deadline. Therefore, the Commission rejected the claim.

1.4.4. *Sampling of exporting producers in Türkiye*

(84) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all exporting producers in Türkiye to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Permanent Representation of Türkiye to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.

(85) Eighteen (groups of) exporting producers in Türkiye provided the requested information and agreed to be included in the sample. In accordance with Article 17(1) and 17(2) of the basic Regulation, the Commission announced, through a Note to the open file published on 22 December 2021, the selection of a preliminary sample of three (groups of) exporting producers on the basis of the largest representative volume of exports to the Union which could reasonably be investigated within the time available. The authorities of Türkiye were also consulted on the preliminary sample selection.

(86) The Government of Türkiye, one group of Turkish exporting producers and two associations representing the interests of Turkish manufacturers made substantive comments on the preliminary sample. The group of Turkish exporting producers proposed weight (instead of m^2) as the key to rank companies. The four parties contested the sample initially proposed and casted doubts on the data in some sampling forms and the eligibility of some of the sampled parties. Therefore, on 3 January 2022, the Commission asked two companies initially ranked within the top three for a clarification of data in their sampling forms. One company made a minor revision of the data initially submitted but another company made a major revision of those data which resulted in significantly lower export volumes. That correction impacted the top-three ranking of company/groups. As a result, the Commission published, on 4 January 2022, a Note to the open file announcing a revised sample of three Turkish exporting producers. The Commission based the ranking on m^2, i.e. the usual reference unit in the ceramic tiles business. The revised sample, consisting of Hitit Seramik Sanayi ve Ticaret A.Ş., Vitra Karo Sanayi ve Ticaret A.Ş., and the group composed of Qua Granite ve Hayal Yapi Ürünleri San. Tic. A.Ş. and Bien Yapi Ürünleri San. Tic. A.Ş, accounted for almost 51 % of the ceramic tiles imports from Türkiye in m^2 in the investigation period based on the information available at that stage. The revised sample was therefore considered representative.

(87) The Turkish group that made comments on the initial sample reiterated its requests for a ranking in weight, which would result in that group ranking amongst the top three and recalled its willingness to be part of the sample. No other comments were received on the revised sample. The Commission found no compelling arguments that would justify abandoning the reference unit normally used in the ceramic tiles business. Hence, the Commission confirmed the sample in a Note to the open file of 12 January 2022.

1.5. **Individual examination**

(88) Four groups of exporting producers in India and five groups of exporting producers in Türkiye requested individual examination under Article 17(3) of the basic Regulation by submitting a questionnaire reply within the set deadline of 30 days from the notification of the sample. The Commission decided that the examination of those requests would have been unduly burdensome and would have prevented the completion of the investigation in good time.

([9]) During the proceeding, the three companies informed the Commisison that they merged into a single company Ceramika Netto Sp. z o.o. Sp.K.

This was due to the number of requests, the complexity of the corporate structure of some requesting parties and the size and complexity of the sample of the exporting producers investigated. The individual examination requests were thus rejected.

(89) Well beyond the earlier mentioned deadline, in August 2022, Ceramika Netto, a Polish importer of ceramic tiles submitted, as an annex to a written representation, letters of two Indian producers requesting individual examination. Such letters, not accompanied by a questionnaire reply, submitted by a third party and six months after the deadline for individual examination requests had expired, cannot be considered requests for individual examination pursuant to Article 17(3) of the basic Regulation. In any event, would they have been considered, they would have been rejected for the same reasons as the properly submitted requests referred to in recital (88).

1.6. **Request for confidentiality by the Union producers**

(90) The complainants and supporters of the complaint, represented by CET, requested that their names be kept confidential in line with Article 19(1) of the basic Regulation for the fear of retaliation. CET noted that the confidentiality treatment granted at pre-initiation stage should be extended to the investigation.

(91) In this respect, the complainants and supporters submitted that there was a risk of retaliation by their suppliers of raw materials located in particular in Türkiye, by their Union customers which relied also on imports from the countries concerned, and by their customers in the countries concerned.

(92) The Commission examined the requests and the supporting evidence submitted by each company individually. In addition, the Commission noted that in the investigation concerning imports of ceramic tiles originating in the People's Republic of China ([10]) and the subsequent expiry review ([11]), the identity of the Union producers was kept confidential.

(93) The Commission concluded that the risk of retaliation existed with regard to four sampled Union producers. On this basis, the Commission granted confidential treatment to the identity of these companies throughout the proceeding.

(94) On the contrary, the Commission found that the risk of retaliation did not exist with regard to the Spanish producer Azteca Products & Services, S.L.U. Consequently, the Commission decided to disclose the name of the company.

(95) It should be noted that the request for confidentiality by the VIVES Group was found unjustified already at the pre-initiation stage (for the composition of the VIVES Group, see recital (101)).

1.7. **Questionnaire replies**

(96) The Commission sent a questionnaire requesting the macro-indicators of the Union industry to the complainant and requested the six sampled Union producers, the three groups of exporting producers in India and the three groups of exporting producers in Türkiye to fill in the relevant questionnaires. Since sampling of unrelated importers was abandoned, all unrelated importers and all users were invited to fill in the respective questionnaires.

(97) The questionnaires for Union producers, unrelated importers, users, exporting producers in India and exporting producers in Türkiye were made available online ([12]) on the day of initiation.

(98) The Commission received questionnaire replies from the six sampled Union producers, the complainant, three importers, one user, the three sampled groups of exporting producers in India and the three sampled groups of exporting producers in Türkiye.

([10]) Implementing Regulation (EU) No 917/2011 of 12 September.
([11]) Implementing Regulation (EU) 2017/2179.
([12]) https://tron.trade.ec.europa.eu/investigations/case-view?caseId=2559

(99) Following an initial analysis of the questionnaire replies submitted by importers, the Commission enquired about their potential relationship with producers in India and Türkiye. One importer confirmed that it was a legally recognised partner in business of a ceramic tiles producer in India. Therefore, it could not be considered an unrelated importer. Subsequently, the Commission disregarded its questionnaire reply.

1.8. **Verification visits**

(100) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, resulting injury and Union interest. Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:

Union producers and their related traders, and the complainant

— Four sampled Union producers and, where relevant, their related traders, which were granted confidential treatment as explained in section 1.6.

— Azteca Products & Services, S.L.U. and its related trader Kerstone, S.L., both located in Alcora (Castellón), Spain

— The European Ceramic Tile Manufacturers' Association, Brussels, Belgium

Exporting producers in India

— Icon Granito Limited and related companies, Morbi, India ('the Icon Group')

— Conor Granito Limited and related companies, Morbi, India ('the Conor Group')

— Lavish Granito Limited and related companies, Morbi, India ('the Lavish Group')

Exporting producers in Türkiye ([13])

— Hitit Seramik Sanayi ve Ticaret A.Ş. and related companies, Uşak and Istanbul, Türkiye ('the Hitit Group')

— Qua Granite ve Hayal Yapi Ürünleri San. Tic. A.Ş., Bien Yapi Ürünleri San. Tic. A.Ş., and related companies, Istanbul, Bilecik and Söke, Türkiye ('the Bien & Qua Group')

— Vitra Karo Sanayi ve Ticaret A.Ş. and related companies, Bozüyük and Istanbul, Türkiye ('the Vitra Group')

(101) The Commission carried out remote crosschecks ('RCC') of the following parties:

Union producers and their related traders

— Ceramica Vives S.A. and Ferraes Ceramica S.A. and their related traders Vives Azulejos y Gres S.A. and Arcana Ceramica S.A., all located in Alcora (Castellón), Spain ('the VIVES Group')

User

— OBI Group Holding SE & Co. KGaA, Wermelskirchen, Germany

Traders related to exporting producers in Türkiye

— Vitra Fliesen GmbH & Co. KG, Merzig, Germany

— V&B Fliesen GmbH, Merzig, Germany

1.9. **Investigation period and period considered**

(102) The investigation of dumping and injury covered the period from 1 July 2020 to 30 June 2021 ('the investigation period'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2018 to the end of the investigation period ('the period considered').

([13]) For organisational purposes, the verification visit of some related companies took place at the premises of the manufacturing entity.

(103) The Bien & Qua Group and CGCSA challenged the investigation period chosen by the Commission. They claimed that it was not "close enough" or "immediate enough" to the initiation date as provided for in Article 6(1) of the basic Regulation. Also, they claimed that the Covid-19 pandemic had made the year 2020 unprecedented, characterised by significant market volatility and thus not representative as such for the purpose of objective dumping and injury determinations. For these reasons, the Bien & Qua Group stated that the Commission should have chosen 1 October 2020 to 30 September 2021 as investigation period and 1 January 2017 to 30 September 2021 as period considered.

(104) Article 6(1) of the basic Regulation does not require a period that is "immediate enough"; it states that the investigation period chosen by the Commission shall, normally cover a period of "no less than six months immediately prior to the initiation of proceedings". The Commission's choice of investigation period was fully in line with that provision. The Commission took into consideration the impact of the Covid-19 pandemic for this investigation (in particular, see section 5.2.5 of this Regulation). In this regard, the Commission noted that the Bien & Qua Group provided no evidence on why the period they suggested would have led to more appropriate findings, in particular since it was also affected by the market volatility due to the Covid-19 pandemic. The claims were dismissed.

(105) Following final disclosure, two Turkish interested parties, Yurtbay Seramik and Sogutsen Seramik, reiterated that when setting the investigation period, the Commission did not choose a period close enough to the date of initiation and thus did not examine the most recent data available.

(106) This claim was already addressed (see recitals (103) and (104)). Since the parties did not present any new arguments, the Commission confirmed the rejection of the claim.

1.10. **Non-imposition of provisional measures**

(107) Pursuant to Article 7(1) of the basic Regulation, the deadline for the imposition of provisional measures was 12 August 2022. On 15 July 2022, in accordance with Article 19a(2) of the basic Regulation, the Commission informed the interested parties of its intention not to impose provisional measures and gave the interested parties the opportunity to submit additional information and/or to be heard. One group of Turkish exporting producers recalled its request for individual examination and the potential effects that measures could have on its investments in the Union. One importer submitted a request for individual examination of its trade partners in India (see recital (89)). The same importer also presented further details concerning its business model and the impact of potential measures on its activities at a hearing. The Commission furthermore organised a hearing on product scope with one Indian exporting producer.

(108) Since no provisional anti-dumping measures were imposed, no registration of imports was performed.

1.11. **Subsequent procedure**

(109) The Commission continued to seek and verify all the information it deemed necessary for its final findings.

(110) Following the analysis of the collected and verified data, the Commission informed the Bien & Qua Group of its intention to apply facts available to certain parts of their questionnaire replies in accordance with Article 18 of the basic Regulation. The Commission gave the company the opportunity to comment. The reasons for the application of facts available and the comments submitted by the company are addressed in section 3.2.1 of this Regulation.

(111) When reaching its definitive findings, the Commission considered the comments submitted by interested parties.

(112) On 28 October 2022, the Commission informed all interested parties of the essential facts and considerations on the basis of which it intended to impose a definitive anti-dumping duty on imports of ceramic tiles originating in India and Türkiye ('final disclosure'). All parties were granted a period within which they could make comments on the final disclosure.

(113) One sampled exporting producer from Türkiye received a clarification to its final disclosure as a clerical error in one part of the disclosure had resulted in a contradiction with another element of the disclosure. One sampled exporting producer from Türkiye and two sampled exporting producers from India received additional final disclosures. In addition, since some of the comments received subsequent to the final disclosure resulted in a revision of the dumping, undercutting, and injury margins as well as the Commission's findings on injury and causation, on 5 December 2022 the Commission sent additional partial disclosure ('additional partial disclosure') to all interested parties.

(114) Following the final disclosure and the additional disclosures, comments were received from all sampled exporting producers, several non-sampled exporting producers from both countries concerned, the Government of Türkiye, the Government of India ('GoI'), the complainant and three Union importers. The Commission held hearings with two sampled exporting producers from Türkiye, several non-sampled exporting producers from Türkiye and their association, the GoT, the three sampled exporting produces from India, a group of non-sampled exporting producers from India, the GoI and one Union importer. The Hearing Officer held a hearing with Ceramika Netto.

2. PRODUCT UNDER INVESTIGATION, PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product under investigation

(115) The product under investigation is ceramic flags and paving, hearth or wall tiles; ceramic mosaic cubes and the like, whether or not on a backing; finishing ceramics, currently falling under CN codes 6907 21 00, 6907 22 00, 6907 23 00, 6907 30 00 and 6907 40 00 ('the product under investigation').

(116) Ceramic tiles are slabs of ceramic material used in interiors and exteriors to cover floors and walls (including countertops etc.). Ceramic tiles come in different sizes, ranging from mosaics to large slabs with sides as long as 3 meters or more. Their surface may be naturally smooth, mechanically polished, rough or with reliefs for special purposes (e.g. tactile tiles, anti-slip tiles). Ceramic tiles can be glazed, unglazed or decorated in the ceramic body with special mixtures. Glazes are mixtures of various materials and composites (glass, kaolin, siliceous sand, oxides, colouring pigments etc.) and give the ceramic tiles aesthetic and technical properties that the body cannot provide to the required degree. Ceramic tiles may be rectified or non-rectified. Rectification is a process of precise mechanical grinding of the edges after firing.

(117) The body of a ceramic tile is mainly produced from a mixture of clays, feldspars, sands, carbonates and kaolins. The mixture of raw materials is dry or wet milled. Wet-milled mixture is further spray dried to reduce its moisture content. Milled raw materials are mixed into a consistent paste. Tiles are formed from that paste by dry pressing or extrusion. The formed body of a tile is further dried in horizontal or vertical dryers. After this step, glazes may be applied. Finally, the tiles are fired in a kiln. The firing process has three stages: preheating, firing and cooling. Additional treatment, such as polishing or rectification, is carried out after the firing.

(118) European standard EN 14411 that provides for definitions, classification, characteristics and marking criteria divides ceramic tiles into groups by their water absorption rate and shaping process. Their technical characteristics include mechanical strength and resistance to abrasion.

2.2. Product concerned

(119) The product concerned is the product under investigation originating in India and Türkiye ('the product concerned').

2.3. Like product

(120) The investigation showed that the following products have the same basic physical, chemical and technical characteristics as well as the same basic uses:

— the product concerned when exported to the Union;

— the product under investigation produced and sold on the domestic market of countries concerned; and

— the product under investigation produced and sold in the Union by the Union industry.

(121) Therefore, the Commission decided that those products are like products within the meaning of Article 1(4) of the basic Regulation.

2.4. **Claims regarding product scope**

(122) A number of Indian producers and their associations, the Indian Council and Association, made several claims concerning the product scope. The parties requested that double-charge tiles, large slabs, specialty tiles (high-gloss tiles, high-depth tiles, carving tiles and tiles with granular surface) and tiles manufactured using a roller press be excluded from the product scope of the investigation and that, with regard to wall tiles, only single-fired tiles remain in the product scope. One exporting producer reiterated its request for an exclusion of large slabs during a hearing held after the Commission informed parties it would not impose provisional measures.

(123) CET argued that the definition of ceramic tiles by international standard ISO 13006:2018 should be used to determine whether a certain type of ceramic tiles falls within the scope of this investigation. The standard defined ceramic tiles as "thin slabs made from clays and/or other inorganic raw materials, generally used as covering for floors and walls, usually shaped by extruding (A) or pressing (B) at room temperature, but may be formed by other processes (C), then dried and subsequently fired at temperature sufficient to develop the required properties". The complainant submitted that this definition covered different types of ceramic tiles with the same basic physical, chemical and technical characteristics and the same basic uses. With regard to the use, CET argued that the definition allows for uses other than the covering of floors and walls.

(124) The Indian Council and Association and exporting producers submitted that ceramic tiles with a minimum side length of 120 cm ('large slabs') should be excluded from the product scope. The parties claimed that large slabs were manufactured using a different production process and equipment, they had different cost of production, price, end applications, consumer perception and technical parameters, e.g. the weight of a large slab per square meter was higher than the weight of a standard tile. The parties submitted that the large slabs in question were not used as floor or walls covering.

(125) With regard to the production process, several Indian exporting producers argued that ceramic tiles manufactured using the roller press technology should be excluded. The parties explained that this technology was used to produce ceramic tiles of a large dimension. It was, therefore, understood that those parties also effectively requested the exclusion of large slabs. One Indian exporting producer, Lioli Ceramica Private Limited ('Lioli'), also claimed that companies manufacturing large slabs normally did not produce standard tiles. It added that the differences in production process concerned the mixture of raw materials used, the higher temperature at which the large slabs were fired, the addition of netting on the back of the large slabs and the pressure at which the large slabs were packed.

(126) Lioli moreover argued that large slabs had different physical, chemical and technical characteristics, different channels of distribution, and that they did not compete and were not interchangeable with standard tiles. This company produced large slabs primarily used for kitchen countertops or bathroom fixtures. The company claimed that such slabs could be used as floor and walls covering. Standard tiles, however, could not be used as countertops or bathroom vanities. Thus there was a lack of interchangeability and competition with standard tiles. Large slabs and standard tiles were, according to the company, sold via different sales channels – shops selling countertops would not offer standard tiles and not all shops offering standard tiles would also sell countertops. With regard to physical characteristics, the exporting producer pointed at the dimensions and thickness of large slabs, which were greater than for standard tiles; the different look of the surface once plastered with large slabs instead of standard tiles; and the addition of netting on the back of the large slabs enabling their installation. With regard to chemical and technical characteristics, the company argued that the large slabs had to be tested as they came in contact with food; they had lower water absorption; and higher resistance to abrasion and scratches.

(127) In addition to the arguments described in recitals (125) and (126), the Indian exporting producer argued at a hearing that the large slabs required different storage and handling, cutting tools, installation methods, tools and professionals involved as compared to small tiles. Finally, the interested party recalled that the complaint did not contain any evidence of dumping with regard to large slabs from India.

(128) The complainant submitted that large slabs were produced in the Union in sufficient quantities and it would be incorrect to assume that the Indian large slabs were not comparable to slabs produced by the Union industry. In fact, it was the Union producers that first developed large slabs and placed them on the market. The size of a tile *per se* did not have an impact on its chemical and technical characteristics. In fact, the chemical composition of large porcelain slabs was comparable to other porcelain tiles. Technical characteristics such as water absorption, strength and durability were not captured by the definition of ceramic tiles provided by ISO 13006:2018. Water absorption was, however, one of the characteristics determining various types of ceramic tiles – porcelain tiles having a water absorption of less than 0,5 %. A small porcelain tile had a water absorption similar to a large porcelain slab. The complainant submitted that also the suggestion that only large slabs had to be tested as they came in contact with food was wrong. According to CET, even smaller porcelain tiles used, for example, in industrial kitchens or food manufacturing facilities, required similar levels of hygiene and safety. Finally, CET argued that the production process, i.e. roller press used for large slabs as compared to hydraulic press used for standard tiles, did not alter the basic physical, chemical and technical characteristics of the final product.

(129) The investigation confirmed that large slabs were also produced in the Union. In fact, two of the sampled Union producers manufactured such slabs. Therefore, large slabs imported from India were in competition with slabs produced by the Union industry. In this respect, the product types defined for the purpose of this investigation captured amongst others such characteristics as working surface size and water absorption. Such definition of product types provided for a fair comparison and ensured that large slabs were not compared to ceramic tiles of smaller sizes. The inclusion of working surface size in the determination of product types further ensured that any differences in the cost of production between the roller press and the hydraulic press technologies were taken into consideration. With regard to the lack of evidence of dumping, the Commission considered that the complaint contained sufficient *prima facie* evidence of dumped imports of the product concerned originating in India. Consequently, the Commission rejected the claim.

(130) Following final disclosure, Lioli reiterated their request for an exclusion of large slabs, i.e. tiles manufactured using the roller press production process. The company recalled that the production of large slabs included an additional step – adding of netting at the back. In addition, the company submitted a research article, which presented results of testing of large slabs. The research showed *inter alia* that the water absorption of large slabs was below 0,1 %.

(131) The GoI and sixteen Indian exporting producers supported an exclusion of large slabs for the purpose of fair comparison.

(132) CET reiterated their opposition and their arguments against an exclusion of large slabs from the product scope.

(133) The Commission recalled that large slabs had physical, chemical and technical characteristics similar to other types of ceramic tiles. In addition, large slabs were produced in the Union, including by two sampled Union producers. In fact, the research quoted by Lioli was conducted on large slabs produced by three manufacturers in Italy and Spain. It did not prove that large slabs produced in India were not comparable to large slabs produced in the Union. In this respect, the Commission ensured fair comparison as it included the working size of ceramic tiles in the definition of product types. Consequently, the Commission confirmed the rejection of this exclusion request.

(134) The Indian associations and producers claimed that double-charge tiles should be excluded from the product scope. Double-charge tiles were produced by infusing two layers together. The upper layer contained pigments and was about 3 to 4 mm thick. The lower layer consisted of the base body. According to the parties, double-charge tiles were thicker than normal flooring tiles, low maintenance, extremely durable, of superior quality and sold at higher prices.

(135) With regard to this claim, CET submitted that the parties did not provide any elements which would suggest that double-charge tiles did not share the same basic physical, chemical and technical characteristics as other tiles. The complainant further pointed out that double-charge tiles fell under the definition of ceramic tiles provided by ISO 13006:2018. Finally, CET emphasised that with regard to thickness, the complaint described the product as

"ranging from approximately 3 mm for some wall-covering ceramic tiles to 20 – 30 mm for extruded and ceramic tiles used for raised floors or thick floors" ([14]), thus including ceramic tiles of higher thickness in the product scope of the complaint.

(136) The claim was dismissed. Double-charge ceramic tiles were made of the same raw materials, used the same production processes as other ceramic tiles and thus had the same basic physical, chemical and technical characteristics as other tiles. Depending on the final use, thickness (and other criteria) may vary and all ceramic tiles, regardless of thickness, were included in the scope of the investigation as defined in the Notice of Initiation. The fact that double-charge tiles were manufactured by infusing two layers of tiles together, making them thicker than most standard tiles and thus offering more strength and durability, making them specially suitable for high traffic areas, did not justify an exclusion. Their final use, covering floors, was the same as that of other ceramic tiles, with which they shared the same characteristics and with which they were interchangeable, as a customer may opt for one or the other.

(137) The Indian Council and Association and exporting producers further submitted that certain special tiles, such as high gloss tiles, high depth tiles, carving tiles and tiles with granular surface (so called "sugar finish"), should be excluded from the product scope as their cost of production and subsequently their sales price were higher when compared to other ceramic tiles. The difference in cost and price was caused by the use of additional raw materials. The parties further submitted that the sugar finish tiles have different characteristics from other tiles as they hide dirt well and are slip resistant. In addition, the manufacturing process of sugar finish tiles was unique and advanced, as claimed by the Indian producers.

(138) The complainant submitted that those special tiles fell within the definition of ceramic tiles by ISO 13006:2018. The main difference between the special tiles and other tiles was in their design. For example, the sugar finish was applied after the tile body was already produced. Therefore, the special design did not change the basic physical, chemical and technical characteristics of the tiles. Furthermore, the addition of another raw material had a marginal effect on the cost of production. Finally, these special tiles were also produced by the Union industry and thus in direct competition and causing injury to the Union producers. The production process was well known to the Union industry and it was specifically included in the complaint ([15]).

(139) The claim was dismissed. Sugar finish tiles have the same basic physical, chemical and technical characteristics as other tiles. The parties provided no evidence to the contrary. Sugar finish tiles were also interchangeable with other tiles; their special design may make them especially suitable for some uses such as kitchen flooring due to their non-skid properties, but these uses were the same as those of other tiles.

(140) Following final disclosure, sixteen Indian exporting producers reiterated their request for an exclusion of tiles with granular surface (i.e. sugar finish tiles) based on their claim that there was not a sufficient production capacity in the Union for ceramic tiles with such finish.

(141) The Commission noted that the companies did not provide any evidence concerning the alleged insufficient production capacity of sugar finish tiles in the Union. The claim was dismissed.

(142) Finally, the Indian producers, Council and Association submitted that the product scope should be limited to single-fired tiles as far as it concerns wall tiles. The parties claimed that double-fired wall tiles were a high-end product requiring better raw materials and higher cost of production.

(143) The complainant stated that double-fired wall tiles fell within the definition of ceramic tiles by ISO 13006:2018. It further submitted that the quality of raw materials was not a legitimate reason for an exclusion. On the contrary, double-fired wall tiles produced by Indian exporting producers and exported to the Union were in direct competition with such tiles produced by the Union industry and thus it was necessary they remained in the product scope. CET pointed out that the sampled Union producers manufactured double-fired wall tiles.

([14]) Executive summary of the Complaint, p.1.
([15]) Annexes 5 and 20 of the Complaint.

(144) The Commission found that double-fired wall tiles produced by the Indian exporting producers were no different from the ones produced by the Union industry in their basic physical, chemical and technical characteristics and in their use. In addition, the product types' definition distinguished between single-fired and double-fired tiles, thus ensuring a fair comparison. Consequently, the claim was rejected.

(145) In addition to the above product scope exclusions, the Indian producers, including two of the sampled companies, suggested that the definition of product types for the purpose of fair comparison should take into account water absorption, manufacturing process (roller or hydraulic press), width, length, thickness, coating type (glazed or unglazed), glaze type (glossy, high gloss, matte or sugar), surface finishing (polished or unpolished).

(146) The Commission noted that water absorption, width and length through the working surface size, thickness, glazing and polishing were already reflected in the definition of product types. Since the roller press technology was used in the manufacturing of large slabs, the working surface size characteristic implicitly enabled to separate the two production processes. The Commission also took into account colouring of the body, rectification and consistency with a quality standard equivalent to ISO 13006:2018. The Commission considered that those characteristics were sufficient to capture the differences in costs and prices among various product types and thus ensure fair comparison. Therefore, the Commission rejected the suggested revision of the product types' definition.

(147) After final disclosure, the Conor Group reiterated the claim referred to under recital (145), in particular by arguing that the Commission had erroneously considered that the difference in the cost and selling price of products did not differentiate with the change in the physical characteristic of glaze type products. The Commission's finding that the adjustments for the physical characteristics were sufficient to capture the differences in costs and prices among various product types and thus ensure a fair comparison would not be supported by facts presented by Conor Group in their submissions to the Commission. Therefore, it submitted that the rejection of the suggested PCN for Conor Group is unjustified and inconsistent with Article 2(10)(a) of the basic Regulation.

(148) The claim was rejected. The Commission could not establish, based on the cost of production reported by the Conor Group, that there was a consistent material difference in production costs for 'matt', 'glossy' or 'sugar' products. Moreover, the reiterated claim by the Conor Group was not further corroborated by any additional analysis, which would support it. For confidentiality reasons, further details concerning the Commission's reasoning on this point were sent only to the Conor Group.

(149) Following final disclosure, Serapool Porselen, a Turkish producer of ceramic tiles, enquired about the definition of the product scope and claimed that swimming pool tiles should be excluded. The company claimed that pool tiles had lower water absorption (0,3 % – 0,5 %) than other porcelain tiles (0,5 %), were produced on order for customers which make decisions based on quality and design over price, were sold via different distribution channels (e.g. direct contact with the customer without the involvement of wholesalers), and had special properties (coating preventing bacteria formation, superior strength and durability).

(150) The Commission noted that, as specified in section 2 of the Notice of Initiation, the deadline for submission of information on product scope including any exclusion requests was 10 days after the initiation of the proceeding, i. e. on 23 December 2021. Serapool Porselen submitted their claim on 9 November 2022, i.e. ten and a half months after the deadline. At this stage of the investigation, the Commission was unable to assess whether swimming pool tiles had such distinct characteristics that would justify an exclusion from the product scope. Nevertheless, the investigation showed that porcelain tiles produced by the sampled Union producers had water absorption of less than 0,5 %. Therefore, the argument concerning the differences in water absorption between pool tiles and other porcelain tiles could not be accepted. Moreover, exclusion of tiles based on their potential use rather than a specific property or characteristic would make the measures susceptible to circumvention. Consequently, the Commission clarified that swimming pool tiles were covered by the investigation and rejected the request for their exclusion from the product scope.

3. **DUMPING**

3.1. **India**

3.1.1. *Normal value*

(151) The Commission first examined whether the total volume of domestic sales for each sampled exporting producer was representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales are representative if the total domestic sales volume of the like product to independent customers on the domestic market per exporting producer represented at least 5 % of its total export sales volume of the product concerned to the Union during the investigation period. On this basis, the total sales by each sampled exporting producer of the like product on the domestic market were representative.

(152) The Commission subsequently identified the product types sold domestically that were identical or comparable with the product types sold for export to the Union. To that end, the Commission excluded transactions of subprime quality from the domestic sales used for the assessment of the normal value. During the production process, after ocular quality control, the exporting producers deem ceramic tiles that are of less the perfect quality as "subprime" quality. These sub-standard tiles are sold on the domestic market at significant discounts, while only tiles of prime quality are sold to the Union. In order to make a fair comparison with the price to the Union, only sales on the domestic market of prime quality have been included in the calculation of the normal value. All sampled exporting producers sold tiles of subprime quality on the domestic market whereas they sold solely prime quality for export to the Union.

(153) After the final disclosure, the Conor Group claimed in this respect that the Commission *suo moto* decided to add quality of the product as a parameter for comparison, without having considered it as a PCN characteristic at any stage of the proceeding. Therefore, the Commission's application of the PCN methodology would be invalidated as the changes in PCN proposed by Conor Group were rejected (see section 2.4 above), whereas a physical characteristic which had not been proposed by any interested party was incorporated in the methodology to carry out a comparison under Article 2(10) of the basic Regulation.

(154) This claim had to be rejected. The Commission only learned during the verifications in India that sales of subprime quality were sold in not insignificant quantities on the domestic market, while such tiles were not exported. By ocular inspection, the Commission officials on the spot in India could establish that subprime tiles were of a clearly lower quality than prime tiles. Prices invoiced for such sales were overall lower than prices for prime quality sales of corresponding product types. On the domestic sales invoices, such sales could be clearly identified. Keeping such subprime sales in the domestic sales used for assessing the normal value would be in conflict with conducting a fair comparison of like with like products.

(155) The Commission then examined whether the domestic sales by each sampled exporting producer on its domestic market for each product type that is identical or comparable with a product type sold for export to the Union were representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales of a product type are representative if the total volume of domestic sales of that product type to independent customers during the investigation period represents at least 5 % of the total volume of export sales of the identical or comparable product type to the Union. The Commission established that the domestic sales of part of the sold product types were representative. Some product types were not sold in representative volumes on the domestic market, i.e. in volumes below 5% of the total volume of export sales of the identical or comparable product type to the Union.

(156) The Commission next defined the proportion of profitable sales to independent customers on the domestic market for each product type sold in representative volumes during the investigation period in order to decide whether to use actual domestic sales for the calculation of the normal value, in accordance with Article 2(4) of the basic Regulation.

(157) The normal value is based on the actual domestic price per product type, irrespective of whether those sales are profitable or not, if:

(a) the sales volume of the product type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of this product type; and

(b) the weighted average sales price of that product type is equal to or higher than the unit cost of production.

(158) In this case, the normal value is the weighted average of the prices of all domestic sales of that product type during the investigation period.

(159) The normal value is the actual domestic price per product type of only the profitable domestic sales of the product types during the investigation period, if:

(a) the volume of profitable sales of the product type represents 80 % or less of the total sales volume of this type: or

(b) the weighted average price of this product type is below the unit cost of production.

(160) The analysis of domestic sales showed that, depending on the product type, 9 to 60 % of all domestic sales of the Conor Group, 0 to 100 % of all domestic sales of the Icon Group and of the Lavish Group respectively were profitable and that the weighted average sales price was, as long as more than 5% of the domestic sales of the respective product type were profitable, higher than the cost of production. Accordingly, the normal value was calculated as a weighted average of the prices of all domestic sales during the investigation period or a weighted average of the profitable sales only.

(161) For the product types where the weighted average sales price was lower than the cost of production, the normal value was calculated as a weighted average of the profitable sales of that product type.

(162) Where there were no sales of a product type of the like product in the ordinary course of trade, or where a product type was not sold in representative quantities on the domestic market, the Commission constructed the normal value in accordance with Article 2(3) and (6) of the basic Regulation.

(163) Normal value was constructed by adding the following to the average cost of production of the like product of each cooperating sampled exporting producer during the investigation period:

(a) the weighted average selling, general and administrative ('SG&A') expenses incurred by each cooperating sampled exporting producer on domestic sales of the like product, in the ordinary course of trade, during the investigation period; and

(b) the weighted average profit realised by each cooperating sampled exporting producer on domestic sales of the like product, in the ordinary course of trade, during the investigation period.

(164) For the product types not sold in representative quantities on the domestic market, the average SG&A expenses and profit of transactions made in the ordinary course of trade on the domestic market for those types were added. For the product types not sold at all on the domestic market, the weighted average SG&A expenses and profit of all transactions made in the ordinary course of trade on the domestic market were added.

3.1.2. *Export price*

(165) The sampled groups of exporting producers exported to the Union either directly to independent customers or through related companies in India.

(166) Therefore, the export price was the price actually paid or payable for the product concerned when sold for export to the Union, in accordance with Article 2(8) of the basic Regulation.

3.1.3. *Comparison*

(167) The Commission compared the normal value and the export price of the sampled groups of exporting producers on an ex-works basis.

(168) Where justified by the need to ensure a fair comparison, the Commission adjusted the normal value and/or the export price for differences affecting prices and price comparability, in accordance with Article 2(10) of the basic Regulation. Adjustments for freight, insurance, handling, credit costs and bank charges were deducted from domestic and/or export sales prices where reported and found justified. Claims for allowances for credit costs on the domestic sales side were rejected, as it was not clear from the invoice or sales contract what the payment terms were.

(169) The sampled producers sold the product concerned either directly or through related producers/traders for export to the EU. In the latter cases, i.e. where sales were made through related producers/traders, the prices of these transactions have been adjusted to account for the mark-up achieved by the related producers/traders pursuant to Article 2(10)(i) of the basic Regulation. Concerning these trading transactions, the Commission calculated one single weighted average mark-up resulting from the difference between prices related to purchases from unrelated suppliers in India and subsequent resale prices to independent customers in the Union. The Commission opted for a single weighted average mark-up for the traders of all three sampled groups in order to ensure that the volumes in the equation were largely representative and ensured a trustworthy result. This mark-up was properly adjusted to exclude double counting of allowances already made and net of these allowances deducted from these related traders' export price. Further details of the adjustment were provided as part of the company specific disclosures in order to ensure confidentiality.

(170) Following the final disclosure, the Lavish Group claimed that, as the Commission intended to reject the mark-up realised from transactions with related parties because they were not considered to be at arm's length, the mark-up adjustment pursuant to Article 2(10)(i) of the basic Regulation should be based on the actual commission paid by the Lavish Group for export sales to the Union to an unrelated agent for carrying out the functions of an agent on a commission basis.

(171) This claim had to be rejected. The transactions at stake were exports of the product concerned that were purchased from related producers within the Lavish Group. These transactions are similar to and most resembling exports of the product concerned that were purchased from unrelated suppliers in India. In such cases, a mark-up within the meaning of the second subparagraph of Article 2(10)(i) of the basic Regulation is received by the exporting trader. By contrast, revenues on commissions, as referred to under the second subparagraph of Article 2(10)(i) of the basic Regulation, are subject to specific contractual conditions. Unlike a trader, an agent working on a commission basis does not buy and resell the product concerned but simply brokers the transaction between seller and buyer. Moreover, under the Commission's practice, mark-up adjustments were consistently calculated based on the mark-up received by the relevant trader, i.e. an amount for selling, general and administrative costs plus a profit. As the present mark-up that was made when the exporting trader purchased from a related producer was unreliable in view of the relationship between the concerned parties, the Commission had to replace it with a mark-up that reflected arm's length conditions, i.e. the mark-up that an exporting trader would receive when purchasing from unrelated suppliers in India.

(172) The Conor Group and the Government of India claimed that the mark-up adjustment to the export price is inconsistent with Article 2(10)(i) of the basic Regulation. It argued that the adjustment to the export price on account of the mark-up received by a trader under Article 2(10)(i) of the basic Regulation was applied without demonstrating that trading activities within related companies resulted in difference in price comparability between the domestic market and the export market (third sentence of Article 2(10) of the basic Regulation).

(173) This claim was considered flawed. The investigation confirmed the existence of a mark-up for export sales while there was none for domestic sales, therefore creating a difference in price comparability within the meaning of the third sentence of Article 2(10) of the basic Regulation which needed to be offset pursuant to Article 2(10)(i) of the basic Regulation.

(174) Moreover, the Conor Group argued that, in applying the adjustment, the Commission had not expressly requested information from it nor was it asked to demonstrate if these prices were at arm's length or not (i.e. indicative whether the prices were reliable or not). According to the Conor Group, all evidence on the record indicated that all transactions within the Conor Group were at arm's length. In light of the above, it found that the application of the mentioned mark up was not justified.

(175) In relation to this argument, the Commission found that the most important trader within the Conor Group (in terms of the volume of total EU exports), purchased the product concerned from related suppliers at prices [10% to 15%] greater than from unrelated suppliers. Moreover, the mark-up realised on the ceramic tiles exported to the Union after being purchased from unrelated suppliers was more than two times greater than the mark-up realised on the ceramic tiles exported to the Union after being purchased from related suppliers. The Commission considered these price and mark-up differences demonstrated that transactions between related parties within the Conor Group were not made at arm's length.

(176) The Conor Group added that Concor International carried out no specific activities other than logistics and packing of finished goods because all sales were negotiated and finalised for all entities within the Conor Group. The Commission clarified that the activities of Concor International went beyond those described under this claim. For confidentiality reasons, further details were sent only to the Conor Group.

(177) The Conor Group also recalled that the Commission had requested information from unrelated merchant exporters in the month of April 2022. Later on, the Commission requested information on the purchase cost for each sale of traded goods during the on-spot verification. Both sets of data were requested without identification of the purpose or the manner in which the Commission might consider this information. In the absence of such request or clarification, the information used by the Commission from the submissions of Conor Group and other interested parties lacked accuracy as demonstrated in the clerical errors in computation of the mark-up value by the Commission. The Conor Group added that such analysis by the Commission should have been conducted as usually, in cooperation with interested parties, including Conor Group, and explaining how and why the relevant data were collected. Therefore, there would be no factual and legal basis for the application of the markup and a breach of due process right of Conor Group.

(178) The claim had to be rejected. The Commission is not under the obligation to explain *a priori* to investigated parties, or other parties from which it seeks cooperation, for which exact purpose certain information is requested, verified and/or will be used, provided that confidentiality requests are respected. Moreover, the Commission is not able to foresee at an early stage of an anti-dumping proceeding including the stage of conducting on-spot verifications at the premises of exporting producers, for which purpose exactly each set of collected data will be used. The process of requesting, collecting and verifying data has the purpose of fact-finding. The legal analysis and assessment, which includes determining for which purpose the available data are used, is conducted subsequently. The Commission has disclosed all information on which it based its findings, justifying and giving the reasons thereof and giving the opportunity for parties to comments on all the findings. Therefore, it has complied with its obligations in terms of transparency, reasoning and rights of defence.

(179) The Conor Group further claimed that, if the adjustment to the export price on account of the mark-up received by a trader under Article 2(10)(i) of the basic Regulation was applied to its sales, it should be computed based on the actual mark-up earned by unrelated merchant traders purchasing from the Conor Group and reselling for export, or the average profit earned by trading companies in India for ceramic tiles, or an average of these two methods. Any of these methods being applied would ensure that the single weighted average mark-up is "largely representative" and "trustworthy" based on the information available on the record of this investigation with the Commission. The Conor Group added that the use of other sampled companies data for computation of the dumping margin for the Conor Group is not consistent with Article 2(10) of the basic Regulation.

(180) The claim was rejected. The transactions that were subject to the application of the said mark-up adjustment were exports made by traders/producers of the sampled exporting producers that had purchased the product concerned from related suppliers. As mentioned in recital (175), the mark-up realised on these transactions could not be used by the Commission as a basis for the adjustment under Article 2(10)(i) of the basic Regulation because it was tainted by the relationship between the parties concerned. Obviously, the mark-up realised by the same exporting producers when purchasing the product concerned from unrelated suppliers was the closest available surrogate to replace the former mark-up. By contrast, the margins proposed by the Conor Group were realised by parties that are not part of the sampled groups of exporting producers.

(181) As to the argument that the use of other sampled companies' data for computation of the dumping margin for the Conor Group was in breach with the basic Regulation, the Commission clarified that the basic Regulation indeed provides for scenarios where other parties' data are used for the sake of calculating a dumping margin applicable to an individual exporting producers. This is for instance the case when an export price is adjusted under Article 2(9), involving the use of a profit margin realised by unrelated importers in the Union. With regard to the present case, the Commission reiterated that the calculation of the weighted average mark-up based on transactions made by all three sampled groups ensured the application of a widely representative adjustment under Article 2(10)(i) of the basic Regulation.

(182) The Conor Group further noted that in calculating the amount for the adjustment the Commission should keep in mind two dictionary meanings of the word "mark-up", being, first, "an amount added to the cost price to determine the selling price, broadly: profit", and, second, "an increase in the price of something, for example the difference between its cost and the price that it is sold for." It argued that in both instances, the comparison of cost price to the selling price, resulting in the profit is the value of the mark-up. In reply, the Commission recalled that under Article 2(10)(i) of the basic Regulation, duly considering the applicable jurisprudence, a mark-up consists of an amount for selling, general and administrative expenses and a profit, which insofar deviates from the suggested encyclopaedic definitions.

(183) The Conor Group also alleged that there were clerical errors in the computation of the mark-up. Specifically, the Conor Group argued that if the sales value included the recovery of packing costs from the customer, but the purchase cost did not include this amount, it would amount to double counting of the amount of packing cost in the allowances as first, the packing cost was included in the allowance for the mark-up and, second, packing cost was itself adjusted again from the export price in the Commission's calculation of total allowances.

(184) In addition, the Conor Group claimed that the total cost of general and administrative expenses and finance expenses should be added to the cost before comparing to the sales value, and that the Commission had added to the mark-up percentage the refund of duties expected to be received by exporters. Should the Commission continue applying this addition, it should also allow an adjustment to the normal value for the allowance claimed on import charges and indirect taxes.

(185) The Commission rejected these claims. First, with regard to the claim that packing costs would be deducted twice from the export price, the Commission noted that the Conor Group did not substantiate its claim, least not as it never proved let alone quantified the amount of any packing costs included in the total purchase costs of the tiles in question. Moreover, the Commission confirmed that the data on file did not point at any double-counting of packing costs, as the Conor Group seemed to suggest. Most importantly, the claim suffers from a fundamental flaw as to the concept of the mark-up within the meaning of Article 2(10)(i) of the basic Regulation. The mark-up equals the difference between the full purchase price paid (irrespective of what costs, such as packing costs, the supplier may have incurred) and the total sales revenue realised by the respective trader. In other words, the mark-up consists of selling, general and administrative expenses and finance expenses and profit, plus any other specific revenues realised on the export sales in question. To account for all these elements, the Commission's approach to use the gross margin between purchase prices invoiced by unrelated suppliers and the resale prices to independent customers is appropriate as long as the thus resulting adjustment does not include any other adjustments made under Article 2(10) of the basic Regulation. For this reason, the Conor Group's claim concerning any wrongful inclusion of general and administrative expenses and finance expenses in the applied mark-up under Article 2(10)(i) of the basic Regulation was likewise dismissed. Third, the Commission recalled that refund of duties that the exporters have received increases effectively the revenue realised on the export sales in question. By contrast, the domestic sales are not subject to any such refund. Applying an adjustment to the normal value for the export refunds received would therefore be flawed.

(186) The Conor Group also identified that the Commission's formula used for calculating the total allowance in the export sales of Concor International double-counted "Clearing & Forwarding Charges" as they were already included in the formula to compute "handling loading and ancillary expenses at the premises in exporting country" in the export sales listing. The Commission accepted this claim and therefore corrected the identified clerical error in favour of the Conor Group's exporting producers.

(187) Pursuant to final disclosure, the Icon Group claimed that the Commission should not have deducted the mark-up from the Icon Group's indirect export sales to the EU pursuant to Article 2(10)(i) of the basic Regulation as the Icon Group's related producers and traders form a Single Economic Entity ('SEE') ([16]).

(188) In this context, the Icon Group alleged that the producers within the Icon Group share a unitary organisation of personal, tangible and intangible elements, supply and industry know-how between themselves in order to deliver a high-quality Icon brand and have a formal and personal interest in the economic success of their related companies. In addition, so the Icon Group continued, it shares one product catalogue and has one single website, called "Icon World of Tile", which refers to "the company". That website has one single point of contact for customer orders.

(189) The Icon Group pointed to the Court of Justice judgment in Matsushita Electric Industrial, according to which "the division of production activities and sales activities within a group made up of legally distinct companies can in no way alter the fact that those companies are an SEE which organises in that way activities that in other cases are carried on by what is, also from a legal point of view, a single entity." ([17])

(190) The claim of the exporting producers within the Icon Group to be considered an SEE was rejected. For confidentiality reasons, details with regard to this assessment were sent only to the Icon Group.

(191) The Icon Group further claimed that the Commission had not adduced any evidence as to why it considered that "for indirect transactions the related exporting producers acted as traders whose functions were similar to those of an agent working on a commission basis."

(192) The Commission considered this claim unfounded. It is uncontested that the relevant transactions were carried out in two steps, first a trader/producer within the Icon Group purchased the product concerned from a related producer, second the same trader/producer exported the thus purchased product concerned to the Union. There is therefore evidence that trader's activities are carried out by the respective trader/producer in the Icon Group.

(193) In the alternative, the Icon Group submitted that domestic and export sales should be treated equally, meaning that a mark-up should also be applied to the Group's indirect domestic sales.

(194) The Commision rejected the claim as the domestic sales contracts and export sales contracts differed by nature. For confidentiality reasons, details with regard to this assessment were sent only to the Icon Group.

(195) One group of exporting producers claimed adjustments to the normal value and export price for inventory credit costs, i.e. theoretical financial cost for goods in stock, under Article 2(10)(k) of the basic Regulation. The claim was rejected, as it could not be substantiated that the difference in time during which goods sat in stock affected price comparability.

(196) The same group of exporting producers also claimed an adjustment related to advertising costs, consisting of costs on setting up billboards near Morbi/Gujarat, the production location, incurred for sales on the domestic market, under Article 2(10)(k) of the basic Regulation. The group was neither able to quantify such adjustment nor to demonstrate that it affected price comparability. The claim has therefore been rejected.

(197) Finally, all sampled companies claimed adjustments to the normal value under Article 2(10)(b) of the basic Regulation on alleged import charges and indirect taxes. The investigation revealed however that the claim was unfounded. In fact, the sampled exporters received, under two schemes (Notification No. 07/2020-CUSTOMS (N.T.) and Remission of Duties and Taxes on Exported Products (RODTEP)) export refunds worth 2% of the export invoice value, irrespective of whether any import duties or indirect taxes were paid for the raw materials that were incorporated in the exported tiles. The refunds were granted on the mere proof of the goods being exported. These

([16]) The Icon Group referred to C-468/15 P, PT Musim Mas v Council, EU:C:2016:803, para. 39; and C-468/15 P, PT Musim Mas v Council, EU:C:2016:803, para. 42; Case T-716/19, Interpipe Niko Tube and Interpipe Nizhnedneprovsky Tube Rolling Plant v Commission, ECLI:EU:T:2021:457, para.133.

([17]) C-104/90, Matsushita Electric Industrial v Council, EU:C:1993:837, para. 9

claims were rejected, because the actual export refunds could not be linked to any amounts corresponding to any import charges or indirect taxes borne by the like product and by materials physically incorporated therein, as provided by Article 2(10)(b) of the basic Regulation.

3.1.4. *Dumping margins*

(198) For the sampled cooperating groups of exporting producers, the Commission compared the weighted average normal value of each type of the like product with the weighted average export price of the corresponding type of the product concerned, in accordance with Article 2(11) and (12) of the basic Regulation.

(199) To this end, for all exporting producers within a group, a specific dumping margin has been calculated on the basis of the methodology laid down above. Thereafter, a weighted average dumping margin for the whole group was calculated.

(200) In the company specific final disclosure of 28 October 2022, the Commission had disclosed to two of the sampled exporting producers, Conor Group and Icon Group, that it had found appropriate to recalculate the CIF prices they had provided using transport data from the IHS Markit Global Trade Atlas™ database. After the final disclosure, both parties claimed that the Commission should have provided more detailed information on why the Commission had not accepted their reported CIF-prices and had established CIF prices on an alternative basis. After the Commission had provided this additional explanation through a Note to the file, they claimed, inter alia, that one of the datasets used by the Commission needed to be adjusted. The Commission agreed that the underlying data it had used were inaccurate and it revised the calculations accordingly.

(201) After the final disclosure, the Conor Group pointed to an inaccuracy in its dumping calculation as the Commission had double counted the allowance for certain logistics costs made to its sales to the Union. The claim was accepted and the calculation was corrected accordingly.

(202) The definitive dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Company	Definitive dumping margin
The Conor Group	8,7 %
The Icon Group	6,7 %
The Lavish Group	0 %

(203) For the cooperating exporting producers outside the sample, the Commission calculated the weighted average dumping margin, in accordance with Article 9(6) of the basic Regulation. Therefore, that margin was established on the basis of the margins of the two sampled groups of exporting producers for which a dumping margins could be established, while disregarding the margin of the group of exporting producer with zero dumping margin.

(204) On this basis, the provisional dumping margin of the non-sampled cooperating exporting producers is 7,3 %.

(205) After final disclosure, several non-sampled Indian exporting producers claimed that the Commission failed to provide the detailed methodology used by the Commission for calculating the margins for sampled and non-sampled Indian companies. This claim was linked to similar claims made by the sampled Indian exporting producers that formed part of the Conor Group and the Lavish Group. These claims are addressed under recitals (170) to (186).

(206) For all other exporting producers in India, the Commission established the dumping margin on the basis of the facts available, in accordance with Article 18 of the basic Regulation. To this end, the Commission determined the level of cooperation of the exporting producers. The level of cooperation is the volume of exports of the cooperating exporting producers to the Union expressed as proportion of the total imports from the country concerned to the Union in the investigation period, that were established on the basis of import statistics from Eurostat (Comext).

(207) The level of cooperation in this case was considered high because the exports of the cooperating exporting producers constituted around 84 % of the total imports during the investigation period. On this basis, the Commission considered it appropriate to establish the dumping margin for non-cooperating exporting producers at the level of the cooperating sampled group of exporting producers with the highest dumping margin.

(208) The definitive dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Company	Definitive dumping margin
The Conor Group	8,7 %
The Icon Group	6,7 %
The Lavish Group	0 %
Other cooperating companies	7,3 %
All other companies	8,7 %

3.2. **Türkiye**

3.2.1. *Article 18 of the basic Regulation*

3.2.1.1. The Bien & Qua Group

(209) With regard to the Bien & Qua Group, during the investigation, the Commission inquired about the nature of the relationship between the manufacturers and the related traders in Türkiye part of the Bien & Qua Group. The information provided by the companies and collected by the Commission from other sources led the Commission to conclude that the group failed to provide the necessary information concerning written contractual arrangements.

(210) The Commission informed the company of its intention to apply Article 18 of the basic Regulation in relation to the information that it failed to provide.

(211) The explanations provided by the Bien & Qua Group following the Article 18 letter did not change the Commission's conclusion that the group failed to provide the necessary information concerning written contractual arrangements.

(212) As a result, the Commission confirmed the application of Article 18 of the basic Regulation.

3.2.1.2. The Hitit Group

(213) On 21 November 2022, the Hitit Group requested the Commission to disregard the information provided in its questionnaire response as errors in it would not allow the Commission to calculate a "reasonably accurate finding" in the sense of Article 18(3) of the basic Regulation, and to treat the Hitit Group as a non-sampled cooperating exporting producer which would entail that it would be made subject to the sample average duty level. In this submission, it also proposed some corrections to its response and provided an alternative dumping calculation with the corrections made. On 7 December 2022, the party reiterated its request to apply Article 18 to the information provided and verified and the request was supported by the GOT.

(214) As a threshold matter, the Commission recalled that the submission of a revised dumping margin calculation post final disclosure and the request to apply Article 18 to the information provided and verified in due course were made at a stage where the Commission was no longer in a position to verify and therefore consider new data. For this reason only, the request and the new explanations and data provided by the Hitit Group should be rejected. The information submitted by the Hitit Group during the course of the investigation was found by the Commission not to be deficient to the point of causing undue difficulty in arriving at a reasonably accurate finding. The information was submitted in good time and verified during a verification visit. Therefore even, if the information was not ideal in all respects, it was not disregarded in accordance with Article 18(3) of the basic Regulation.

(215) For the sake of completeness and without prejudice to the above, the Commission noted that the fact that the Hitit Group presented an alternative dumping calculation contradicted their allegation that a dumping margin for the Hitit Group could not be determined. Moreover, the Hitit Group's argument on the basis of Article 18(3) of the basic Regulation should be dismissed as it is based on an *a contrario* reading on this provision. Article 18(3) requires the Commission to use the information provided, unless certain conditions are met. It does not require the Commission to disregard the data if the Commission considers such data appropriate since it was provided by the company and verified by the Commission. The Commission further noted that the alleged mistakes in the questionnaire response claimed by the party mainly concerned a misclassification of some transactions under the relevant PCNs for product types representing a minor share of its EU sales transactions only. The Commission underlined that it calculated the Hitit Group's dumping margin in the way presented in the sections below in light of datasets that were timely submitted and verified. The company also had the opportunity to make comments on the verification report. No allegations were made in time about incorrectness in the data provided and verified by the Commission. Once the Commission has received the necessary data, verified it and consider it reliable to make its dumping calculations, allegations by the company about errors in the underlying data are both unwarranted and unverifieable. Thus, those late allegations should be rejected and the data submitted and verified by the Commission should be accepted in accordance with Article 18(3) of the basic Regulation. For confidentiality reasons, the detailed reasons why the Hitit Group's claims dated 7 December 2022 could not be retained were disclosed only to the party concerned.

3.2.2. *Normal value*

(216) The Commission first examined whether the total volume of domestic sales for each sampled cooperating exporting producer was representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales are representative if the total domestic sales volume of the like product to independent customers on the domestic market per exporting producer represent at least 5 % of its total export sales volume of the product concerned to the Union during the investigation period. On this basis, the total sales by each sampled exporting producer of the like product on the domestic market were representative.

(217) The Commission subsequently identified the product types sold domestically that were identical or comparable with the product types sold for export to the Union for the exporting producers with representative domestic sales. The Commission found that sampled exporting producers sold tiles of prime and subprime quality on the domestic market whereas they sold basically solely prime quality for export to the Union. During the production process, after several quality controls, the exporting producers deem ceramic tiles that are of less the perfect quality as "subprime" quality. These sub-standard tiles were sold at reduced prices. Thus, in order to make a fair comparison with the price to the Union, the Commission considered only domestic sales of prime quality for the calculation of the normal value. Following final disclosure, the Hitit Group asked for the inclusion of sub-standard tiles in its calculations on the grounds that volumes were significant and that it was possible to make adjustments for the differences between subprime versus prime quality products. The Commission dismissed the Hitit Group's request, absent of any concrete proposal about how such an adjustment could have been made. Following final disclosure, the Hitit Group asked for the inclusion in its dumping calculation of one specific subcategory of products which had been considered by the Commission of subprime quality and was therefore, in line with the above considerations, excluded from the normal value calculation. The request was based on the grounds that the sales volumes of this category of products were significant and that these products concerned prime products. After due analysis of the data provided by the company, the Commission concluded that this subcategory of products qualified as prime products and it therefore accepted the Hitit Group's request.

(218) The Commission then examined whether the domestic sales by each sampled exporting producer on its domestic market for each product type that is identical or comparable with a product type sold for export to the Union were representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales of a product type are representative if the total volume of domestic sales of that product type to independent customers during the investigation period represents at least 5 % of the total volume of export sales of the identical or comparable product type to the Union. The Commission established that the domestic sales of most product types were representative. For each of the three exporters, for some product types that were exported to the Union during the investigation period there were either no domestic sales at all, or the domestic sales of that product type were below 5 % in volume and thus not representative.

(219) The Commission next defined the proportion of profitable sales to independent customers on the domestic market for each product type during the investigation period in order to decide whether to use actual domestic sales for the calculation of the normal value, in accordance with Article 2(4) of the basic Regulation.

(220) The normal value is based on the actual domestic price per product type, irrespective of whether those sales are profitable or not, if:

(a) the sales volume of the product type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of this product type; and

(b) the weighted average sales price of that product type is equal to or higher than the unit cost of production.

(221) In this case, the normal value is the weighted average of the prices of all domestic sales of that product type during the investigation period.

(222) The normal value is the actual domestic price per product type of only the profitable domestic sales of the product types during the investigation period, if:

(a) the volume of profitable sales of the product type represents 80 % or less of the total sales volume of this type: or

(b) the weighted average price of this product type is below the unit cost of production.

(223) The analysis of domestic sales showed that over 60% of all domestic sales of the Vitra Group and over 70 % of all domestic sales of the Hitit Group and the Bien & Qua Group were profitable and that the weighted average sales price was higher than the cost of production. Accordingly, the normal value was calculated as a weighted average of the prices of all domestic sales during the investigation period or a weighted average of the profitable sales only.

(224) Following final disclosure, the Hitit Group contested the exclusion from the company's domestic sales listing of certain sales labelled by the party as "export-registered sales" in view of their high volume. In view of elements on the file supporting the claim, the Commission accepted to include these sales volumes in the normal value calculations insofar as it could not be established that these sales were eventually exported.

(225) Where a product type was not sold in representative quantities on the domestic market, the Commission constructed the normal value in accordance with Article 2(3) and (6) of the basic Regulation. Where there were no or insufficient sales of a product type of the like product in the ordinary course of trade on the domestic market, normal value was either constructed (because the domestic sales price of other sampled producers for that product type could not be disclosed in a meaningful manner without breaching the confidentiality of those producers) or the price of another exporter in the ordinary course of trade was used, and an appropriate non-confidential summary of that information was provided to the interested party concerned.

(226) Normal value was constructed by adding the following to the average cost of production of the like product of each cooperating sampled exporting producer during the investigation period:

(a) the weighted average SG&A expenses incurred by the cooperating sampled exporting producer on domestic sales of the like product, in the ordinary course of trade, during the investigation period; and

(b) the weighted average profit realised by the cooperating sampled exporting producer on domestic sales of the like product, in the ordinary course of trade, during the investigation period.

(227) For the product types not sold in representative quantities on the domestic market, the average SG&A expenses and profit of transactions made in the ordinary course of trade on the domestic market for those types were added. For the product types not sold at all on the domestic market, the weighted average SG&A expenses and profit of all transactions made in the ordinary course of trade on the domestic market were added.

(228) Following final disclosure, the Hitit Group stated that in the calculations certain PCNs had unusually high SG&A and the profit as compared to the company ratios. Considering the additional explanations provided by the party, including mistakes in its reporting, on an exceptional basis and in light of the specific situation of the case, for two PCNs the Commission constructed the normal value on company basis. Following the additional partial disclosure, the Hitit Group asked to disregard the production costs of some tiles, deemed to be unrepresentative. The Commission dismissed the claim, which was based in a new unverified dataset that could not be reconciled with verified data. The Commission disclosed its reasoning in more detail via an individual disclosure only to the party concerned for confidentiality reasons.

(229) Following final disclosure, the Vitra Group contested the inclusion of certain sales transactions in their normal value calculations as they would concern products manufactured outside Türkiye. After having duly assessed the supporting evidence, the Commission accepted the claim and it revised the calculations accordingly.

3.2.3. *Export price*

(230) The sampled exporting producers exported to the Union either directly to independent customers or through related importers.

(231) When the product concerned was exported directly to independent customers in the Union, the export price was the price actually paid or payable for the product concerned when sold for export to the Union, in accordance with Article 2(8) of the basic Regulation.

(232) When the product concerned was exported to the Union through a related importer, the export price was established on the basis of the price at which the imported product was first resold to independent customers in the Union, in accordance with Article 2(9) of the basic Regulation. In this case, adjustments to the price were made for all costs incurred between importation and resale, including SG&A expenses, and for profits accruing, based on the profit established in this investigation for unrelated importers (see recitals (429) and (430)).

(233) Following final disclosure, the Bien & Qua Group claimed that no deduction of SG&A and profit was warranted under Article 2(9) because the different entities in the group formed a single economic entity. The party stated that related companies acted as part of the producers' exporting network, that all entities were economically controlled and managed by the same persons and that verification visits took place basically only at the premises of the producers. It alleged that the fact that related companies had unrelated suppliers and/or dealt with other products did not have any impact of the status of the single economic entity of the group. The Bien & Qua Group claimed as well that no deduction of SG&A and profit was warranted under Article 2(9) for a related trader located outside the Union with no importing functions.

(234) It is noted that, even if the group would have been a single economic entity (*quod non*, as concluded in the next section), Article 2(9) of the basic Regulation calls for the Commission to establish the export price on the basis of the price at which the imported product was first resold to independent customers in the Union. Given how the group organised sales into the Union, it would be unfair to treat in the same way sales that exporting producers channelled to the Union via related importers and direct sales to the Union. The Commission thus concluded that, when the product concerned was exported to the Union through a related importer, it was justified to perform adjustments for SG&A expenses and for profits accruing of the importer as established by Article 2(9) of the basic Regulation. As to the adjustments for a related trader outside the Union, the Commission clarified that, contrary to what the Commission had stated in the specific disclosure to the group, the legal basis for the adjustment was Article 2(10)(i), which is in line with the Commission's practice in other investigations, justified even if the trader would have had no importing functions.

(235) Two of the sampled groups sold negligible volumes of tiles of subprime quality (see recital (217) to the Union. These sales were excluded from the volumes used to establish the export price. This approach was maintained after final disclosure, as noted in recital (217) *in fine*.

3.2.4. *Comparison*

(236) The Commission compared the normal value and the export price of the sampled exporting producers on an ex-works basis.

(237) Where justified by the need to ensure a fair comparison, the Commission adjusted the normal value and/or the export price for differences affecting prices and price comparability, in accordance with Article 2(10) of the basic Regulation. Adjustments were made for transport, insurance, handling, loading and ancillary costs, customs clearance and assimilated costs, commissions, discounts and rebates.

(238) Following final disclosure, the Hitit Group contested that fact that the Commission had rejected a credit cost adjustment. The Commission dismissed the claim. The Commission rejected the adjustment because the party failed to prove, as requested in Article 2(10) the basic Regulation, that the cost of any credit granted was indeed a factor taken into account in the determination of the prices charged.

(239) During the investigation period, the Hitit Group often exported ceramic tiles to the Union through related traders located in Türkiye. The Commission found that the functions of these related traders were similar to those of an agent as they received a mark-up for their services.

(240) The Bien & Qua Group's related traders in Türkiye involved in sales to the Union received a mark-up for their services and had functions similar to those of an agent remunerated on a commission basis.

(241) The Commission disclosed further details of these findings via an individual disclosure only to the group concerned for confidentiality reasons.

(242) In light of the above, for all the (groups of) sampled exporting producers, for sales to the Union involving related parties in Türkiye, the export price was adjusted pursuant to Article 2(10)(i) of the basic Regulation. The Commission deducted from the export price the SG&A costs of the related party(ies) and the profit described in recital (232) *in fine*.

(243) Following final disclosure, the Bien & Qua Group claimed that no deduction of SG&A and profit was warranted under Article 2(10)(i) of the basic Regulation because the different entities in the group formed a single economic entity.

(244) In the Commission's view, several factors contradict the claim for a single economic entity for this group. The fact that the Bien & Qua Group entities were economically controlled and managed by the same persons and that verification visits took place mostly at the premises of the producers did not necessarily make the group a single economic entity. The Commission noted that the producers and related traders were based in different locations (with registered offices in places different from those of the related manufacturers) and that the related traders often had unrelated suppliers and/or dealt with products other than the product under investigation. In addition, there were sales departments in different entities, including the manufacturing entities, with different roles. Those related

traders thus could not be said to be operating as the internal sales department of the related producers. These elements, and also taking into account the absence of sufficiently substantiated information allowing for a clear understanding of the arrangements amongst related entities in the Bien & Qua Group (see section 3.2.1.), prevented the Commission from accepting the Bien & Qua Group's overall claim for a single economic entity.

(245) Following final disclosure, the Bien & Qua Group claimed that no deduction of SG&A and profit was warranted under Article 2(10)(i) of the basic Regulation because of the Commission's approach in a recent investigation ([18]), according to which an adjustment under Article 2(10)(i) would be inconsistent with Article 2(1) of the basic Regulation.

(246) The Commission disagreed. First, the Commission noted that, indeed, Article 2(1) of the basic Regulation, which determines the normal value, and Articles 2(8) and 2(9) of the basic Regulation, which determine the export price, are worded differently. The fact that export prices are established in a different manner than domestic prices does not in itself give rise to an unfair comparison. Moreover, the party compared incomparable factual situations. The investigation quoted by the Bien & Qua Group refers to a steel service center that was integrated in the production chain of the manufacturer. In light of its operations, that steel service center could not be considered to be carrying out functions similar to those of an agent acting on a commission basis within the meaning of Article 2(10)(i) of the basic Regulation. The situation was certainly different in the present investigation, with related traders not being integrated in the production chain of the Bien & Qua Group.

(247) Following final disclosure, the Bien & Qua Group claimed that, should the Commission reject the claim for a single economic entity, any deduction of SG&A and profit under Article 2(10)(i) of the basic Regulation was unfounded because it created unjustified differences and an unfair comparison of the normal value and the export price. The party added that its sales channels were the same on the domestic and export markets. This last statement contradicted other statements made by the party in early stages of the proceeding ([19]) and was found to be incorrect as in the domestic market, the main strategy of the Bien & Qua Group entities was, on the basis of a common price list, to keep a broad base of local dealers. Those dealers had access to the manufacturers' ERP system automatically in order to place orders. In contrast, in the export market, the order-sale flow differed and manufacturers expected the group's foreign trade companies to create added value starting from the common price list. The Commission found therefore that the deductions of SG&A and profit under Article 2(10)(i) of the basic Regulation were justified with respect to the export side of the group's operations.

(248) Finally, the Commission also underlined that, although repeatedly requested, at no point in time during the investigation had the Bien & Qua Group provided clarity on the contractual arrangements that the producers had with the related entities active in selling their products domestically and on the export markets (see also recitals (209)). This lack of information prevented the Commissions from fully assessing the claim that the situation with regard to domestic and export sales would be exactly the same for those traders involved in both sales flows. In any event, the Bien & Qua Group never submitted any information concerning the level and quantification of the adjustment to the normal value; let alone any underlying evidence justifying a concrete level of adjustment.

(249) On that basis, the claim that any deduction of SG&A and profit under Article 2(10)(i) of the basic Regulation resulted in an unfair comparison between the normal value and the export price was rejected.

(250) Sampled exporting producers contested the deduction of the profit described in recital (232) *in fine* on the grounds that the scope of the activities of the parties related to the sampled exporting producers and importers in the Union were different. The Commission deemed that claim unfounded, as the level of the profit was reasonable and consistent with the target profit declared by one sampled group for a Turkish related trader.

([18]) Commission Implementing Regulation (EU) 2022/1395 of 11 August 2022 imposing a definitive anti-dumping duty on imports of certain corrosion resistant steels originating in Russia and Türkiye (OJ L 211, 12.8.2022, p. 127), recital (126).

([19]) See namely sections D and E of the open versions of the questionnaire replies submitted by the two manufacturers available in t22.001010.

(251) Some currency conversion issues were identified. Article 2(10)(j) of the basic Regulation provides that the date of sale should be the date of invoice, and that the date of contract, purchase order or order confirmation might be used if these more appropriately establish the material terms of sale. Consequently, given that during the investigation period the Turkish Lira's exchange rate fluctuated (and overall fell significantly) strongly against the Euro ([20]), the Commission considered that the material terms of sale were settled at the time of the purchase order rather than at the date of invoice. The gap between the customer purchase order and the date of the invoice varied, but was around two months on average.

(252) Following the final disclosure, several parties complained that the above methodology artificially depressed export prices (increasing thus artificially dumping margins) and asked the Commission to consider that the material terms of sale were settled by the date of the invoice. Given the undeniable exchange rate fluctuation of the Turkish Lira against the Euro during the investigation period, the Commission deemed it unjustified to consider that the Union customer paid a price in euro higher than the one frozen at the time of the customer purchase order. The claim, unsupported, was dismissed. Following the final disclosure, the Hitit Group claimed that, should the Commission stick to its approach, it should then account for domestic inflation when establishing domestic prices. In the absence of any concrete proposal on how to proceed, the Commission dismissed the claim.

3.2.5. *Dumping margins*

(253) For the sampled cooperating exporting producers, the Commission compared the weighted average normal value of each type of the like product with the weighted average export price of the corresponding type of the product concerned, in accordance with Article 2(11) and (12) of the basic Regulation.

(254) Following final disclosure, the Vitra Group put forward calculation errors under the sections above. The Commission corrected those errors. The correction resulting in a definitive dumping margin below *de minimis* for the Vitra Group.

(255) On this basis, the definitive weighted average dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Company	Definitive dumping margin
Hitit Seramik Sanayi ve Ticaret A.Ş.	20,9 %
Qua Granite ve Hayal Yapi Ürünleri San. Tic. A.Ş. Bien Yapi Ürünleri San. Tic. A.Ş.	4,8 %
Vitra Karo Sanayi ve Ticaret A.Ş.	0 %

(256) For the non-sampled cooperating exporting producers, the Commission calculated the weighted average dumping margin, in accordance with Article 9(6) of the basic Regulation. Therefore, that margin was established on the basis of the weighted average margins of the sampled exporting producers, at 9,2 %.

(257) For all other exporting producers in Türkiye, the Commission established the dumping margin on the basis of the facts available, in accordance with Article 18 of the basic Regulation. To this end, the Commission determined the level of cooperation of the exporting producers. The level of cooperation is the volume of exports of the cooperating exporting producers to the Union expressed as proportion of the total imports from the country concerned to the Union in the investigation period, that were established on the basis of import statistics from Eurostat (Comext).

([20]) From 1 euro = 7,884 Turkish Lira in July 2020, to 1 euro = 10,382 Turkish Lira in June 2021 (i.e., -32 % overall). Sources: The European Central Bank, DG Budget, Pacific Exchange Rate Service.

(258) The level of cooperation in this case is high because the exports of the cooperating exporting producers constituted around 90 % of the total imports in m^2 during the investigation period. On this basis, the Commission found it appropriate to establish the dumping margin for non-cooperating exporting producers at the level of the sampled company with the highest dumping margin.

(259) The definitive dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Company	Definitive dumping margin
Hitit Seramik Sanayi ve Ticaret A.Ş.	20,9 %
Qua Granite ve Hayal Yapi Ürünleri San. Tic. A.Ş. Bien Yapi Ürünleri San. Tic. A.Ş.	4,8 %
Vitra Karo Sanayi ve Ticaret A.Ş.	0 %
Other cooperating companies	9,2 %
All other companies	20,9 %

(260) Several parties contested the high dumping margin established for non-sampled exporting producers and called for a reduction of its level via, for instance, ignoring the sampled company with the highest dumping margin, claimed to be unrepresentative. Following the additional partial disclosure, several parties added that establishing the duty for cooperating companies on the basis of findings for the two remaining exporting producers, which together accounted for less than 25% of total Turkish imports, was unfair, unobjective and/or contrary to the general principle of law of proportionality. Some parties stated that the fact that the basic Regulation read that the dumping margin for cooperating parties "shall not exceed" the weighted average dumping established with respect to the sampled parties gave the Commission the discretion to set their duty at a level lower level that the weighted average dumping established with respect to the sampled parties. In this respect, a party proposed a duty of 4,58 % for cooperating companies, i.e. an alternative calculation based on the weight of the two remaining exporters in the sample. The Commission recalled that it had established the duty rate for cooperating non-sampled exporting producers in light with its standard practice and according to the provisions in Article 9(6) of the basic Regulation and that it had no indication that the rate thus calculated was unrepresentative. The claim was therefore dismissed.

(261) The GOT contested the high dumping margins established as compared to other anti-dumping investigations against Türkiye. The Commission recalled that it has established the duty rates on an objective basis, according to the provisions in the basic Regulation. The claim was therefore dismissed.

4. **INJURY**

4.1. **Definition of the Union industry and Union production**

(262) As mentioned in recital (59), the ceramic tiles industry in the Union is highly fragmented. The like product was manufactured by over 300 producers in the Union during the investigation period. They constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.

(263) As further mentioned in recitals (59) and (60), the Union industry was divided into three categories of producers based on their annual production volume: small, medium-sized and large. Large producers represented approximately half of the total Union production (see recital (306)).

(264) The total Union production during the investigation period was established at around 1,2 billion m^2. The Commission based the production figure on verified information provided by CET. CET collected production volumes from its individual members and national associations. Where such information was not available, CET supplemented the production statistics with data from PRODCOM ([21]), which where necessary were extrapolated for the first half of 2021 using the manufacturing index published by Eurostat ([22]).

([21]) Available at https://ec.europa.eu/eurostat/web/prodcom/data/database (last viewed 19 September 2022).
([22]) Available at https://ec.europa.eu/eurostat/databrowser/view/sts_inpr_q/default/table?lang=en (last viewed 19 September 2022).

(265) As indicated in recital (67), the six sampled Union producers represented 6 % of the total Union production of the like product.

(266) Netto and Cortina provided numerous submissions throughout the investigation arguing against the existence of injury, dumping and Union interest in connection with Indian exports into the Union. These are addressed below. Furthermore, they claimed to be Union producers, labelling themselves the "Manufacturers from Białystok". However, the investigation revealed that none of these companies had manufacturing activity in the Union; they imported ceramic tiles from their business partners in India. Therefore, they could not be considered part of the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.

4.2. **Union consumption**

(267) The Commission established the Union consumption by adding the sales of the Union industry, established on the basis of verified information as provided by CET, and the import volumes. The information on import volumes was sourced from Eurostat (Comext database).

(268) Union consumption developed as follows:

Table 1

Union consumption (m^2)

	2018	2019	2020	Investigation period
Total Union consumption	785 188 575	811 717 138	814 739 259	834 201 394
Index (2018=100)	*100*	*103*	*104*	*106*

Source: CET, Eurostat, sampled Union producers

(269) In the period considered, the Union consumption grew continuously. In the investigation period, it was 6 % higher than in 2018. The increase in the Union consumption was served mainly by imports.

4.3. **Imports from the countries concerned**

4.3.1. *Cumulative assessment of the effects of imports from the countries concerned*

(270) The Commission examined whether imports of ceramic tiles originating in the countries concerned should be assessed cumulatively, in accordance with Article 3(4) of the basic Regulation.

(271) Save for the Lavish Group and the Vitra Group, the margins of dumping established in relation to the imports from India and Türkiye were above the *de minimis* threshold laid down in Article 9(3) of the basic Regulation.

(272) The volume of non-dumped imports from the Lavish Group amounted to [6 – 9 %] of total imports from India in the investigation period, and around [40 – 45 %] of sampled imports. To establish whether the findings with regard to this company could be extended to all non-sampled imports, the Commission compared the prices of the Lavish Group to prices from the other two sampled exporting producers, non-sampled cooperating exporting producers and the average price of all Indian imports (excluding Lavish) from Eurostat. Based on the information submitted in the sampling forms, the Lavish Group's average export price was [19 – 22 %] higher than the average export price of the more than 140 Indian exporters that submitted sampling replies. The total export volume of those companies accounted for 84% of all imports from India into the Union (see recital (207)). The group's CIF export price was [7 – 9 %] higher than the average CIF price of all imports from India and [14 – 16 %] higher than those of the other two sampled exporting producers. Therefore, the Commission considered that it could not extend the findings of absence of dumping regarding the Lavish Group to the non-sampled exporting producers.

(273) The volume of non-dumped imports from the Vitra Group amounted to over 25 % of total imports from Türkiye in the investigation period, and over half of sampled imports. To establish whether the findings with regard to this company could be extended to all non-sampled imports, the Commission compared the prices of the Vitra Group to the weighted average price of non-sampled cooperating exporting producers as reported in the sampling form.

On this basis, the Vitra Group's average export price was [18 – 20 %] higher than the average export price of 70 % of the volumes sold by non-sampled Turkish exporters that submitted sampling replies, for which the Commission had no normal value findings. The total export volume of the companies that submitted sampling replies accounted for around 90 % of all imports from Türkiye into the Union (see recital (258)). Therefore, the Commission considered that it could not extend the findings of absence of dumping regarding the Vitra Group to the non-sampled exporting producers. Following the additional partial disclosure, the GOT and some cooperating exporters contested this conclusion. Some Turkish cooperating exporters asked the Commission to extend the findings of absence of dumping regarding the Vitra Group to them (on the grounds that their sampling replies showed export prices equal or higher than those of the Vitra Group) and/or to non-sampled exporting producers. The Commission dismissed their claims on the grounds explained in section 3.2.5.

(274) The volume of imports from each of the countries concerned, excluding the volume of non-dumped imports from the Lavish Group and the Vitra Group, was not negligible within the meaning of Article 5(7) of the basic Regulation. Market shares in the investigation period were [3,5 – 3,6 %] for India and [4,6 – 4,7 %] for Türkiye ([23]).

(275) The conditions of competition between the dumped imports from India and Türkiye and between the dumped imports from the countries concerned and the like product were similar. More specifically, the imported products competed with each other and with the ceramic tiles produced in the Union because they were sold through the same sales channels and to similar categories of customers.

(276) Therefore, all the criteria set out in Article 3(4) of the basic Regulation were met and imports from India and Türkiye were examined cumulatively for the purposes of the injury determination.

(277) Following final disclosure, sixteen Indian exporting producers claimed that the cumulative assessment of imports from the countries concerned put India into a disadvantageous position. They pointed out that the prices of Indian imports grew over the period considered while the prices of Turkish imports decreased. The companies further submitted that the increased imports from India only supplemented the insufficient production volume by Union producers. Consequently, they claimed that by cumulating with Türkiye, the effects of Indian imports were overestimated. Following the additional partial disclosure, the GoI also opposed the cumulative assessment and recalled the criteria that allowed for cumulation.

(278) The Commission recalled that the volume of Indian imports more than doubled in the period considered. In view of a capacity utilisation, which would have allowed the Union industry to increase their production volume to satisfy the demand in the Union market, the Commission considered that the argument of insufficient production volumes by Union producers was not justified. Furthermore, while the Indian import price rose, it remained below the level of the Turkish import price. Finally, the Commission noted that all criteria laid down by Article 3(4) of the basic Regulation were met in this proceeding. With regard to the GoI's statement, the Commission recalled that the criteria for cumulation were met as discussed in detail in recitals (271) to (276). Therefore, the Commission rejected the claim.

4.3.2. *Volume and market share of the imports from the countries concerned*

(279) The Commission established the volume of imports on the basis of Comext data. The market share of the imports was established by comparing those imports to the Union consumption determined in line with the explanation described in recital (267).

(280) Imports into the Union from the countries concerned developed as follows:

([23]) As one of the sampled exporting producers in India and one of the sampled exporting producers in Türkiye were not dumping, their imports were deducted from the total imports and analysed as non-dumped imports. The Commission used the questionnaire replies of the Lavish Group and the Vitra Group to exclude their volumes and values from total exports. For the Vitra Group, the Commission excluded traded products not produced by the group on the basis of verified information for the investigation period. The regulation uses ranges for some figures because otherwise it would disclose confidential data from these sampled exporting producers, as the import statistics at CN level are publicly available.

Table 2

Import volume (m²) and market share

	2018	2019	2020	Investigation period
India – import volume	[13 000 000 – 14 000 000]	[17 000 000 – 18 000 000]	[22 000 000 – 23 000 000]	[29 000 000 – 30 000 000]
Index (2018=100)	*100*	*134*	*167*	*220*
India – market share	[1,7 – 1,8 %]	[2,2 – 2,3 %]	[2,7 – 2,8 %]	[3,5 – 3,6 %]
Index (2018=100)	*100*	*130*	*161*	*207*
Türkiye – import volume	[26 000 000 -27 000 000]	[31 000 000 – 32 000 000]	[35 000 000 – 36 000 000]	[38 000 000 – 39 000 000]
Index (2018=100)	*100*	*118*	*135*	*147*
Türkiye – market share	[3,3 – 3,4 %]	[3,8 – 3,9 %]	[4,4 – 4,5 %]	[4,6 – 4,7 %]
Index (2018=100)	*100*	*115*	*130*	*138*
Total countries concerned – import volume	[39 000 000 – 41 000 000]	48 000 000 – 50 000 000]	[57 000 000 – 59 000 000]	[67 000 000 – 69 000 000]
Index (2018=100)	*100*	*124*	*146*	*172*
Total countries concerned – market share	[5 - 5,2 %]	[6 – 6,2 %]	[7,1 – 7,3%]	[8,1 – 8,3%]
Index (2018=100)	*100*	*120*	*141*	*161*

Source: Eurostat, sampled exporting producers

(281) Imports from the countries concerned as well as their market share increased steadily over the period considered. Imports from the countries concerned increased by 72 %, which translated into an increase of their market share by 61 %. The Union market share of imports from the countries concerned was [8,1 – 8,3 %] during the investigation period, from [5 – 5,2 %] in 2018.

(282) Following final disclosure, the GoT argued that the increase in Turkish imports was of temporary nature and the additional imports merely replaced Union products as the Union production was temporarily interrupted due to the Covid-19-related sanitary measures adopted by the Member States. To support this claim, the GoT compared the volume of exports to the Union in first ten months of 2021 with the same period of 2022. The Turkish exports of ceramic tiles to the Union dropped by approximately 3,5 million m². The GoT and Sogutsen Seramik reiterated this claim in their comments on the additional partial disclosure.

(283) In this respect, the Commission noted that imports from Türkiye increased continuously throughout the whole period considered while only 2020 was affected by the temporary interruption in the production by Union producers. In addition, the closing stock levels of the Union industry at the end of 2019 were more than sufficient to replace the reduction in production volumes. Finally, increasing Turkish exports of ceramic tiles did not respond to an increasing demand in the Union that could not be served by the Union producers. Rather, the Turkish ceramic tiles industry was under pressure of contracting domestic consumption of tiles during the period considered thus

pushing for exports at what it described as competitive prices ([24]). The reduction in exports to the Union in 2022 could not be accepted as a proof of the GoT's claims as the exports to the Union might have dropped as a consequence of the ongoing investigation. Therefore, the Commission rejected the claim.

(284) The GoT also claimed that the percentage change in the market share between 2018 and the IP only appeared to be high (+42 %) because the market share of Turkish imports was low in the base year.

(285) First, the Commission noted that the evolution of the market share of dumped Turkish imports changed as the Vitra Group was found not to have been dumping after final disclosure. After excluding those volumes, the percentage change in market share of Türkiye amounted to 38%, constituting a significant increase of dumped imports. This increase in the market share is a fact established by the investigation, reflecting the actual change that took place. The Commission disagrees however that the market share of Türkiye was low in the base year. Throughout the period considered, Türkiye was the first third country supplier of the Union, constituting one third of all imports. The increase in terms of volume, amounting to around 12 000 000 square metres that were found to be dumped, was significant and had an impact in the performance of the Union industry. Therefore, the Commission rejected the claim.

(286) Following the additional partial disclosure, the GoT noted that the Turkish imports and their market share grew at a slower pace during the period considered after the Vitra Group was found not dumping. The GoT argued that the reduced market share of [4,6 – 4,7] % could not be considered injurious to the Union industry. Similarly, the GoI argued that the import volumes following the exclusion of the Vitra Group were too low to cause injury.

(287) The Commission recalled that the import volumes and their market share must be examined cumulatively for both countries concerned. The Commission considered that the market share of [8,1 – 8,3] %, which reflects dumped imports from the countries concerned, was sufficient to cause injury in the present case, in particular taking into account the structure of the Union industry and its fragmentation.

4.3.3. Prices of the imports from the countries concerned: price undercutting/price suppression

(288) The Commission established the prices of imports on the basis of Eurostat (Comext database). The verified values (at CIF level) and volumes of imports from the Lavish Group and the Vitra Group were deducted from the imports from India and Türkiye respectively for the purpose of this exercise.

(289) The weighted average price of imports into the Union from the countries concerned developed as follows:

Table 3

Import prices (EUR/m²)

	2018	2019	2020	Investigation period
India	4,35	4,79	5,12	5,49
Index (2018=100)	*100*	*110*	*118*	*126*
Türkiye	6,63	6,08	5,97	5,94
Index (2018=100)	*100*	*92*	*90*	*90*

([24]) See Türkiye: ceramic tile exports continue to grow in 2020. Available at https://ceramicworldweb.com/en/economics-and-markets/Türkiye-ceramic-tile-exports-continue-grow-2020 (last viewed 19 November 2022). See also The Turkish ceramic tile industry pushes on exports. Avalailable at https://ceramicworldweb.com/en/economics-and-markets/turkish-ceramic-tile-industry-pushes-exports (last viewed 19 November 2022).

Total countries concerned	5,86	5,61	5,64	5,75
Index (2018=100)	*100*	*96*	*96*	*98*

Source: Eurostat, sampled exporting producers

(290) The average import prices from the two countries concerned together remained stable over the period considered. The average import prices from Türkiye dropped by 10 % between 2018 and the investigation period, while the average import prices from India grew continuously and increased by 26 % between 2018 and the investigation period. The import prices from both countries were significantly lower than the prices and the cost of production of the sampled Union producers throughout the period considered (see table 7).

(291) The Commission determined the price undercutting during the investigation period by comparing:

(1) the weighted average sales prices per product type of the sampled Union producers charged to unrelated customers on the Union market, adjusted to an ex-works level; and

(2) the corresponding weighted average prices per product type of the imports from the sampled exporting producers from India and Türkiye to the first independent customer on the Union market, established on a cost, insurance, freight ('CIF') basis, with appropriate adjustments for customs duties and post-importation costs.

(292) The price comparison was made on a type-by-type basis for transactions at the same level of trade, duly adjusted where necessary, and after deduction of rebates and discounts. The result of the comparison was expressed as a percentage of the sampled Union producers' theoretical turnover during the investigation period.

(293) The above comparison showed a weighted average undercutting margin on the Union market of between 42,5 % and 54,7 % for India and 33,8 % and 57,7 % for Türkiye, depending on the exporting producer. Competition for ceramic tiles is largely driven by prices, thus the undercutting margins are very significant. The Commission further noted that a minority of the Union industry's sales were made through related parties and that, given the level of the SG&A expenses and profit of those related parties, the finding of undercutting for the cumulated imports would not be undermined even if the calculations had to be adjusted for those factors. Moreover, when excluding from that calculation the Union industry sales through related parties, which amounted to less than 25%, there was still significant undercutting, between 36 % and 54,7 % for India and 19,9 % to 61,7 % for Türkiye. Indeed, all Indian sampled cooperating exporters sold directly to the Union, and almost half of the imports made by the sampled cooperating exporters in Türkiye were also direct sales. Thus, under any alternative method, undercutting would remain significant.

(294) In addition, regardless of the findings about significant undercutting, the Commission found that because of the price suppression caused by the volumes and low prices of imports from India and Türkiye, the Union industry was unable to increase their prices to a level that would generate reasonable profits. The average price of imports from the countries concerned was below the cost of the sampled Union producers throughout the period considered (see table 3 in recital (289) and table 7 in recital (320)). Although the average sale price of the Union producers on the Union market increased by 19 % between 2018 and the IP, it remained below the cost of production throughout the period considered (see table 7 in recital (320)).

(295) The price suppression found at macro level was further confirmed by findings at company level. The injury elimination levels were determined per product type thus taking into account any potential differences between the product mix of imports and domestic sales of the Union industry. In the investigation period, the imports from the sampled exporting producers were underselling the domestic sales prices of the sampled Union producers by 92,7% to 168,7% with regard to India and by 80,8% to 150,6 % with regard to Türkiye (for details see section 6.1).

(296) Following final disclosure, the GoT pointed out that not only the import prices from Türkiye were below the cost of production of the Union producers but also the Union producers' own prices in the Union market were lower than the cost of production. In addition, while the Turkish import price decreased during the period considered, the Union producers' domestic price increased leading to improved profitability. In this respect, the GoT repeated its

accusations of the Commission having manipulated the sample of Union producers towards companies with higher cost and worse financial indicators. Moreover, the GoT argued that companies included in the small producer category were boutique firms serving high-end market and working on tailor-made basis.

(297) The GoT reiterated its issues with the representativity of the Union producers' sample and its effect on the comparison of prices after the additional partial disclosure.

(298) First, the Commission noted that the import prices from countries concerned must be examined on a cumulative basis, not individually. The average import price established on such basis remained rather stable, and significantly below the Union industry's cost of production, over the period considered. The Union industry was pressured to navigate between extremely low import prices from the countries concerned and increasing cost of production. Although its domestic prices increased, the Union industry was not able to achieve a sustainable level of profit, barely breaking even in the IP.

(299) Second, the Commission recalled that the sample was selected based on objective criteria as described in recital (72) and (73). Producers sampled in the small producer category were companies offering collections of ceramic tiles to a wide range of customers, including to general public.

(300) Consequently, the Commission rejected all claims concerning price undercutting and price suppression.

4.4. **Economic situation of the Union industry**

4.4.1. *General remarks*

(301) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.

(302) As mentioned in section 1.4.1, sampling was used for the determination of possible injury suffered by the Union industry from the imports of ceramic tiles originating in India and Türkiye.

(303) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators on the basis of data contained in the questionnaire reply of CET relating to all Union producers, crosschecked where necessary with trade statistics available in Eurostat and the questionnaires from the sampled Union producers. The Commission evaluated the microeconomic indicators on the basis of data contained in the questionnaire replies from the six sampled Union producers. Both sets of data were duly verified or remotely crosschecked and found to be representative of the economic situation of the Union industry.

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

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

(306) Taking into account the fragmentation of the Union industry and the practice established in previous investigations concerning the same product, certain micro-economic indicators in each of the producers' categories as defined in recital (59) were weighted using their share on the total Union production. As mentioned in recital (60), the structure of the industry has shifted towards large producers. Therefore, the relevant micro-indicators for large, medium-sized and small producers were weighted based on the ratio of 53:19:28, respectively. The weighting of results was used for sales prices, cost of production, profitability and return on investments, i.e. indicators that are not determined by simply adding up the results of the individual sampled Union producers but rather as a percentage or an average unit value, as well as for the average export price to unrelated customers of the sampled Union producers. The weighting ensured that the results of large producers were not overrepresented in the findings on injury and that the situation of small and medium-sized producers was properly accounted for.

4.4.2. *Macroeconomic indicators*

4.4.2.1. Production, production capacity and capacity utilisation

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

Table 4

Production, production capacity and capacity utilisation

	2018	2019	2020	Investigation period
Production volume (m²)	1 229 823 662	1 197 848 970	1 097 490 246	1 229 257 050
Index (2018=100)	*100*	*97*	*89*	*100*
Production capacity (m²)	1 455 493 248	1 438 233 198	1 441 597 966	1 440 337 389
Index (2018=100)	*100*	*99*	*99*	*99*
Capacity utilisation	84 %	83 %	76 %	85 %
Index (2018=100)	*100*	*99*	*90*	*101*

Source: CET

(308) During the period considered, the production volume, production capacity and capacity utilisation remained rather stable with year 2020 being a single outlier. The drop in production volume and consequently in capacity utilisation in 2020 was caused by the short-term interruptions in production following sanitary measures imposed by the Member States in response to the Covid-19 pandemic.

4.4.2.2 Sales volume and market share

(309) The sales of the Union industry were established by subtracting export volumes from production volumes as provided by CET and applying an adjustment accounting for the stock variation. The stock variation adjustment was based on the complaint for years 2018 – 2020. For the investigation period, it was based on company-specific data collected by CET. Production volume was determined as explained in recital (264). The information on export volumes was sourced from Eurostat, and adjusted following evidence provided by CET ([25]).

(310) The Union industry's sales volume and market share developed over the period considered as follows:

Table 5

Sales volume and market share

	2018	2019	2020	Investigation period
Sales volume on the Union market (m²)	707 146 016	724 457 535	717 890 003	726 565 367
Index (2018=100)	*100*	*102*	*102*	*103*
Market share	90,1 %	89,2 %	88,1 %	87,1 %
Index (2018=100)	*100*	*99*	*98*	*97*

Source: CET

([25]) Corrected regarding volumes for the investigation period for Spain following evidence provided by the complainant upon verification of the macro-indicators questionnaire.

(311) The Union industry's sales volume slightly increased between 2018 and 2019. It remained stable in 2020 in spite of the reduction in the Union industry's production volume due to sales from stocks (traditionally high in the ceramics industry). Following a recovery in the construction sector in 2021 ([26]), Union industry's sales volume slightly increased in the investigation period compared to 2020.

(312) The market share of the Union industry decreased in the period considered, from 90,1 % in 2018 to 87,1 % in the investigation period. The Union industry was not able to take full advantage of the expansion in Union consumption (see recital (268)).

4.4.2.3. Growth

(313) The Union industry was not able to realise the full potential from growth in the context of a growing Union consumption of ceramic tiles and the post-Covid-19 recovery of the construction market. It retained a rather stable level of production volume and booked only a slight increase in sales on the Union market.

4.4.2.4. Employment and productivity

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

Table 6

Employment and productivity

	2018	2019	2020	Investigation period
Number of employees	55 544	55 089	54 470	54 412
Index (2018=100)	*100*	*99*	*98*	*98*
Productivity (m^2/employee)	22 141	21 744	20 148	22 592
Index (2018=100)	*100*	*98*	*91*	*102*

Source: CET

(315) Union employment in the ceramic tiles sector had a slightly decreasing trend throughout the whole period considered. The number of employees involved in the ceramic tiles production was reduced by 2 % between 2018 and the investigation period.

(316) Productivity slightly decreased between 2018 and 2019. It dropped by an additional 7 % in 2020 as a consequence of reduced production due to the Covid-19-related sanitary measures. The recovery of the production volume to its pre-Covid-19 level translated into an increase in productivity by 12 % between 2020 and the investigation period.

4.4.2.5. Magnitude of the dumping margin and recovery from past dumping

(317) With the exception of one sampled Indian exporting producer and one sampled Turkish producer, all dumping margins were significantly above the *de minimis* level. The impact of the magnitude of the actual margins of dumping on the Union industry was not negligible, given the volume and prices of imports from the countries concerned.

(318) Ceramic tiles have already been subject to anti-dumping investigations. The Commission found that, during the period 1 April 2009 to 31 March 2010, the situation of the Union industry was significantly affected by dumped imports of ceramic tiles originating in the People's Republic of China ('PRC'). Provisional measures were imposed on 17 March 2011. ([27]) Definitive measures were imposed on 15 September 2011. ([28])

([26]) The European construction market to 2024. Available at https://www.ceramicworldweb.com/index.php/en/economics-and-markets/european-construction-market-2024 (last viewed 20 September 2022).

([27]) Commission Regulation (EU) No 258/2011 of 16 March 2011 imposing a provisional anti-dumping duty on imports of ceramic tiles originating in the People's Republic of China (OJ L 70, 17.3.2011, p. 5).

([28]) Implementing Regulation (EU) No 917/2011.

(319) Following an expiry review, the Commission extended the measures on 23 November 2017 ([29]) based on the likelihood of continuation of dumping and the likelihood of recurrence of injury. The investigation established that the Union industry recovered from past dumping from the PRC due to the measures in place. A second expiry review of these measures was initiated on 22 November 2022 ([30]).

4.4.3. *Microeconomic indicators*

4.4.3.1. Prices and factors affecting prices

(320) The weighted average unit sales prices of the sampled Union producers to unrelated customers in the Union, and its cost of production, developed over the period considered as follows:

Table 7

Sales prices and cost of production in the Union

	2018	2019	2020	Investigation period
Average unit sales price in the Union on the total market (EUR/ m^2)	8,84	9,42	10,44	10,52
Index (2018=100)	*100*	*106*	*118*	*119*
Unit cost of production (EUR/ m^2)	9,79	11,08	11,31	10,77
Index (2018=100)	*100*	*113*	*116*	*110*

Source: Sampled Union producers

(321) The average unit sales price grew by 19 % between 2018 and the investigation period. The greatest increase was recorded in 2020. The average unit sales price remained below the unit cost of production throughout the period considered.

(322) Unit cost of production increased by 13 % between 2018 and 2019 and by an additional 3 % in 2020. In the investigation period, unit cost of production decreased in comparison to 2020 but remained above the level of 2018 by 10 %.

4.4.3.2. Labour costs

(323) The average labour costs of the sampled Union producers developed over the period considered as follows:

Table 8

Average labour costs per employee

	2018	2019	2020	Investigation period
Average labour costs per employee (EUR)	37 923	39 432	37 316	39 568
Index (2018=100)	*100*	*104*	*98*	*104*

Source: Sampled Union producers

(324) Average labour cost per employee grew between 2018 and 2019 by 4 %. In 2020, following the Covid-19-related short-term interruptions of production, the cost decreased by 6 % compared to 2019 only to return to its 2019 level in the investigation period. In the investigation period, average labour cost per employee increased by 4 % in comparison to 2018.

([29]) Implementing Regulation (EU) 2017/2179.
([30]) Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of ceramic tiles originating in the People's Republic of China (OJ C 442, 22.11.2022, p. 3).

4.4.3.3. Inventories

(325) Stock levels of the sampled Union producers developed over the period considered as follows:

Table 9

Inventories

	2018	2019	2020	Investigation period
Closing stocks (m^2)	28 561 422	27 030 762	24 368 066	24 436 327
Index (2018=100)	*100*	*95*	*85*	*86*
Closing stocks as a percentage of production	49%	51%	44%	39%
Index (2018=100)	*100*	*104*	*91*	*79*

Source: Sampled Union producers

(326) Closing stock decreased between 2018 and 2019 in absolute terms. Nevertheless, in the same period it increased by 4 % (or 2 percentage points) when expressed as a percentage of production. Due to reduced production volumes and growing demand, the Union industry was able to reduce the volume of closing stock in absolute terms and when expressed as a percentage of production in 2020. As the production volume returned to its 2018 levels and the demand continued growing in the investigation period, closing stock expressed as percentage of production further dropped in the IP.

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

(327) Profitability, cash flow, investments and return on investments of the sampled Union producers developed over the period considered as follows:

Table 10

Profitability, cash flow, investments and return on investments

	2018	2019	2020	Investigation period
Profitability of sales in the Union to unrelated customers (% of sales turnover)	- 5,4 %	- 8,9 %	- 5,9 %	0,6 %
Index (2018=100)	*- 100*	*- 166*	*- 110*	*10*
Cash flow (EUR)	24 347 831	45 471 749	89 781 804	97 367 062
Index (2018=100)	*100*	*187*	*369*	*400*
Investments (EUR)	68 496 866	27 469 167	22 525 713	26 179 748
Index (2018=100)	*100*	*40*	*33*	*38*
Return on investments	1%	- 9%	- 10%	4%
Index (2018=100)	*100*	*- 1 600*	*- 1 832*	*660*

Source: Sampled Union producers

(328) The Commission established the profitability of the sampled Union producers by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales. The Union industry was lossmaking in the first three years of the period considered, and barely broke even in the investigation period. The loss increased between 2018 and 2019 from -5,4 % to -8,9 %. The sales price of the Union industry grew faster than the cost of production in 2020 (see table 7 in recital (320)). This resulted in a reduction of loss to -5,9 % in 2020. In the IP, the Union industry was able book a profit slightly above the breakeven point.

(329) The Union industry was able to achieve a minor profit in the IP although its average sales price to unrelated customers in the Union remained below the average cost of production (see table 7 in recital (320)). This was caused by the differences in product mix produced and product mix sold in the Union during the IP. The differences concerned not only the product types but also the time when the sold goods where produced (that is, whether they were sales from stock).

(330) The net cash flow is the ability of the Union producers to self-finance their activities. The net cash flow almost doubled between 2018 and 2019. It further considerably increased in 2020, and, at a more moderate pace, in the investigation period. The evolution of cash flow was to a large extent linked to the evolution of sales and therefore stocks. In 2018, one sampled Union producer recorded a large stock variation of finished goods, i.e. the company produced for stock. In 2019, this situation did not repeat thus turning a negative cash flow of this company into a positive one. This explained the majority of the cash flow increase between 2018 and 2019. The value of cash flow in 2020 and in the investigation period was linked to the fact that the sampled Union producers temporarily interrupted their production due to Covid-19-related lockdowns but continued selling from stock, which as shown in table 9 (see recital (325)) historically represented approximately half of their annual production quantity. The closing stock of finished goods decreased in 2020 and in the IP leading to a stock variation, which added value to the decreasing loss (2020) or the slight profit (IP).

(331) Following final disclosure, the GoT argued that since only one company could influence the results of cash flow, the sample was not representative.

(332) The cash flow presented in table 10 was a simple addition of all cash flow values of the sampled Union producers. This means that any events or evolution in one of the sampled companies influenced the final indicator no matter what share of Union production the sample would have represented. In recital (330), the Commission clarified the fluctuations in cash flow. Consequently, the claim made by the GoT was rejected.

(333) Investments decreased by 62 % in the period considered. The largest decrease of 60 % was recorded between 2018 and 2019. The investments further decreased in 2020, to then increase in the investigation period (16 % compared to 2020). Investments were in most cases financed with cash flow and bank credits. The majority of investments were in maintaining capacity and replacement. Investments in research and development and innovation, that made up for 38 % of total investments by the sampled producers in 2018, decreased by 97 % in the period considered and made up for only 3 % of their investments in the investigation period.

(334) The sampled Union producers' ability to raise capital was affected by the negative profitability. The sampled Union producers reported that the negative profitability prevented them from financing the necessary investments to exploit the growing market potential. One sampled Union producer reported that it had to downsize capacity due to its problems to raise capital. Some sampled Union producers are part of larger groups, making their ability to raise capital better than that of stand-alone companies in a similar financial situation. Yet their low profitability and prospects influence the decision of the parent companies to provide funds, that may decide to invest elsewhere.

(335) The return on investments is the profit in percentage of the net book value of investments. It decreased significantly in 2019 and 2020 to register an increase in the investigation period, following the trend in profitability.

4.5. **Conclusion on injury**

(336) In the period considered, the Union industry could not benefit from an expanding market, as shown by macro-indicators presenting negative or rather stable trends in a scenario of increasing demand. Production, production capacity, capacity utilisation or employment remained at the same level throughout the period considered. Union sales increased at a slower pace than consumption (3 % growth of Union sales in a market that grew 6 %). Consequently, the market share of the Union industry decreased from 90,1 % in 2018 to 87,1 % in the IP.

(337) Despite the increase of 19 % in its sales price, the Union industry could not raise prices in the Union to levels high enough to recover its costs during most of the period considered. As a result, throughout the period considered it was either lossmaking (-5,4 % in 2018, -8,9 % in 2019, -5,9 % in 2020) or just breaking even (0,6 % in the investigation period, influenced by the post-Covid-19 economic recovery, including increasing construction output as explained in recital (311), and where the Union industry sold significant quantities from stocks). The level of profitability achieved in the investigation period could not be considered sustainable. The Union industry could not increase their sales prices in the Union to a level that would ensure profitability levels necessary to cover its costs of production for most of the period considered and to exploit the growth in the Union market, for example by making new investments for expansion, research and development and for continuing to be active in developing segments like large slabs. Indeed, in this situation, investments decreased by 62 % and capacity remained constant, showing that the Union industry could not grow with the growing market.

(338) On the basis of the above, the Commission concluded that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.

(339) Following final disclosure, a number of interested parties commented on the injury findings and conclusions.

(340) Ceramika Netto expressed concerns about the validity of data the Commission used for its findings on injury. In particular, the company submitted the financial statements for 2021 of three Polish producers of ceramic tiles and news articles summarising the performance of the ceramics industry in Italy and Spain in 2021.

(341) CGCSA claimed that the Union producers were willing to provide information for the full year 2021 and if the Commission examined that information, it would have found that the injury stemmed solely from the effects of the Covid-19 pandemic.

(342) The Commission noted that the investigation was conducted on information, that was verified on-spot, submitted by sampled Union producers for the IP and the period considered. Ceramika Netto did not submit any comments on the sample of Union producers within the applicable deadline. Any information concerning the full year 2021 would cover a post-IP period and therefore could not be used for the determination of injury. In addition, the Commission is not aware of any proactive offers by the Union industry to submit post-IP data. Consequently, the Commission dismissed the claims by Ceramika Netto and GCSCA.

(343) The GoI, GoT, GCSCA, the Turkish company Sogutsen Seramik and sixteen Indian exporting producers claimed that the Union industry did not suffer material injury. In this respect, the GoI, GoT, GCSCA and sixteen Indian exporting producers submitted that most macroeconomic and microeconomic indicators remained stable or improved during the period considered.

(344) For example, the sixteen companies pointed out that production volume, capacity utilisation and productivity substantially increased in the IP in comparison to 2020, and that closing stocks substantially decreased in the IP in comparison to 2018. In addition, the Indian exporting producers argued that despite a reduction in market share of the Union industry by 3 percentage points in the period considered, it maintained high market shares over the whole period considered. The companies referred to the preliminary ruling of the Court of Justice of the European Union ('the Court') in eurocylinder systems AG v Hauptzollamt Hamburg-Stadt ([31]). The Court ruled that the Council committed a manifest error when it concluded that a loss of five percentage points market share was an indicator of material injury as the Union industry maintained high market share and experienced an increase in sales volumes and sales prices.

([31]) Judgment of the Court of 4 February 2021, eurocylinder systems AG v Hauptzollamt Hamburg-Stadt, Case C-324/19, ECLI:EU:C:2021:94, paragraphs 49 and 52.

(345) The GoT submitted that indicators such as profitability, production, sales volume, Union sales price, capacity utilisation, productivity, inventories, cash flow and return on investments experienced a temporary negative evolution in 2020, a year affected by the Covid-19 pandemic, but returned to a positive trend in the IP. Furthermore, the GoT argued that a few indicators showing negative trends over the period considered were not sufficient to conclude on the existence of material injury.

(346) Similarly, the GoI claimed that there was no volume injury as the market share of Indian imports was small throughout the period considered. The GoI also noted that despite losing market share, the Union industry maintained a high market share. In addition, its sales volume increased and its domestic sales price increased at a higher pace than cost of production thus leading to improved profitability.

(347) GCSCA also argued that many macroeconomic indicators, such as production volume and capacity utilisation, sales volume, high market share, maintained neutral or positive trends over the period considered. With regard to microeconomic indicators, the association pointed out that the Union domestic sales price grew at a higher pace than the cost of production of the Union industry.

(348) The Commission noted that the indicators must be examined not only in the light of their evolution but also with regard to the achieved levels. The Commission maintained that the Union industry suffered material injury due to increasing volumes of dumped imports from India and Türkiye. Although the Union domestic price grew faster than the Union industry's cost of production, the Union industry was lossmaking in almost every year of the period considered, only being able to reach the break even point in the IP. In addition, the Union industry lost market share, despite an increase in consumption.

(349) Furthermore, the parties referred to the Commission's findings concerning certain indicators (production volume, capacity utilisation) that were negatively affected by the Covid-19 pandemic in 2020 but recovered in the IP. The parties must, however, also recognise that the pandemic led to the improvement of certain indicators, e.g. closing stocks volume and cash flow. Subsequently, the Commission could not agree to the parties describing the change in the IP as substantially improved in comparison to the previous period since they already agreed that the especially poor performance in those indicators in 2020 was caused by the pandemic.

(350) With regard to the preliminary ruling of the Court in eurocylinder systems AG v Hauptzollamt Hamburg-Stadt, the Commission noted that each case must be assessed on its own merits. In the investigation concerned by the Court ruling, the Union industry experienced an increase in sales volume and sales prices while maintaining high market share and double-digit profits over the period considered. ([32]) The situation in the present case is considerably different. Although the Union producers' sales price increased and their sales volume also slightly grew, the companies remained lossmaking in almost all years of the period considered.

(351) Consequently, the Commission dismissed the claims described in recitals (343) to (347).

5. **CAUSATION**

(352) In accordance with Article 3(6) of the basic Regulation, the Commission examined whether the dumped imports from the countries concerned caused material injury to the Union industry. In accordance with Article 3(7) of the basic Regulation, the Commission also examined whether other known factors could at the same time have injured the Union industry. The Commission ensured that any possible injury caused by factors other than the dumped imports from the countries concerned was not attributed to the dumped imports. These factors are imports from other third countries including non-dumped imports from India, the export performance of the Union industry, the evolution of demand, the evolution of the cost of production of the Union industry and the impact of the Covid-19 pandemic.

([32]) Commission Regulation (EC) No 289/2009 of 7 April 2009 imposing a provisional anti-dumping duty on imports of certain seamless pipes and tubes of iron or steel originating in the People's Republic of China (OJ L 94, 8.4.2009, p. 48).

5.1. **Effects of the dumped imports**

(353) The volume of imports from the countries concerned increased by 72 % during the period considered, from [39 000 000 – 42 000 000] m² in 2018, representing a market share of [5 – 5,2] %, to [67 000 000 – 69 000 000] m² in the IP, representing a market share of [8,1 – 8,3] % during the IP. The increase of imports from the countries concerned (72 %) significantly outpaced both the increase of consumption in the Union market (6%) and the increase of Union sales (3 %). The more than 3 percentage points increase in the market share of dumped imports paralleled a loss of 3 percentage points in the market share of the Union industry, from 90,1 % in 2018 to 87,1 % in the investigation period.

(354) This gain in market share by the dumped imports was therefore at the expense of the Union industry that could not benefit from the continuously increasing consumption.

(355) The increase in imports was based on dumped, low prices. As established in recital (293), the prices from the sampled exporting producers in the Union market significantly undercut those of the Union industry, at least by 36 % for India and 19,9 % for Türkiye, in the investigation period, and in any event were significantly lower than the Union industry's costs of production.

(356) In addition to the findings of significant undercutting during the investigation period, the average import prices from the countries concerned were also much lower than those of the Union industry throughout the period considered. The price difference (based on Eurostat average figures) between the dumped imports and the prices of the Union industry was significant, and increased during the period considered, going from 2,98 EUR/m² in 2018 to 4,77 EUR/m² in the investigation period, an increase of 60 %.

(357) Due to the dumped imports, whose prices were also below the cost of production of the Union industry throughout the period considered, thereby causing significant price suppression, and to avoid further losing market share, the Union industry could not increase its prices in the Union above its cost of production during most of the period considered (see table 7 in recital (320)). It only barely broke even in the investigation period, which coincided with the post-Covid-19 recovery and with an increase in construction output (see recital (311)). In any event, the Union industry's level of profit in the investigation period was very low (0,6 %) and cannot be considered sustainable (see recital (337)). The dumped imports also outpaced Union sales in the post-Covid-19 recovery: while the Union industry's sales increased by 1,2 % in the investigation period compared to 2020, the dumped imports increased by 17,5 %.

(358) It follows from the above that the increase of dumped imports at low prices led to lost sales and prevented the Union industry from reaching reasonable levels of profit. The Commission therefore concluded that there is a causal link between the dumped imports from the countries concerned and the injury suffered by the Union industry.

5.2. **Effects of other factors**

5.2.1. *Imports from third countries*

(359) The volume of imports from other third countries developed over the period considered as follows:

Table 11

Imports from third countries

Country		2018	2019	2020	Investigation period
Non-dumped imports from India and Türkiye	Volume (m²)	[8 000 000 – 10 000 000]	[10 000 000 – 12 000 000]	[13 000 000 – 15 000 000]	[14 000 000 – 16 000 000]
	Index (2018=100)	*100*	*132*	*160*	*173*

	Market share	[1 – 1,2] %	[1,4 – 1,6] %	[1,6 – 1,8] %	[1,7 – 1,9] %
	Average price (EUR/ m^2)	[6,1 – 6,4]	[6,4 – 6,7]	[6,5 – 6,8]	[6,4 – 6,7]
	Index (2018=100)	*100*	*105*	*106*	*105*
Ukraine	Volume (m^2)	5 641 163	5 104 655	4 890 265	5 546 233
	Index (2018=100)	*100*	*90*	*87*	*98*
	Market share	0,7 %	0,6 %	0,6 %	0,7 %
	Average price (EUR/m^2)	4,22	4,44	4,37	4,55
	Index (2018=100)	*100*	*105*	*103*	*108*
China	Volume (m^2)	8 534 901	6 739 211	6 488 766	4 836 581
	Index (2018=100)	*100*	*79*	*76*	*57*
	Market share	1,1 %	0,8 %	0,8 %	0,6 %
	Average price (EUR/m^2)	5,11	5,18	4,81	4,95
	Index (2018=100)	*100*	*101*	*94*	*97*
United Arab Emirates	Volume (m^2)	3 443 921	3 220 877	3 448 721	3 194 145
	Index (2018=100)	*100*	*94*	*100*	*93*
	Market share	0,4 %	0,4 %	0,4 %	0,4 %
	Average price (EUR/m^2)	9,29	7,30	6,57	6,93
	Index (2018=100)	*100*	*78*	*71*	*75*

Others (excluding Countries concerned)	Volume (m²)	12 091 485	11 671 162	10 263 420	11 036 430
	Index (2018=100)	*100*	*97*	*85*	*91*
	Market share	1,5 %	1,4 %	1,3 %	1,3 %
	Average price (EUR/m²)	6,68	6,24	6,96	7,15
	Index (2018=100)	*100*	*105*	*106*	*107*
Total of all third countries except the countries concerned, including non-dumped imports from India and Türkiye)	Volume (m²)	[38 000 000 – 40 000 000]	[37 000 000 – 39 000 000]	[38 000 000 – 40 000 000]	[39 000 000 – 41 000 000]
	Index (2018=100)	*100*	*100*	*101*	*103*
	Market share	[4,8 – 5] %	[4,6 – 4,8] %	[4,7 – 4,9] %	[4,7 – 4,9] %
	Average price (EUR/m²)	[6 – 6,3]	[5,9 – 6,2]	[6 – 6,3]	[6,2 – 6,5]
	Index (2018=100)	*100*	*98*	*100*	*103*

Source: Eurostat, sampled exporting producer

(360) Imports from all third countries except the countries concerned but including the non-dumped imports from India and Türkiye (hereinafter 'all third countries') increased by 3 % over the period considered. Imports from other third countries amounted to [36 – 38] % of total imports into the Union in the investigation period (down from [48 – 50] % of imports in 2018). Their share of the Union market decreased year-on-year, going from [4,8 – 5] % in 2018 to [4,7 – 4,9] % in the investigation period. With the exception of non-dumped imports from the countries concerned, and China in year 2018, no other single country achieved a market share of more than 1 % throughout the period considered.

(361) The average price of imports from all third countries first decreased by 2 % from 2018 to 2019, then slowly increased from 2020 to reach a level 3% higher in the investigation period compared to 2018. The prices of those imports were higher than the import prices of dumped imports from the countries concerned throughout the period considered. The biggest difference was registered in the IP, when the average price from all third countries was [8-12] % higher than the average import price of dumped imports from the countries concerned.

(362) Non-dumped imports from the countries concerned increased by 73% over the period considered, from [8 000 000 – 10 000 000] square metres in 2018 to [16 000 000 – 18 000 000] in the investigation period. Their market share increased from [1 – 1,2] % in 2018 to [1,7 – 1,9] % in the investigation period. The prices of those imports were higher than the import prices of dumped imports from the countries concerned throughout the period considered. In 2019, 2020 and the investigation period they were at least 14% higher than the average import price of dumped imports from the countries concerned. The average import prices were below those of the Union industry throughout the period considered. Therefore, these imports and their increase had a negative impact in the performance of the Union industry.

(363) Imports from all third countries except the countries concerned but including the non-dumped imports from India and Türkiye might therefore have contributed to a limited extent to the material injury suffered by the Union industry. However, given that their average prices are higher than those of dumped imports from the countries concerned, that the volumes are smaller and did not gain market share in the period considered, those imports, both collectively and individually, do not attenuate the causal link established with the dumped imports from India and Türkiye.

(364) Following the additional partial disclosure, the GoT argued that the Commission's conclusions concerning the effect of non-dumped imports from the countries concerned and from all third countries on the situation of the Union industry were biased as the Commission found that the non-dumped imports from the countries concerned had a negative impact on the performance of the Union industry while the imports from all third countries contributed to the material injury only in a limited extent, in particular since the imports form all third countries reached a volume four times higher than non-dumped imports from the countries concerned.

(365) The Commission noted that recitals (362) and (363) had to be read together. Taking into account their volumes and prices, both, the non-dumped imports from the countries concerned and other third country imports, had a negative impact on the Union industry's performance, but not of a magnitude to attenuate the causal link. As explained in recital (360), the category "all third countries" includes also the non-dumped imports from India and Türkiye. Consequently, the Commission rejected the claim.

(366) Following the additional partial disclosure, the GoI argued that the imports from India were in terms of volume and prices similar to the imports from third countries (excluding the non-dumped imports from the countries concerned). The Commission, nevertheless, did not investigate those third countries. According to the GoI, this proved that the Union industry did not suffer injury due to dumped imports from India but due to high cost of production. In addition, the GoI pointed out that since the profitability of the Union industry improved as the Indian imports increased, there was not causal link between the dumped imports from India and the material injury suffered by the Union industry.

(367) The Commission recalled that it examined the impact of imports from India and Türkiye that were found to be made at dumped prices. The investigation was initiated based on sufficient evidence of dumping provided by the complainant. As no such evidence was submitted with regard to other third countries, the Commission did not investigate those countries and therefore, could not make any findings of dumping in this investigation. The Commission acknowledged that the imports from all third countries contributed to the material injury in a limited manner (see recital (363)). As far as it concerns the import volumes, the Commission analysed the requirements for a cumulative assessment of dumped imports and found that all requirements were met in this investigation. Thus, the imports from India could not be considered as negligible. Finally, as explained in recital (298), although the Union industry was able to increase its prices and by doing so improve its financial performance, it was only able to achieve profitability levels slightly above the breakeven point in the IP. In addition, as explained in recitals (293) to (295), the Commission found substantial undercutting and price suppression caused by the dumped imports from India and Türkiye. Therefore, the claim that the imports from India could not, in terms of volumes and prices, cause material injury to the Union industry was rejected.

5.2.2. Export performance of the Union industry

(368) The Commission examined the evolution of exports and prices for the whole EU Industry based on Eurostat's Eurostat data ([33]).

Table 12

Exports from the Union

	2018	2019	2020	Investigation period
Export volume (m^2)	470 484 212	470 086 762	447 819 312	514 369 625
Index (2018=100)	*100*	*100*	*95*	*109*
Average price (EUR/m^2)	8,58	8,53	8,78	8,77
Index (2018=100)	*100*	*99*	*102*	*102*

Source: CET, Eurostat

(369) According to Eurostat data, Union exports of ceramic tiles increased by 9 % during the period considered. Exports remained stable the first two years of the period considered to then decrease by 5 % between 2019 and 2020, then increase in the investigation period, namely 15 % year-on-year. The average price of exports remained rather stable throughout the period considered, registering an increase of 2 %.

(370) Interested parties claimed, based on the data in the complaint, that the export performance of the Union industry was a cause of injury, due to the decline in 2020 and the fact that the average export price was lower than the cost of production of the complainants.

(371) Such comparison was incorrect. First, Eurostat data included all Union exports (including those to related customers outside the Union) while the cost of production of the complainants represented only part of Union exports. Second, the investigation period covered a different period than the one used in the complaint.

(372) In any case, the Commission also analysed the export performance of the Union sampled producers, based on verified data. The volume and average price of exports to unrelated customers of the sampled Union producers developed over the period considered as follows:

Table 13

Export performance of the sampled Union producers

	2018	2019	2020	Investigation period
Export volume (m^2)	6 906 051	7 483 379	7 105 324	9 669 741
Index (2018=100)	*100*	*108*	*103*	*140*
Average price (EUR/m^2)	13,60	13,81	11,63	11,24
Index (2018=100)	*100*	*102*	*85*	*83*

Source: Sampled Union producers

([33]) Corrected regarding volumes for the investigation period for Spain following evidence provided by the complainant upon verification of the macro-indicators questionnaire.

(373) The volume of exports of the sampled Union producers increased by 40 % during the period considered. The biggest increase was registered in the investigation period, namely 36 % year-on-year (i.e. when compared to 2020). The average price of exports from the sampled Union producers decreased by 17 % over the period considered. It first increased slightly, then went down in 2020 and the investigation period. Despite this decrease, the average export price of the sampled Union producers was above their cost of production throughout the investigation period.

(374) Given its positive evolution, the export performance of the sampled Union producers or of the whole Union industry could not have contributed to the material injury suffered by the Union industry.

(375) Following final disclosure, the GoT claimed that the loss in market share by Union industry could not be attributed to dumped imports from the countries concerned. The party pointed out the growing export volume of the Union industry and argued that the loss of market share was caused by the Union industry prioritising exports over domestic sales. The GoT reiterated this claim after the additional partial disclosure.

(376) The Commission disagreed. The volume of closing stock and the level of capacity utilisation of the Union industry would have enabled the Union industry to increase its export volumes and domestic sales volumes at the same time. Therefore, the improved export performance of the Union industry over the period considered could not justify the loss of the Union industry's market share, that was due to the increasing volumes of dumped imports that undercut and suppressed the Union industry's prices, as concluded in recital (358). The Commission rejected the claim.

5.2.3. *Consumption*

(377) Some parties claimed that the global decline in ceramic tiles consumption was a cause of injury to the Union industry. As established in recitals (267) to (269) however, consumption increased steadily in the Union throughout the period considered. Therefore, it cannot have contributed to the material injury suffered by the Union industry.

5.2.4. *Evolution of the cost of production*

(378) Interested parties submitted that increases in costs of raw materials, energy, transport and CO_2 emission allowances were a cause of injury for the Union industry.

(379) The cost of production of the Union industry was higher than its sales price, and it increased, for most of the period considered. Therefore, the Union industry registered heavy losses throughout the period considered. However, as explained in recital (357), the Union industry could not increase its prices in the Union above its cost of production during most of the period considered, or made sustainable levels of profit, to avoid losing more market share to the dumped imports at low prices.

(380) Following final disclosure, the GoI, GoT and sixteen Indian exporting producers claimed that the Commission failed to examine other factors, such as increasing cost of raw materials, energy, CO_2 allowances and labour.

(381) The Commission examined the verified information of the sampled Union producers and found that the cost of raw materials (per m^2) increased only slightly (by approximately 4 %) over the period considered. The cost of energy and labour per m^2 actually decreased. Compliance cost per m^2 remained rather stable over the period considered. In addition, as explained in recital (379), the Union industry suffered losses to its inability to increase prices under the price pressure from imports from India and Türkiye. Consequently, the claim was dismissed.

5.2.5. *Covid-19 effects*

(382) Interested parties claimed that the Covid-19 pandemic was a cause of injury for the Union industry due to production shutdowns. They further claimed that this was the reason behind their cost increases, given their reliance on imports of raw materials and the supply chain disruptions created by the Covid-19 pandemic. Finally, some interested parties claimed that the fact that the Union industry did not lay off workforce despite the shutdowns was also a cause for the cost increase and amounted to self-inflicted injury.

(383) On the supply side, during the first wave of the Covid-19 pandemic, in the first half of 2020, most Union producers had to temporarily shut down their production facilities. This was clearly reflected in the production volume, which dropped by 11 % in 2020 when compared to 2018 and by 8 % when compared to 2019. However, production recovered in the IP (see Table 4).

(384) The Commission also analysed the impact on the sampled Union producers. This analysis confirmed the Union-wide findings. The measures taken because of the Covid-19 pandemic varied between producers located in different Member States. Four of the sampled Union producers had to shut down their production facilities in the first half of year 2020 (March and April), while two of them did not close but reduced production. All sampled Union producers reported a decrease in production during the shutdowns when compared to the same period of previous year, but production recovered in the IP.

(385) Despite the closures, the cost of production only went up slightly (+2 %) in 2020 as compared to 2019 (see recital (320)). One sampled Union producer reported that, in the second half of 2020, it benefited from low costs of raw materials and of all production factors, especially energy and transport costs, due to the unusual availability of labour, services and supplies. Any supply chain impact was thus negligible. Regarding the workforce, the measures taken by the sampled producers varied in different Member States, from reducing salaries, putting employees on short time work, use of redundancy funds or vacation time, or protection schemes that led to savings.

(386) On the demand side, as seen in recital (268), the Union market kept growing during the Covid-19 pandemic. The trends of consumption, imports and Union industry sales in the Union increased steadily across the period considered, with imports from the countries concerned growing at much faster paces than the sales of the Union industry and consumption, also in 2020. The Union industry was able to maintain its volume of sales in 2020, despite the temporary factory closures, by selling from stocks, as this particular industry is characterised by very high levels of stocks (around 50 % of production). Accordingly stocks registered a reduction in 2020 and in the IP (see recital (325)).

(387) Therefore, as demand remained stable and the Union industry was able to resume production fast after the closures and use its stock to maintain its sales volume, the effects of the Covid-19 pandemic on the Union industry were limited and did not attenuate the causal link established with the dumped imports from India and Türkiye.

(388) Following final disclosure, the GoI, GoT, CGCSA, Sogutsen Seramik and Yurtbay Seramik reiterated that the inury was caused by the Covid-19 pandemic and claimed that the Commission did not examine its impact sufficiently. CGCSA submitted that the Commission failed to collect quantitative data to examine the effects of Covid-19.

(389) The claim that injury was caused by the Covid-19 pandemic was already addressed in recitals (383) to (387). The Commission examined the impact of the Covid-19 pandemic on the performance of the Union industry both on the supply side and the demand side, both at the level of the whole Union industry and also at the level of the sampled Union producers (see recitals (384) and (385)). The Commission collected data on all injury indicators and examined the impact of the Covid-19 pandemic on that basis. It acknowledged that the pandemic had a clear impact on the production volumes of the Union industry, that recovered quickly, and on their level of stocks, but a negligible one on sales volume, costs, imports and consumption. Moreover, the Commission collected additional information on the impact of the Covid-19 pandemic from the sampled Union producers, such as the duration of the closures for those companies that closed or the measures they took regarding the workforce. Interested parties have not provided any new evidence or arguments that could change these conclusions, nor any evidence of what other data the Commission should have collected or analysed. Consequently, the Commission dismissed these claims.

5.3. **Conclusion on causation**

(390) The Commission established a causal link between the injury suffered by the Union industry and the dumped imports from India and Türkiye. The increase of dumped imports from the countries concerned coincided with a decrease of the Union industry's market share in the Union market. Most of the growing demand in the Union was taken up by the imports. The increase of imports from the countries concerned was based on low, dumped prices that were below the cost of production of the Union industry, significantly undercut the Union industry sales prices in the Union market and prevented the Union industry from setting prices at sustainable levels necessary to achieve reasonable profit margins.

(391) The Commission distinguished and separated the effects of all known factors on the situation of the Union industry from the injurious effects of the dumped imports. The effect of non-dumped imports, of the export performance of the Union industry, of the evolution of the Union consumption, of the evolution of the Union industry's cost of production and of the Covid-19 pandemic on the Union industry's negative performance concerning its market share and profitability was only limited.

(392) On the basis of the above, the Commission concluded that the dumped imports from the countries concerned caused material injury to the Union industry and that the other factors, considered individually or collectively, did not attenuate the causal link between the dumped imports and the material injury.

(393) Following final disclosure, the GoI pointed out with regard to the conclusions on causation that the Union industry experienced losses already in 2018 when Indian imports were negligible. In addition, as the Indian imports grew, the profitability situation of the Union producers improved too. Therefore, according to the GoI, there was no causal link between Indian imports and the injury suffered by the Union industry.

(394) The Commission noted that the impact of imports from India and Türkiye was assessed cumulatively, not individually. In any case, the investigation established that Indian dumped imports more than doubled from 2018 to the investigation period. This increase was based on dumped prices that were below the cost of production of the Union industry throughout the period considered. Faced with this increase, the Union industry both lost sales to the dumped imports and, to avoid losing further sales, could not set its prices at levels necessary to achieve reasonable profit margins. Therefore, there is a clear causal link between the dumped imports and the injury suffered by the Union industry. Consequently, the Commission dismissed the claim.

(395) Following the analysis of comments received after final disclosure, the Commission confirmed its findings concerning causation.

6. **LEVEL OF MEASURES**

(396) To determine the level of the measures, the Commission examined whether a duty lower than the margin of dumping would be sufficient to remove the injury caused by dumped imports to the Union industry.

6.1. **Injury margin**

(397) The injury would be removed if the Union industry were able to obtain a target profit by selling at a target price in the sense of Articles 7(2c) and 7(2d) of the basic Regulation.

(398) In accordance with Article 7(2c) of the basic Regulation, for establishing the target profit, the Commission took into account the following factors: the level of profitability before the increase of imports from the countries under investigation, the level of profitability needed to cover full costs and investments, research and development (R&D) and innovation, and the level of profitability to be expected under normal conditions of competition. Such profit margin should not be lower than 6 %.

(399) Neither the complainant nor any of the sampled Union producers made any substantiated claim regarding the level of the target profit.

(400) The complaint used a target profit of 6 %, the minimum provided for in Article 7(2c) of the basic Regulation, and provided no evidence that it should be set at a higher level. The complaint merely stated that the complainant expected the underselling calculation during the investigation to be based on a higher target profit reflecting significantly higher environmental costs expected in the Union during the period of application of the measures. However, future environmental costs are not a factor for the determination of the target profit according to Article 7(2c) of the basic Regulation. Indeed, these costs are reflected in the final target price according to Article 7(2d) of the basic Regulation.

(401) Only two sampled Union producers commented on the appropriate level of the target profit. One of them proposed using a target profit of [6 – 7 %], the profit it achieved in 2018, when the presence of the dumped imports was lower. The second sampled Union producer stated it was unable to provide an answer as it had been competing with imports from India and Türkiye throughout the period considered and even before.

(402) Given the fragmentation of the EU industry, the profit of a single sampled Union producer in a given year is not sufficient basis to establish the target profit for the whole Union industry. Moreover, imports from the countries concerned were already present in the market in 2018 at prices below the Union industry's cost of production, and the Union industry was loss-making.

(403) Indeed, as shown in Tables 2 and 10, the Union industry was loss-making or barely breaking even throughout the period considered, while the presence of imports from the countries concerned was already significant in 2018 and increased steadily. None of these years would therefore qualify for providing a target profit in line with Article 7(2c) of the basic Regulation.

(404) No sampled Union producer provided a calculation of the profitability of the product under investigation for ten years before the initiation of the investigation, as asked in the questionnaire. The Commission also took note of the target profit established for this industry in the ceramic tiles investigation against China (3,9 %), that however dates back to 2010 ([34]), as well as the profitability achieved by the Union industry in the period considered for the expiry review investigation on imports originating in China, throughout which the Union industry was loss-making ([35]).

(405) Finally, none of the sampled producers made a substantiated claim or provided any evidence that their level of investments, research and development ('R&D') and innovation during the period considered would have been higher under normal conditions of competition.

(406) In view of the above facts, the Commission resorted to the use of the minimum target profit of 6 % as per Article 7(2c) of the basic Regulation. This target profit margin was added to the Union industry's actual cost of production to establish the non-injurious price.

(407) In accordance with Article 7(2d) of the basic Regulation, as a final step, the Commission assessed the future costs resulting from Multilateral Environmental Agreements, and protocols thereunder, to which the Union is a party, and of ILO Conventions listed in Annex Ia of the basic Regulation that the Union industry would incur during the period of the application of the measure pursuant to Article 11(2) of the basic Regulation. Based on the evidence available (based on the companies' accounting systems, their reporting tools and forecasts), the Commission established an additional cost in a range between 0,06 to 0,65 EUR/m^2.

([34]) For the original investigation period of the investigation against ceramic tiles from China, see recital (24) of Regulation (EU) No 258/2011. For the target profit of that investigation, see recitals (164) and (197) of Council Implementing Regulation (EU) No 917/2011.

([35]) Implementing Regulation (EU) 2017/2179.

(408) This cost comprised the additional future cost to ensure compliance with the Union Emissions Trading System ('EU ETS'). The EU ETS is a cornerstone of the Union's policy to comply with Multilateral Environmental Agreements. Such additional cost was calculated on the basis of the estimated price of the Union Allowances ('EUAs') which will have to be purchased during the period of the application of the measures. The additional costs also took account of indirect CO_2 costs stemming from an increase in electricity prices over the same period linked to the EU ETS and the forecasted prices of EUAs.

(409) On this basis, the Commission calculated a non-injurious price for the like product of the Union industry by applying the target profit margin (see recital (406)) to the cost of production of the sampled Union producers during the investigation period and then adding the adjustments under Article 7(2d) on a type-by-type basis.

(410) The Commission then determined the injury margin level on the basis of a comparison of the weighted average import price of the sampled cooperating exporting producers in India and Türkiye, excluding the cooperating exporting producers that were not found to be dumping, as established for the price undercutting calculations, with the weighted average non-injurious price of the like product sold by the sampled Union producers on the Union market during the investigation period. Any difference resulting from this comparison was expressed as a percentage of the weighted average import CIF value.

(411) The injury elimination level for 'other cooperating companies' and for 'all other companies' is defined in the same manner as the dumping margin for these companies (see recitals (203) to (207) and (256) to (258)).

Country	Company	Dumping margin	Injury margin
India	The Conor Group	8,7 %	168,7 %
India	The Icon Group	6,7 %	92,7 %
India	Other cooperating companies	7,3 %	115,8 %
India	All other companies	8,7 %	168,7 %
Türkiye	Hitit Seramik Sanayi ve Ticaret A.Ş.	20,9 %	150,6 %
Türkiye	Qua Granite ve Hayal Yapi Ürünleri San. Tic. A.Ş., Bien Yapi Ürünleri San. Tic. A.Ş.	4,8 %	80,8 %
Türkiye	Other cooperating companies	9,2 %	100,5 %
Türkiye	All other companies	20,9 %	150,6 %

(412) Following final disclosure, the GoT claimed that the injury elimination margins were distorted by taking into consideration future compliance cost. The GoT enquired about how such cost was reflected in the calculation and whether potential introduction of the carbon border adjustment mechanism was taken into account. In this respect, CGCSA argued that an adjustment for future compliance cost was not compatible with WTO standards.

(413) In addition, CGCSA submitted that high levels of underselling confirmed the inclusion in the sample of Union producers manufacturing artisanal or special design products.

(414) Finally, CGCSA claimed that brand is an important factor in pricing decisions. Therefore, an adjustment for brand should be made when comparing the import prices of Turkish producers with the non-injurious prices of Union producers. To support this claim, CGCSA referred to the average export price of Italian and Spanish producers where the average export price of Italian producers was higher than the average export price of ceramic tiles exported from Spain. The interested party used trade statistics for the comparison.

(415) The GoT's claim concerning future compliance cost was reiterated after the additional partial disclosure.

(416) The Commission noted that the inclusion of future compliance cost in the calculation of the injury elimination level was in line with the provisions of Article 7(2d) of the basic Regulation. The parties failed to specify which provisions of WTO ADA the Commission allegedly breached by considering them for the non-injurious price.

(417) To establish the value of such adjustment to the actual cost of production, the Commission compared the unit compliance cost in the IP with the estimated unit compliance cost in the following five years. The average excess value of such unit cost was added to the actual cost of production used in the calculation of non-injurious price. In the present case, the effect of future compliance cost was minor, representing on average approximately 3 % of the non-injurious price. Consequently, the Commission rejected the GoT's claim that the calculation of the injury elimination level was distorted.

(418) Further, the assertions made by Turkish interested parties with regard to the composition of the sample of Union producers were already addressed in recitals (70) to (74) and (299).

(419) Finally, the Commission noted that neither CGCSA nor any sampled exporting producer requested an adjustment for brand during the investigation. Therefore, the Commission was not able to take position on the respective CGCSA's claim. In any case, a simple comparison of export prices by Italian and Spanish producers could not be considered as supporting the party's claim. The differences might have been caused by a number of other factors such as the exported product mix.

(420) Consequently, the Commission rejected the claims concerning the determination of the injury elimination level described in recitals (412) to (414).

6.2. **Conclusion on the level of measures**

(421) Following the above assessment, definitive anti-dumping duties should be set as below in accordance with Article 7(2) of the basic Regulation:

Country	Company	Definitive anti-dumping duty
India	The Conor Group	8,7 %
India	The Icon Group	6,7 %
India	Other cooperating companies	7,3 %
India	All other companies	8,7 %
Türkiye	Hitit Seramik Sanayi ve Ticaret A.Ş.	20,9 %
Türkiye	Qua Granite ve Hayal Yapi Ürünleri San. Tic. A.Ş., Bien Yapi Ürünleri San. Tic. A.Ş.	4,8 %
Türkiye	Other cooperating companies	9,2 %
Türkiye	All other companies	20,9 %

7. **UNION INTEREST**

(422) The Commission examined whether it could clearly conclude that it was not in the Union interest to adopt measures in this case, despite the determination of injurious dumping, in accordance with Article 21 of the basic Regulation. The determination of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, importers, users, and consumers.

(423) Following final disclosure, the GoI, GoT, the Turkish companies Seramiksan and Sogutsen Seramik, sixteen Indian exporting producers, and Ceramika Netto claimed that the Commission did not conduct a fair and complete Union interest test. Their claims are addressed in the respective sections below.

7.1. **Interest of the Union industry**

(424) The Union industry is composed of more than 300 producers in 24 Member States and employs directly over 54 500 people (FTE). The main producing Member States, representing over 85% of total EU production, are Spain, Italy and Poland. As mentioned in recital (59), the Union industry is fragmented; the majority of producers, over 240, are small and medium enterprises ('SMEs'). As stated in recital (11), over 30% of the total EU production expressly supported the initiation of the investigation and no Union producer expressed opposition or a neutral position. There was also wide support for the investigation by national associations that cooperated with the investigation by providing data to the complainant.

(425) The investigation has shown that the Union industry is suffering material injury due to the dumped imports from India and Türkiye. As concluded in sections 4 and 5, the situation of the whole Union industry deteriorated as a result the increasing quantities of dumped imports from India and Türkiye at low prices. Those imports at such prices have constantly gained market share in the Union at the expense of the Union industry and prevented the Union industry from raising its prices to reasonably profitable levels that would allow it to reach the target profit.

(426) Anti-dumping measures against imports from India and Türkiye are expected to restore fair trade conditions on the Union market. This is expected to enable the Union industry to regain the some of the market share lost to dumped imports and do it at fair prices, improving its profit levels, which in turn would allow the industry to increase their investments. Indeed, investment is critical in this industry not only for maintenance, but also for innovation and investment in developing segments like large slabs. As a result of the measures, Union producers are expected to recover from the injurious situation, further invest and fulfil their commitments, including social and environmental ones.

(427) The non-imposition of measures would worsen the already materially injured situation of the Union industry, which is not strong enough to further withstand an increase of dumped imports at prices even below the Union industry's costs of production. Should measures not be imposed, it can be expected that the increase of imports of dumped, low-priced ceramic tiles from India and Türkiye would continue. In that situation, the Union industry would be unable to raise its prices to profitable levels and would keep on losing sales to the dumped imports.

(428) The Commission therefore concluded that the imposition of measures is in the interest of the Union Industry.

7.2. **Interest of unrelated importers**

(429) On the date of initiation, more than 900 known importers ([36]) in the Union were contacted and invited to cooperate in the investigation. As explained in recitals (98) and (99), only two unrelated importers cooperated. Both companies replied to the Commission's deficiency letter following the analysis of their questionnaires, but later stopped cooperating as none of them agreed to an on-spot verification or an RCC. The following analysis is based on their questionnaire replies and their replies to the deficiency letters, and the Commission's own research ([37]).

([36]) Complaint, annex 8.

([37]) Since the unrelated importers stopped cooperating after the deficiency stage (they did not agree to a verification / RCC), the Commission's analysis is based on the information they submitted including the supporting evidence (such as financial statements) and publicly available information (financial statements from a company register, financial data published by https://www.romanian-companies.eu/).

(430) Those two importers accounted for [3-4] % of the imports from the countries concerned in the investigation period, with India representing the bulk of their imports from the countries concerned. For one of them, the product under investigation was most of its activity in terms of turnover, while for the second, it represented about 1/4. The share of imports from the countries concerned in their total purchases was around 1/4. Both of them purchased significant quantities from Union producers in the investigation period and in 2020, and some smaller quantities from third countries other than the countries concerned. Their weighted average profitability related to the product under investigation, established as explained in recital (429) is in the range of [5-7%].

(431) Based on the above, while from a pure cost perspective any duty would have an impact on the activity of unrelated importers, given the level of the duties, the impact of the duty on the profit margins of the importers, and of those for which trading in ceramic tiles is not their only activity, would be limited, even if they had to absorb it completely. Finally, the investigation has shown that unrelated importers can also source non-dumped imports from other third countries and from the Union, as they did in 2020 and the investigation period. As shown in tables 1 and 4, the Union industry has sufficient capacity to cover demand in the Union.

(432) On the other hand, not imposing measures would worsen the materially injured situation of the Union industry as explained in recital (427). To be noted that, unlike importers, the Union industry barely made profits during the investigation period. Moreover, as importers rely on both the Union industry and other sources for their purchases, allowing imports to continue entering the Union at dumped prices at the expense of the Union industry would also affect their sources of supply.

(433) On this basis, the Commission concluded that the effect of the measures on unrelated importers would be limited.

(434) Following final disclosure, Seramiksan submitted that the Union interest test was affected by the fact that the Commission did not receive any information from and examine the interests of approximately 900 importers in the Union.

(435) The Commission noted that it informed all known Union importers about the initiation of the investigation. The Commission analysed and took into account information submitted by all those companies that decided to cooperate or sent submissions. Consequently, the Commission dismissed the claim.

(436) Following final disclosure, a number of Union importers indicated that the imposition of measures on imports from Türkiye would cause harm to them as they invested in the development of new collections in cooperation with the Turkish producers.

(437) The Commission noted that those Union importers did not cooperate at an earlier stage of the investigation and did not submit any factual information that would enable the Commission to assess the impact of the measures on those interested parties. In addition, based on comments received from Turkish sampled exporting producers after final disclosure, one Turkish exporting producer was found not to be dumping and the average level of the measures applicable to imports from Türkiye decreased. Thus, the Commission maintained that the effect of the duties on Union importers will be limited.

(438) Ceramika Netto made also several procedural claims following final disclosure.

(439) The company argued that the Commission incorrectly used terms like “so-called” or “labelling themselves as” manufacturers. The company submitted that it was recognised as manufacturer under the Union law, in particular under Regulation (EU) No 305/2011 of the European Parliament and of the Council ([38]).

(440) The Commission noted that the definitions used in Article 2 of Regulation (EU) 305/2011 as per that article were only applicable to matters governed by that regulation. This investigation was conducted under the basic Regulation. Therefore, the definition of a manufacturer laid down by Regulation (EU) 305/2011 did not apply in this proceeding. In fact, according to the information available to the Commission, the company was a Union importer.

([38]) Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (OJ L 88, 4.4.2011, p. 5).

(441) Ceramika Netto disagreed with the Commission's statements in recital (461) concerning the price at which it imported to be dumped. In this respect, the company referred to domestic sales invoices and export sales invoices of its Indian suppliers provided to the Commission that, according to the company, proved that its import prices were not dumped.

(442) The Commission recalled that the investigation of dumping behaviour was conducted on a sample of Indian exporting producers. Therefore, any sales invoices submitted by Ceramika Netto were irrelevant for the findings of dumping. In recital (272), the Commission concluded that its findings regarding Conor Group and Icon Group could be extended country-wide. Consequently, those findings applied to imports from Ceramika Netto's Indian suppliers.

(443) Ceramika Netto disagreed with the Commission's assessment that it was a non-cooperating company. The company argued that the Notice of Initiation enabled it to submit information not only in the form of a questionnaire reply but also in free format. Ceramika Netto further claimed that the Commission should have informed the company about any information it was missing in the free-format submission.

(444) As noted in recital (440), Ceramika Netto is an importer for the purposes of this investigation. As noted in recitals (75) to (77) the company did not request to be considered as a cooperating importer. The Commission confirmed that, as a Union importer, the company had the option to submit information concerning Union interest in free format. It must be however noted that such information is not subject to deficiency process unlike a full questionnaire reply. The Commission was not obliged to request additional information, in particular as the type of information sought by the Commission was made publicly available via the questionnaires at initiation.

7.3. **Interest of users and consumers**

(445) On the date of initiation, the Commission contacted eight associations of users of ceramic tiles in the Union. None of them cooperated in the investigation or sent any submission. Notably, the construction sector, one of the biggest users of ceramic tiles in the Union, did not send any submission. The low level of cooperation from users would suggest that the sector does not rely on imports from the countries concerned or that anti-dumping duties would not have a significant impact on their activities.

(446) The Commission also contacted nine distributors. Only one of them, OBI Group Holding SE & Co, KGaA, agreed to cooperate. For the reasons explained in recital (76), the Commission considered that the company should be investigated as a user/trader of the product under investigation.

(447) The company opposes the imposition of measures and stated that the large production capacities in India and Türkiye cannot be fully replaced by EU producers, but it did not provide any supporting evidence for this statement. As shown in tables 1 and 4, the Union industry has enough capacity to meet EU demand. The company acknowledged the possibility of switching suppliers.

(448) The company purchases ceramic tiles from India and Türkiye mainly from independent importers acting as wholesalers and then resells them via its own large-scale stores and franchising partners. More than half of its purchases of ceramic tiles are Union products. Its profitability deriving from ceramic tiles is [1,5% - 3%], lower than its average profitability. Ceramic tiles represent only a very small part of the total company's turnover. Therefore, and for the same reasons outlined in recitals (431) and (432), the Commission concluded that the impact on this company would be very limited.

(449) On this basis, and also given the low level of cooperation, the Commission concluded that the effect of the measures on users and traders would be limited.

(450) No association of consumers cooperated in the investigation. In its response to the questionnaire requesting the macro-indicators of the Union industry, CET submitted that it expects the impact on companies operating in the downstream markets – namely distributors and users/consumers – to be very limited, given the alternative sources of supply, and the findings of past investigations on ceramic tiles, that confirmed that ceramic tiles have a marginal bearing on final costs in the construction sector ([39]) and that the imposition of measures translates in limited price increases for the final consumer ([40]).

(451) The current investigation has confirmed the existence of alternative sources of supply other than India and Türkiye, as importers source from the Union and also from third countries other than India and Türkiye (see recitals (430) and (431)). In the absence of any substantiated submission from any consumer association, the Commission cannot accurately assess the impact, if any, that the duties would have on the final consumers, and there is no evidence suggesting that the findings of past investigation would not apply to this one. Also, given the level of the duties, even in case of price increases, these would rather have a limited impact on consumers.

(452) On this basis, and also given the low level of cooperation, the Commission concluded that the effect of the measures on consumers would be limited.

(453) Following final disclosure, sixteen Indian exporting producers claimed that the Commission did not take into account the numerous submissions made by Union importers and users. Ceramika Netto also referred to the submissions made by the company on behalf of its customers and trading partners. According to the company, those submissions indicated how harmful the imposition of measures would be to the company, its Indian supplier, Union importers, users and final customers.

(454) The Commission noted that it analysed the numerous submissions referred to by the Indian exporting producers and Ceramika Netto, and those were deficient in several aspects. First, they were made by companies which never registered as interested parties to the investigation. Second, they were submitted to the Commission by Ceramika Netto, an interested party that had not been empowered to act on behalf of those companies. Third, many of the submissions were made after the deadline(s) laid down by the Notice of Initiation. Finally, the submissions were mostly expressing opinions but lacked factual information and evidence that would support the opinions of those companies. Consequently, the Commission rejected the claims.

7.4. **Other factors**

(455) Besides the cooperating parties mentioned above, a number of interested parties made submissions stating that the imposition of measures would be against the Union interest.

(456) The following recitals analyse the claims, but, at the outset, the Commission notes that none of these interested parties, allegedly importers or users of ceramic tiles, or even so-called Union manufacturers (see recital (266)) ([41]), according to their submissions, cooperated with the investigation or sent a questionnaire reply. Their submissions are statements not supported by any evidence. Therefore, the Commission cannot assess how dependent these companies are on imports from the countries concerned or the potential impact of any duty on them.

(457) First, these parties pointed to potential supply chain difficulties, also given the current geopolitical events like the war in Ukraine. These parties stated that any duty would force buyers to rely exclusively on the Union industry. According to them it is necessary to keep all importing options open since the Union industry is struggling to cater Union demand and that users cannot rely on the Union industry.

([39]) Regulation (EU) No 258/2011, recital (150).

([40]) Regulation (EU) No 258/2011, recital (153); Implementing Regulation (EU) No 917/2011, recital (183); and Implementing Regulation (EU) 2017/2179, recital (206).

([41]) For example, GANDALF Pawel Gagorowski (Poland) or ILCOM s.r.l (Italy) identified themselves as importers, VEDMAX s.r.l. (Romania) or Orient Ceramic (Romania) identified themselves as users/importers, Ogrodnik Niemirscy Sp.J (Poland) identified itself as a "seller", while Netto & Cortina (Poland) identified themselves throughout the investigation as "the manufacturers from Białystok".

(458) The claims are dismissed. First, they are unsubstantiated. Second, the investigation revealed that the Union industry has enough capacity to supply the whole Union market. The investigation has also shown that importers and users have recourse to non-dumped imports from third countries other than the countries concerned; in fact, the importers and users that cooperated with the investigation sourced from both the Union industry and third countries other than the countries concerned in 2020 and the investigation period.

(459) The Commission acknowledged that it might be difficult to source from Ukraine (a traditional, if minor, source of supply of ceramic tiles to the Union, see table 11). However, as stated in the previous recital, there are still sources of non-dumped imports and those channels are not affected by the current situation. Brazil, Vietnam, Iran, Indonesia and Egypt were on the top 10 manufacturing countries worldwide in 2020; Iran, Brazil, Egypt and the United Arab Emirates were among the top 10 exporters in the same period ([42]).

(460) Second, with a focus on imports from India, these parties expressed concern that any potential duty would limit consumer's choice as well as the possibility to outsource production to India. In their statements, Netto & Cortina attached several letters from their customers expressing satisfaction with their purchases as "evidence" that it is not in the Union interest to impose measures as it would, also, limit consumer choice by "forcing" them to buy from the Union industry.

(461) The Commission noted that the allegations were unsubstantiated. These parties did not provide any evidence that the ceramic tiles they import from India could not be produced and sold by the Union industry. In fact, these parties acknowledged that the choice of consumers is driven by price ([43]), when they mentioned the "right to choose the best offer at the best price". In this case, these prices were found to be dumped. The aim of the anti-dumping duties is to restore the level playing field by counteracting dumping. Consumers, importers and users will still be able to buy the products from the countries concerned, or outsource production to then import them, but at fair prices by paying the anti-dumping duties, and they will also be able to source from the Union industry or other countries.

(462) Third, many of these parties stated that Indian products are not dumped in the Union, and that the enormous increase of international transport costs (allegedly by more than 1 000%) made them more expensive in the Union.

(463) The claim also was dismissed as unsubstantiated. The parties did not provide any evidence regarding transport costs. Dumping was found on the basis of the normal value and export price, both at ex-works level, of the sampled exporting producers during the investigation period.

(464) Fourth, these parties alleged that any potential anti-dumping duty would not be in the Union interest as it would lead to high price pressure on consumers on top of the current high level of inflation in the Union, curtail healthy competition and cause many businesses that rely on those imports to close down, especially in the poorer parts of the Union.

(465) The claims were dismissed as unsubstantiated. The parties did not provide any evidence of the potential impact of any duty on consumers or businesses.

(466) The allegations submitted by Netto and Cortina regarding close-downs; bankruptcy: mass reduction of jobs in the Union, and not only those of importers, consumers and traders, but also of other industries, like logistics or design, especially in the poorest regions, referring specifically to Poland; are also unsubstantiated. The investigation established that the impact of the duties on importers, consumers and traders is likely to be limited (see recitals (429) to (431)), and therefore close-downs, bankruptcies or mass reduction of jobs are unlikely. The investigation has also established that manufacture of ceramic tiles takes place across the Union, with Poland being the third manufacturing country in the EU, and that, unlike traders or importers, the Union industry has not been able to recover its costs and steadily lost market share to imports from India and Türkiye.

([42]) Source: macroquestionnaire, section D.2.1. and complaint, ps 49 and 52.

([43]) See for example Netto & Cortina's "Additional statement in the case AD684" pages 8 and 14.

(467) Regarding the indirect impact on other industries, and while Netto & Cortina submitted no evidence or quantification, the Commission notes the non-imposition of duties would also affect other industries. For example, according to the Spanish association of manufacturers (ASCER) the ceramic tiles industry generated, both direct and indirect, 60 000 jobs in Spain, amounting to 2,4 % of industrial employment. Each direct job was estimated to create a further 3,8 indirect jobs ([44]). Regarding impact on regions, in the area of Castellon in Spain ceramic tiles producers are part of a cluster where most of the companies are SMEs and directly or indirectly depend on the ceramic tile production industry.

(468) In sum, the interested parties have not submitted any evidence that the non-imposition of duties would outweigh the positive consequences for the Union industry of imposing measures, as explained in recitals (424) to (428).

(469) Following final disclosure, the GoT and sixteen Indian exporting producers argued that the Commission should have taken into account the effects of the Russian invasion in Ukraine on the Union market of ceramic tiles. In particular, the parties claimed that the war led to increasing energy prices and blocked access to raw materials that might, together with existing barriers such as the anti-dumping measures on imports of ceramic tiles originating in China, negatively affect the supply chains and put more pressure on the Union importers and users.

(470) Following the additional partial disclosure, the GoT reiterated that the Covid-19 pandemic proved the importance of well functioning supply chains. The GoT maintained that open channels of supply from Türkiye to the Union remained crucial in energy intensive industries like the production of ceramic tiles, in particular in context of the ongoing Russian invasion in Ukraine, the sanctions imposed by the Union and the subsequent increase in energy prices.

(471) With regard to the Russian invasion in Ukraine, the Commission noted that it has had a negative effect on the Union producers in the first place. The impact of the war on importers and users is limited as the volume of imports from Ukraine was already negligible during the period considered. In addition, the non-imposition of the measures on two sampled exporting producers (Lavish Group and Vitra Group) will reduce any additional pressure put on supply chains due to the war. Consequently, the Commission dismissed the claims described in recitals (469) and (470).

(472) Following the additional partial disclosure, CGCSA argued that the imposition of anti-dumping measures would be against the interest of the highly integrated ceramic tiles industries in the Union and in Türkiye. In this respect, the association pointed out that the Turkish ceramic tiles producers sourced their raw and consumable materials, fixed assets, and spare parts from the Union. Total value of such purchases increased from 163 million EUR in 2019, through 188 million EUR in 2020, 233 million EUR in 2021 up to 309 million EUR in the first ten months of 2022. In addition, Turkish companies invested in ceramic tiles manufacturing, logistics and services in the Union. Total value of such investments reached 366 million EUR over the period of 2019 – 2021 and created approximately 1 700 jobs. At a hearing with the Commission services, the GoT made similar arguments.

(473) The Commission acknowledged the interdependencies between the Turkish and Union ceramic tiles industry. Nevertheless, the Commission noted that there was no evidence that the procurement of raw and consumable materials, fixed assets, and spare parts was directly linked to the ceramic tiles exports to the Union. For example, the purchase value substantially increased between 2021 (full year) and 2022 (first ten months) although, as confirmed by the GoT (see recital (282)), the volume of ceramic tiles exports from Türkiye to the Union decreased in the first ten months of 2022 as compared to the same period of 2021. In addition, restoring the level playing field should lead to an increased production in the Union thus providing the Union suppliers of raw and consumable materials, fixed assets, and spare parts with new business opportunities.

([44]) Impacto socioeconómico y fiscal del sector de azulejos y pavimentos cerámicos en España. Available at https://transparencia.ascer.es/media/1039/informe-impacto-socioeco-sector-cer%C3%A1mico_ascer.pdf (last viewed 7 October 2022).

(474) Moreover, the Commission took note of the investment activities by Turkish companies in the ceramic tiles industry in the Union. Those investments increase employment and foster economic development in the respective regions. Restoring a level playing field in the Union will benefit the investments already realised by Turkish producers and may motivate further investments. Finally, the party failed to specify to what extent those purchases and investments were carried out by the Vitra Group, which was found not to be dumping and will thus not be affected by the anti-dumping measures.

(475) In view of the considerations described in recitals (473) and (474), the Commission concluded that the measures may have a very limited impact on the Union suppliers of raw and consumable materials, fixed assets, and spare parts and be in favour of these investments realised by Turkish producer in the Union. Consequently, the Commission rejected the claims presented in recital (472).

7.5. **Conclusion on Union interest**

(476) On the basis of the above, the Commission concluded that there were no compelling reasons that it was not in the Union interest to impose measures on imports of ceramic tiles originating in India and Türkiye.

8. **DEFINITIVE ANTI-DUMPING MEASURES**

(477) On the basis of the conclusions reached by the Commission on dumping, injury, causation, level of measures and Union interest, and in accordance with Article 9(4) of the basic Regulation, definitive anti-dumping measures should be imposed in order to prevent further injury being caused to the Union industry by the dumped imports of the product concerned. Anti-dumping duties should be set in accordance with the lesser duty rule. As mentioned in section 3, anti-dumping duties are not applicable to the Indian exporting producer Lavish Group and to the Turkish exporting producer Vitra Group.

(478) On the basis of the above, the definitive anti-dumping duty rates, expressed on the CIF Union border price, customs duty unpaid, should be as follows:

Country	Company	Definitive anti-dumping duty
India	The Conor Group	8,7 %
India	The Icon Group	6,7 %
India	Other cooperating companies	7,3 %
India	All other companies	8,7 %
Türkiye	Hitit Seramik Sanayi ve Ticaret A.Ş.	20,9 %
Türkiye	Qua Granite ve Hayal Yapi Ürünleri San. Tic. A.Ş., Bien Yapi Ürünleri San. Tic. A.Ş.	4,8 %
Türkiye	Other cooperating companies	9,2 %
Türkiye	All other companies	20,9 %

(479) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of this investigation. Therefore, they reflect the situation found during this investigation with respect to these companies. These duty rates are exclusively applicable to imports of the product under investigation originating in the countries concerned and produced by the named legal entities. Imports of the product concerned produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other companies'. They should not be subject to any of the individual anti-dumping duty rates.

(480) A company, among those specifically mentioned in this Regulation, may request the application of these individual anti-dumping duty rates if it changes subsequently the name of its entity. The request must be addressed to the Commission ([45]). The request must contain all the relevant information enabling to demonstrate that the change does not affect the right of the company to benefit from the duty rate which applies to it. If the change of name of the company does not affect its right to benefit from the duty rate which applies to it, a regulation about the change of name will be published in the Official Journal of the European Union.

(481) To ensure a proper enforcement of the anti-dumping duties, the anti-dumping duty for all other companies should apply not only to the non-cooperating exporting producers in this investigation, but also to the producers which did not have exports to the Union during the investigation period.

(482) To minimise the risks of circumvention due to the difference in duty rates, special measures are needed to ensure the application of the individual anti-dumping duties. The companies with individual anti-dumping duties must present a valid commercial invoice to the customs authorities of the Member States. The invoice must conform to the requirements set out in Article 1(4) of this Regulation. Imports not accompanied by that invoice should be subject to the anti-dumping duty applicable to 'all other companies'.

(483) While presentation of this invoice is necessary for the customs authorities of the Member States to apply the individual rates of anti-dumping duty to imports, it is not the only element to be taken into account by the customs authorities. Indeed, even if presented with an invoice meeting all the requirements set out in Article 1(4) of this Regulation, the customs authorities of Member States must carry out their usual checks and may, like in all other cases, require additional documents (shipping documents, etc.) for the purpose of verifying the accuracy of the particulars contained in the declaration and ensure that the subsequent application of the lower rate of duty is justified, in compliance with customs law.

(484) Should the exports by one of the companies benefiting from lower individual duty rates increase significantly in volume after the imposition of the measures concerned, such an increase in volume could be considered as constituting in itself a change in the pattern of trade due to the imposition of measures within the meaning of Article 13(1) of the basic Regulation. In such circumstances and provided the conditions are met an anti-circumvention investigation may be initiated. This investigation may, inter alia, examine the need for the removal of individual duty rate(s) and the consequent imposition of a country-wide duty.

(485) Exporting producers that did not export the product concerned to the Union during the investigation period should be able to request the Commission to be made subject to the anti-dumping duty rate for cooperating companies not included in the sample. The Commission should grant such request provided that three conditions are met. The new exporting producer would have to demonstrate that: (i) it did not export the product concerned to the Union during the IP; (ii) it is not related to an exporting producer that did so; and (iii) has exported the product concerned thereafter or has entered into an irrevocable contractual obligation to do so in substantial quantities.

9. **FINAL PROVISIONS**

(486) In view of Article 109 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ([46]), when an amount is to be reimbursed following a judgment of the Court of Justice of the European Union, the interest to be paid should be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union* on the first calendar day of each month.

([45]) European Commission, Directorate-General for Trade, Directorate G, Wetstraat 170 Rue de la Loi, 1040 Brussels, Belgium.

([46]) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

(487) The measures provided for in this regulation are in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036.

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is imposed on imports of ceramic flags and paving, hearth or wall tiles; ceramic mosaic cubes and the like, whether or not on a backing; finishing ceramics, currently falling under CN codes 6907 21 00, 6907 22 00, 6907 23 00, 6907 30 00 and 6907 40 00 and originating in India or Türkiye.

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

Country	Company	Definitive anti-dumping duty	TARIC additional code
India	Conor Granito Pvt Ltd.; Corial Ceramic Pvt Ltd.	8,7 %	C898
India	Acecon Vitrified Pvt Ltd.; Avlon Ceramics Pvt Ltd.; Duracon Vitrified Pvt Ltd.; Eracon Vitrified Pvt Ltd.; Evershine Vitrified Pvt Ltd.; Icon Granito Pvt Ltd.; Venice Ceramics Pvt Ltd.	6,7 %	C899
India	Other cooperating companies listed in Annex I	7,3%	
India	All other companies	8,7%	C999
Türkiye	Hitit Seramik Sanayi ve Ticaret A.Ş.	20,9 %	C900
Türkiye	Qua Granite ve Hayal Yapi Ürünleri San. Tic. A.Ş.; Bien Yapi Ürünleri San. Tic. A.Ş.	4,8 %	C901
Türkiye	Other cooperating companies listed in Annex II	9,2 %	
Türkiye	All other companies	20,9 %	C999

3. Anti-dumping duties are not applicable to the Indian exporting producer the Lavish Group, consisting of Lavish Granito Pvt Ltd., Lavish Ceramics Pvt Ltd., Lakme Vitrified Pvt Ltd. and Liva Ceramics Pvt Ltd. (TARIC additional code C903), and are not applicable to the Turkish exporting producer Vitra Karo Sanayi ve Ticaret A.Ş. (TARIC additional code C902).

4. The application of the individual duty rates specified for the companies mentioned in paragraph 2, as well as the non-application of any anti-dumping duty rate for the companies mentioned in paragraph 3, shall be conditional upon presentation to the Member States' customs authorities of a valid commercial invoice, on which shall appear a declaration dated and signed by an official of the entity issuing such invoice, identified by his/her name and function, drafted as follows: *'I, the undersigned, certify that the [volume] of [product concerned] sold for export to the European Union covered by this invoice was manufactured by [company name and address] (TARIC additional code) in [country concerned]. I declare that the information provided in this invoice is complete and correct.'* If no such invoice is presented, the duty applicable to all other companies shall apply.

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

Article 2

Article 1(2) may be amended to add new exporting producers from India or Türkiye and make them subject to the appropriate weighted average anti-dumping duty rate for cooperating companies not included in the sample. A new exporting producer shall provide evidence that:

(a) it did not export the goods described in Article 1(1) originating in India or Türkiye during the period of investigation (1 July 2020 to 30 June 2021);

(b) it is not related to an exporter or producer subject to the measures imposed by this Regulation, and which could have cooperated in the original investigation; and

(c) it has either actually exported the product concerned or has entered into an irrevocable contractual obligation to export a significant quantity to the Union after the end of the period of investigation.

Article 3

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

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

Done at Brussels, 9 February 2023.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

Indian cooperating exporting producers not sampled

Country	Name	TARIC additional code
India	Arkiton Tiles LLP Ncraze Ceramic LLP	C919
India	Asian Granito India Limited Crystal Ceramic Industries Private Limited Affil Vitrified Private Limited Amazoone Ceramics Limited	C920
India	Color Tiles Private Limited Color Granito Private Limited Subway Tiles LLP Senis Ceramic Private Limited	C921
India	Comet Granito Private Limited Corus Vitrified Private Limited	C922
India	Granoland Tiles LLP Landgrace Ceramic Private Limited Landdecor Tiles LLP	C923
India	Sunshine Tiles Company Private Limited Sunshine Vitrious Tiles Private Limited Sunshine Ceramic Jaysun Ceramics Sunray Tiles Private Limited Sologres Granito Private Limited Leesun Ceramic Tiles Co Grenic Tiles Private Limited Antonova Tiles (India)	C924
India	Aajveto Manufacturing Private Limited The President Group Artos International LLP Spolo Ceramic Private Limited Veritaas Granito LLP Pioneer Ceramic Industries Zed Vitrified Private Limited Indesign Ceramics LLP	C925
India	Accord Vitrified Private Limited Accord Plus Ceramics Private Limited	C927
India	Alinta Granito Private Limited Avalta Granito Private Limited	C928
India	Alpas Cera LLP Cosa Ceramic Private Limited	C929
India	Ambani Vitrified Private Limited	C930
India	Solizo Vitrified Private Limited	C931

India	Axison Vitrified Private Limited Axiom Ceramic Private Limited Swellco Ceramic	C935
India	Blizzard Vitrified LLP Blizzard Ceramica LLP	C937
India	Blueart Granito Private Limited Iyota Tiles LLP	C938
India	Bluetone Impex LLP	C939
India	Bluezone Vitrified Private Limited Bluezone Tiles LLP Bluegrass Porcelano LLP	C940
India	Bonza Vitrified Private Limited Boffo Granito LLP Big Tiles	C941
India	Cadillac Granito Private Limited Captiva Ceramic Industries	C942
India	Capron Vitrified Private Limited	C943
India	Classy Tiles LLP	C944
India	Claystone Granito Private Limited Favourite Plus Ceramic Private Limited Clayart Granito LLP Torino Tiles LLP Astila Ceramic Private Limited	C945
India	Commander Vitrified Private Limited Creanza Ceramic Private Limited Commander Ceramic Industries Amora Tiles Private Limited Amora Ceramics Private Limited	C946
India	Cruso Granito Private Limited	C947
India	Cyber Ceramics	C948
India	Delta Ceramic	C949
India	Dureza Granito Private Limited	C950
India	Emcer Tiles Private Limited Emcer Granito LLP Sanford Vitrified Private Limited Parker Tiles Private Limited Ascent Ceramica Private Limited Lenswood Ceramic	C951
India	Exotica Ceramic Private Limited	C952
India	Exxaro Tiles Limited	C953

India	Face Ceramics Private Limited Fea Ceramics Cygen Ceramic LLP Sorento Granito Private Limited Soriso Ceramic Private Limited Soriso Granito LLP Angel Ceramic Pct Limited Blue Art Granito Private Limited Face Impex Private Limited	C954
India	Favourite Plus Ceramic Private Limited	C956
India	Flavour Granito LLP Rex Ceramic Private Limited	C957
India	Fusion Granito Private Limited Vivanta Ceramic Private Limited	C958
India	Gold Cera International	C959
India	Gryphon Ceramics Private Limited Cosa Ceramics Pct Limited RAK Ceramics Private Limited Gris Ceramic LLP Grupo Griffin Ceramica LLP Alpas Cera LLP	C960
India	Handmada International	C961
India	Hilltop Ceramic	C962
India	Ibis Smart Marble Private Limited Silverpearl Tile Private Limited	C963
India	Italica Granito Private Limited Italica Floor Tiles Private Limited Soriso Ceramic Private Limited	C964
India	Ita Lake Ceramic Private Limited Itaca Ceramic Private Limited Sperita Granito LLP	C966
India	Itacon Granito Private Limited U-Con Ceramica LLP Tecon Tiles Private Limited Valencia Ceramic Private Limited Livolla Granito LLP Velloza Granito LLP	C968
India	Italia Ceramics Limited Piccolo Mosaic Limited	C969
India	Italus Vitrified LLP	C971
India	Itcos Granito LLP Icera Tiles LLP	C972
India	Itoli Granito LLP Imlis Ceramica LLP	C973

India	K2D Exim	C974
India	Kag Granito LLP Rollza Granito LLP	C975
India	Kajaria Ceramics Limited Jaxx Vitrified Private Limited Cosa Ceramics Private Limited Kajaria Tiles Private Limited Vennar Ceramics Limited	C976
India	Keezia Tiles LLP	C977
India	Kitco Ceramic	C978
India	Kripton Granito Private Limited Kripton Ceramic Private Limited La Berry Ceramics Private Limited Nice Ceramic Private Limited Gresart Ceramica Private Limited	C979
India	Latto Tiles LLP Spinora Tiles Private Limited	C980
India	Laxveer Ceramic LLP Lovato Ceramic Private Limited	C981
India	Leopard Vitrified Private Limited Livon Ceramic Letoza Granito LLP	C982
India	Lexus Granito India Limited Lioli Ceramica Private Limited	C983
India	Lezora Vitrified Private Limited Lemzon Granito LLP Lezwin Tiles LLP Sisam Granito LLP	C984
India	Livenza Granito LLP Livanto Ceramic Private Limited Lizzart Granito LLP Linia Ceramic LLP L Tile Granito LLP	C986
India	Lorence Vitrified LLP Lepono Porcelano LLP Lanford Ceramic Private Limited	C987
India	Lycos Ceramic Private Limited Livolla Granito LLP Crevita Granito Private Limited	C988
India	Maps Granito Private Limited Perth Ceramic Private Limited	C989
India	Marbilano Tiles LLP Marbilano Surface LLP	C990
India	Max Granito Private Limited Epos Tiles LLP	C119

India	Metropole Tiles Private Limited Metro City Tiles Private Limited Metro Ceramics Mactile India Private Limited	C120
India	Millennium Granito India Private Limited Lorenzo Vitrified Tiles Private Limited Millenium Vitrified Tile Private Limited Millenium Tile LLP Clan Vitrified Private Limited Millenium Ceramic LLP Millenia Ceramica Private Limited Millenium Cera Tiles Private Limited	C121
India	Montana Tiles Plazma Granito Private Limited Raykas Ceramic LLP	C122
India	Motto Ceramic Private Limited Motto Tiles Private Limited Slimtile Private Limited Monza Granito Private Limited Rossa Tiles Private Limited Motto Stone Private Limited	C123
India	Mox tiles LLP Itile LLP Swell Granito LLP	C124
India	Neelson Ceramic LLP Neelson Porselano LLP Win Tel Ceramics Private Limited Theos Tiles LLP	C125
India	Nehani Tiles Private Limited Neha Ceramic Industries Orinda Granito LLP Orinda Industries LLP	C126
India	Nessa Vitrified LLP LGF Vitrified Private Limited	C127
India	Nexion International Private Limited Simpolo Vitrified Private Limited	C130
India	Nitco Limited	C131
India	Oasis Vitrified Private Limited Oasis Tiles LLP Max Ceramics Private Limited Revenza Ceramics	C132
India	Olwin Tiles (India) Private Limited	C133
India	Onery Tiles LLP	C134
India	Oscar Ceramics	C136
India	Pavit Ceramics Private Limited Victory Ceratech Private Limited	C138

India	Prism Johnson Limited Antique Marbonite Private Limited Coral Gold Tiles Private Limited Sanskar Ceramics Private Limited Spectrum Johnson Tiles Private Limited Small Johnson Floor Tiles Private Limited Sparten Granito Private Limited	C142
India	Q-BO (Savion Ceramic)	C308
India	Qutone Ceramic Private Limited	C631
India	Range Ceramic Private Limited	C633
India	Rey Cera Creation Private Limited Simbel Ceramic Private Limited Adoration Ceramica Private Limited	C636
India	Scientifica Tiles LLP Saiwin Ceramic Private Limited Saimax Ceramic Private Limited Siscon Tiles LLP Aland Ceramic Private Limited	C639
India	Seron Granito Private Limited	C640
India	Sez Vitrified Private Limited	C641
India	Silon Granito LLP	C642
India	Simero Vitrified Private Limited Simero International LLP	C643
India	Simola Tiles LLP	C644
India	Skajen Vitrified Private Limited Spice Ceramic Private Limited Legend Ceramic Private Limited	C646
India	Skytouch Ceramic Private Limited Icolux Porcelano LLP	C648
India	Sober Plus Ceramics Sober Ceramics	C649
India	Solizo Vitrified Private Limited	C650
India	Somany Ceramics Limited Vintage Tiles Private Limited Vicon Ceramic Private Limited Amora Tiles Private Limited Amora Ceramics Private Limited Acer Granito Private Limited Somany Fine Vitrified Private Limited Sudha Somany Ceramics Private Limited and Somany Piastrelle Private Limited	C651
India	Sparron Vitrified LLP	C652

India	Square Ceramic Private Limited Casva Tiles Private Limited	A004
India	Starco Ceramic	A005
India	Sunland Ceramic Private Limited	A006
India	Sunworld Vitrified Private Limited Shagun Ceramics	A007
India	Swellco Ceramic Axison Vitrified Private Limited Axiom Ceramic Private Limited	A008
India	Titanium Vitrified Private Limited Moral Ceramic Private Limited Onery Tiles LLP	A010
India	Varmora Granito Private Limited Tocco Ceramics Private Limited Solaris Ceramics Private Limited Nextile Marbosys Private Limited Fiorenza GRanito Private Limited Sentosa Granito Private Limited, Renite Vitrified LLP Avalta Granito Private Limited and Covertek Ceramica Private Limited	A013
India	Velsaa Vitrified LLP Velsaa Enterprises LLP Boss Ceramics Magnum Ceramics	A014
India	Verona Granito Private Limited	A016
India	Wallmark Ceramic Industry	A017
India	Zarko Granito Private Limited	A019
India	Zealtop Granito Private Limited	A020
India	Vita Granito	C926

ANNEX II

Turkish cooperating exporting producers not sampled

Country	Name	TARIC additional code
Türkiye	Akgün Seramik Sanayi ve Ticaret A.Ş. ([1]) Akgün Toprak Sanayi İnşaat ve Ticaret A.Ş. Veli Akgün Seramik İnşaat Sanayi ve Ticaret A.Ş.	C904
Türkiye	Anka Toprak Ürünleri Sanayi ve Ticaret A.Ş.	C905
Türkiye	Decovita Yapi Ürünleri Sanayi ve Ticaret A.Ş.	C906
Türkiye	Ege Seramik Sanayi ve Ticaret A.Ş.	C907
Türkiye	Etili Seramik İnşaat Sanayi ve Ticaret A.Ş.	C908
Türkiye	Graniser Granit Seramik Sanayi ve Ticaret A.Ş.	C909
Türkiye	Kaleseramik Çanakkale Kalebodur Seramik Sanayi A.Ş.	C910
Türkiye	Karo Metro Seramik Sanayi ve Ticaret A.Ş.	C911
Türkiye	NG Kütahya Seramik Porselen Turizm A.Ş.	C912
Türkiye	Seramiksan Turgutlu Seramik Sanayi ve Ticaret A.Ş.	C913
Türkiye	Seranit Granit Seramik Sanayi Ticaret A.Ş.	C914
Türkiye	Söğütsen Seramik Sanayi İnşaat Madencilik İthalat İhracat A.Ş.	C915
Türkiye	Termal Seramik Sanayi ve Ticaret A.Ş.	C916
Türkiye	Uşak Seramik Sanayi A.Ş.	C917
Türkiye	Yurtbay Seramik Sanayi Ticaret A.Ş.	C918

([1]) A.Ş. stands for Anonim Şirketi