Council Regulation (EC) No 1338/2006 of 8 September 2006 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of chamois leather originating in the People's Republic of China

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96[(1)] of 22 December 1995 on protection against dumped imports from countries not members of the European Community, (the basic Regulation) and in particular Article 9 thereof,

Having regard to the proposal from the Commission after consulting the Advisory Committee,

Whereas:

A. PROVISIONAL MEASURES

(1) On 16 March 2006, the Commission, by Regulation (EC) No 439/2006[(2)] (the provisional Regulation), imposed a provisional anti-dumping duty on imports into the Community of chamois leather originating in the People's Republic of China (the PRC).

B. SUBSEQUENT PROCEDURE

(2) Following the disclosure of the essential facts and considerations on the basis of which it was decided to impose the said provisional anti-dumping measures, several interested parties made written submissions containing their views on the provisional findings. No parties requested to be heard.

(3) A Chinese exporting producer and an importer which had not made themselves known to the Commission before the imposition of provisional measures, protested against the imposition of definitive anti-dumping duties, without substantiating any arguments that would put into question the facts and considerations on the basis of which provisional measures were imposed. These companies were in any case informed that, since they had come forward only at a very late stage of the investigation, they could not be considered as cooperating parties.

(4) The Chinese trading company referred to in recital 25 of the provisional Regulation reiterated its claim that it should qualify for an individual determination of dumping. This company had already been informed before the imposition of provisional measures that individual determination can only be made for exporting producers and not for traders. The claim was therefore rejected.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 1338/2006. (See end of Document for details)*

(5) All parties were informed of the essential facts and considerations, on the basis of which it was intended to recommend the imposition of a definitive anti-dumping duty on imports of chamois leather originating in the PRC and the definitive collection of the amounts secured by way of the provisional duty. They were also granted a period within which to make representations subsequent to the disclosure of the essential facts and considerations.

(6) Comments submitted by interested parties were duly considered and, where appropriate, the findings have been modified accordingly.

C. PRODUCT CONCERNED AND LIKE PRODUCT

(7) Concerning the production process as described in recital 13 of the provisional Regulation, it is hereby clarified that the grain surface is removed from the skins, which are then tanned using solely fish or other animal oil in the case of chamois leather, or partially tanned with aldehydes or other tanning agents and then with fish or other animal oil in the case of combination of chamois leather.

(8) Moreover, in order to clarify the reference made to crust chamois leather and combination of crust chamois leather in recital 14 of the provisional Regulation, the product concerned must be defined as chamois leather, or combination chamois leather, whether or not cut to shape, including crust chamois leather and combination crust chamois leather (chamois leather) originating in the PRC (the product concerned), currently classifiable within CN codes 4114 10 10 and 4114 10 90.

(9) In the absence of any other comments in this respect, recitals 13 to 17 of the provisional Regulation are otherwise confirmed.

D. DUMPING

1. Normal value

(10) Following provisional disclosure, the Chinese trading company referred to in recital 25 of the provisional Regulation objected to the use of the USA as analogue country as set out in recital 22 of that Regulation, in particular as regards an alleged lack of substantial production in the USA. Furthermore, it claimed that the reasons for disregarding Turkey were not properly justified. This trading company did not substantiate its claim or provide any evidence.

(11) As explained in recital 21 of the provisional Regulation, in the case of Turkey, the analysis showed that the Turkish domestic market was very limited. Almost all of the Turkish production is export-oriented (mainly to Europe and the USA) and therefore domestic sales were not representative in order to choose Turkey as analogue country. The Turkish domestic market is less than 2 % of the USA domestic market and also appears to be more limited than the USA market in terms of competition. Indeed, there was a high level of competition in the USA from imports from other countries, as explained in recital 22 of the provisional Regulation. As to the alleged lack of production in the USA, it should be noted that it was only after the investigation period (IP) that the USA cooperating producer started to delocalise its production. During the

IP, there was a relevant domestic market for chamois leather in the USA. Therefore, the choice of the USA as analogue country is hereby confirmed.

(12) Following definitive disclosure, this trader continued to contest the appropriateness of the USA as analogue country claiming that the data provided by the USA producer would be difficult to verify because this company had ceased to produce in the USA, and therefore this data may not be reliable. In this respect, it should be noted that throughout the IP, as mentioned in recital 11, the USA producer was still producing considerable quantities of chamois leather in the USA for sale on its domestic market. In addition, the data for the IP on which the normal value was established were duly verified at the premises of the USA producer and were found to be accurate and reliable. Thus, the claim from the trading company is rejected.

(13) In the absence of any other arguments in this respect, recitals 20 to 24 of the provisional Regulation are confirmed.

2. Export price

(14) In the absence of any comments in this respect, recital 25 of the provisional Regulation is hereby confirmed.

3. Comparison

(15) Further to provisional disclosure, the Chinese trading company referred to in recital 25 of the provisional Regulation claimed that a further adjustment should be made as regards differences in physical characteristics on the basis that some of the chamois leather exported to the Community from the PRC was in the form of patchwork, made from small pieces of off-cut chamois leather, which were of lower quality than the chamois leather sold by the US industry.

(16) The claim was examined on the basis of the information provided by the trading company and accepted in so far as the exports of patchwork chamois leather could be identified. Consequently, a further adjustment was made in respect of patchwork chamois leather for the purpose of ensuring a fair comparison between the normal value and the export price, by increasing the adjustment for differences in physical characteristics set out in recital 26 of the provisional Regulation.

4. Dumping margin

(17) In the light of the above, the dumping margin finally determined, expressed as a percentage of the CIF Community frontier price, duty unpaid, is 69,8 %.

E. INJURY

1. Community production

(18) In the absence of any comments in this respect, recital 28 of the provisional Regulation is hereby confirmed.

2. Definition of the Community industry

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 1338/2006. (See end of Document for details)*

(19) In the absence of any comments in this respect, recitals 29 and 30 of the provisional Regulation are hereby confirmed.

3. Community consumption

(20) In reviewing the statistical information available from Eurostat, the imports from third countries other than the PRC were modified. Subsequently, the Community consumption figures were accordingly amended as follows:

Apparent Community consumption	**2001**	**2002**	**2003**	**2004**	**IP**
Square feet (in thousands)	20 462	21 334	22 109	21 312	21 886
Index 2001 = 100	100	104	108	104	107

(21) This shows that demand for the product concerned in the Community increased by 7 % over the period considered which is slightly more than set out in recital 31 of the provisional Regulation. On this basis, and in the absence of any other comments concerning Community consumption, the methodology explained in recital 31 of the provisional Regulation is hereby confirmed.

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

(22) Given the slightly revised figures for Community consumption, the market share of the imports from the PRC is accordingly modified over the period considered as follows:

	2001	**2002**	**2003**	**2004**	**IP**
Market share	10,4 %	7,6 %	22,8 %	29,4 %	30,2 %

(23) During the period considered, imports from the PRC increased their share of the Community market from 10,4 % in 2001 to 30,2 % in the IP. This rapid increase in market share took place against a background of slower growth in consumption. Therefore, the trend set out in recital 33 of the provisional Regulation is hereby confirmed.

(24) Further to the acceptance of the claim made by a Chinese trading company as set out in recital 16 above, and the relevant adjustment made for the purpose of the dumping calculations, an alike adjustment was made to the import prices of the product concerned due to the lower quality of chamois leather exported to the Community from the PRC in the form of patchwork for the purpose of calculating the level of

price undercutting. The adjustment for quality differences set out in recital 35 of the provisional Regulation was therefore accordingly revised upwards. On this basis, the comparison showed that during the IP, the product concerned originating in the PRC was sold in the Community at prices which undercut the Community industry prices, when expressed as a percentage of the latter, by 29 %.

(25) In the absence of any other comments in this respect, recitals 32 and 34 of the provisional Regulation are hereby confirmed.

5. Economic situation of the Community industry

(26) Given the revised figures for Community consumption, the market share of the Community industry is accordingly modified over the period considered as follows:

	2001	**2002**	**2003**	**2004**	**IP**
Market share	39,9 %	38,3 %	33,8 %	30,1 %	30,8 %

(27) The significant decrease of the Community industry's sales in volume over the period considered is fully reflected in their market share which decreased continuously from 39,9 % in 2001 to 30,8 % in the IP. Therefore, the trend set out in recital 39 of the provisional Regulation is hereby confirmed.

(28) In the absence of any other comments in this respect, recitals 37, 38 and 40 to 54 of the provisional Regulation are hereby confirmed.

6. Conclusion on injury

(29) The above revised factors, i.e. Community consumption, market shares of the Community industry and of the Chinese producers, left unaffected their trends as they were set out in the provisional Regulation. The undercutting margin remained at a high level. On this basis, it is considered that the conclusions regarding the material injury suffered by the Community industry as set out in the provisional Regulation are not altered. In the absence of any other comments, they are therefore definitively confirmed.

F. CAUSATION

1. Effects of the dumped imports

(30) The cooperating exporting trader argued that the Commission failed to establish a well founded causation with regard to the imports of the product concerned. It further objected to the analysis in the provisional Regulation, arguing that since the import prices were steadily low and in particular even when the Community industry was profitable, there would be no causal link between the import prices and the negative profitability of the Community industry during the IP.

(31) In this respect, it should be firstly noted that pursuant to Article 3(5) of the basic Regulation, the injury analysis is not limited to the profitability of the Community industry, but also takes account of numerous other factors as set out in recitals 28