COMMISSION IMPLEMENTING REGULATION (EU) 2023/1123

of 7 June 2023

imposing a definitive countervailing duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in People's Republic of China following an expiry review pursuant to Article 18 of Regulation (EU) 2016/1037 of the European Parliament and of the Council

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union ([1]) ('the basic Regulation'), and in particular Article 18 thereof,

Whereas:

1. PROCEDURE

1.1. Previous investigations and measures in force

(1) By Commission Implementing Regulation (EU) 2017/969 ([2]), the European Commission ('the Commission'), imposed a countervailing duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel, originating in People's Republic of China (PRC or 'the country concerned' or 'China') ('the original regulation'). The countervailing duties currently in force range from 4,6 % to 35,9 % ('the original measures'). The investigation that led to the imposition of the original measures will hereinafter be referred to as 'the original investigation'.

(2) By Commission Implementing Regulation (EU) 2017/649 ([3]), the Commission, imposed definitive anti-dumping measures on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel, originating in People's Republic of China (PRC). The anti-dumping duties currently in force range from 0 % to 31,3 %.

1.2. Request for an expiry review

(3) Following the publication of a notice of impending expiry ([4]), the Commission received a request for the initiation of an expiry review of the countervailing measures pursuant to Article 18 of the basic Regulation.

(4) The request for review ('the request') was submitted on 9 March 2022 by EUROFER, the European Steel Association, ('the applicant') on behalf of the Union industry of certain hot-rolled flat products of iron, non-alloy or other alloy steel in the sense of Article 10(6) of the basic Regulation.

(5) The applicant claimed that the expiry of the countervailing measures would likely result in continuation or recurrence of subsidisation and recurrence of injury to the Union industry.

([1]) OJ L 176, 30.6.2016, p. 55.

([2]) Commission Implementing Regulation (EU) 2017/969 of 8 June 2017 imposing definitive countervailing duties on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China (OJ L 146, 9.6.2017, p. 17).

([3]) Commission Implementing Regulation (EU) 2017/649 of 5 April 2017 imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China (OJ L 92, 6.4.2017, p. 68).

([4]) OJ C 372, 16.9.2021, p. 10.

1.3. **Initiation of an expiry review**

(6) Having determined that sufficient evidence existed for the initiation of an expiry review, the Commission initiated, on 8 June 2022, an expiry review with regard to imports to the Union of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the PRC on the basis of Article 18(2) of the basic Regulation. It published a Notice of Initiation in the *Official Journal of the European Union* ([5]) ('the Notice of Initiation').

(7) Prior to the initiation of the review, the Commission notified the Government of China ('GOC') ([6]) on 12 May 2022 that it had received a properly documented request, and invited the GOC for consultations in accordance with Article 10(7) of the basic Regulation. The same day GOC also submitted comments in writing arguing that in general the request does not contain sufficient evidence to initiate an expiry review, especially with regard to the specificity of the alleged subsidies to the HRF producers. The Commission took note of the comments raised by the GOC and have paid particular attention to these elements during the expiry review investigation.

1.4. **Separate investigation relating to the same product concerned**

(8) By a notice published in the *Official Journal of the European Union* on 5 April 2022 ([7]), the Commission also announced the initiation of an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council ([8]) of the definitive anti-dumping measures in force with regard to imports into the Union of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the PRC.

1.5. **Review investigation period and period considered**

(9) The investigation of continuation or recurrence of subsidisation covered the period from 1 January 2021 to 31 December 2021 ('review investigation period'). The examination of the trends relevant for the assessment of the likelihood of continuation or recurrence of injury covered the period from 1 January 2018 to the end of the review investigation period ('the period considered').

1.6. **Interested parties**

(10) In the Notice of Initiation, interested parties were invited to contact the Commission in order to participate in the investigation. The Commission specifically informed the applicant, all known Union producers, the known producers in the PRC and the authorities of the People's Republic of China as well as known importers, users and traders of the initiation of the expiry review and invited them to participate.

(11) Interested parties had an opportunity to comment on the initiation of the expiry review and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

1.7. **Sampling**

(12) In its Notice of Initiation, the Commission stated that it might sample the interested parties in accordance with Article 27 of the basic Regulation.

([5]) Notice of initiation of an expiry review of the anti-subsidy measures applicable to imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China (OJ C 223, 8.6.2022, p. 37).

([6]) The term 'GOC' is used in this Regulation in a broad sense, including the State Council, as well as all Ministries, Departments, Agencies and Administrations at central, regional or local level.

([7]) Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China (OJ C 150, 5.4.2022, p. 3).

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

1.7.1. ***Sampling of Union producers***

(13) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. In accordance with Article 27 of the basic Regulation, the Commission selected the sample on the basis of the largest volume of production of the like product in the Union during the review investigation period that could reasonably be investigated within the time available. This sample consisted of three Union producers. The sampled Union producers accounted for around 29 % of estimated total production in the Union. The Commission invited interested parties to comment on the provisional sample. No comments were received and the Commission confirmed the provisionally selected sample. The sample is representative of the Union industry.

1.7.2. ***Sampling of importers***

(14) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked known unrelated importers to provide the information specified in the Notice of Initiation. No unrelated importer came forward and provided the requested information.

1.7.3. ***Sampling of exporting producers in the PRC***

(15) To decide whether sampling was necessary with regard to the exporting producers and, if so, to select a sample, the Commission asked all known producers in the PRC to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the PRC to the European Union to identify and/or contact other producers, if any, that could be interested in participating in the investigation. None of the producers in the PRC provided the requested information.

(16) Consequently, the Commission informed the authorities of the PRC by Note Verbale of 2 September 2022, that it might resort to the use of facts available under Article 28(1) of the basic Regulation when examining the continuation or recurrence of subsidisation. The authorities of the PRC did not react to the Note.

1.8. **Questionnaire and verification**

(17) The Commission sent questionnaires to the three sampled Union producers, the applicant and the GOC. Replies to the questionnaires were received from the three sampled Union producers and the applicant.

(18) The Commission verified all the information it deemed necessary for a determination of the likelihood of a continuation or recurrence of subsidisation and injury, and of the Union interest test. Verification visits were carried out at the premises of the following interested parties:

Union producers:

— Arcelor Mittal Poland (Dąbrowa Górnicza, Poland)

— Tata Steel Ijmuiden (IJmuiden, The Netherlands)

— ThyssenKrupp Steel Europe AG (Duisburg, Germany) and its related company ThyssenKrupp Material Processing (Krefeld, Germany).

1.9. **Disclosure**

(19) On 4 April 2023, the Commission disclosed the essential facts and considerations on which basis it intended to impose countervailing duties. All parties were granted a period within which they could make comments on that disclosure.

(20) The comments made by interested parties were considered by the Commission and taken into account, where appropriate. The parties who so requested were granted a hearing. CISA requested and was granted a hearing with the Commission services on 12 April 2023.

2. PRODUCT UNDER REVIEW, PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product under review

(21) The product subject to this review is the same as the one in the original investigation, i.e. certain flat-rolled products of iron, non-alloy steel or other alloy steel, whether or not in coils (including 'cut-to-length' and 'narrow strip' products), not further worked than hot-rolled, not clad, plated or coated ('HRF' or 'product under review').

The following products are not covered by this review:

(a) products of stainless steel and grain-oriented silicon electrical steel,

(b) products of tool steel and high-speed steel,

(c) products, not in coils, without patterns in relief, of a thickness exceeding 10 mm and of a width of 600 mm or more, and

(d) products, not in coils, without patterns in relief, of a thickness of 4,75 mm or more but not exceeding 10 mm and of a width of 2 050 mm or more.

The product concerned is currently falling under CN codes 7208 10 00, 7208 25 00, 7208 26 00, 7208 27 00, 7208 36 00, 7208 37 00, 7208 38 00, 7208 39 00, 7208 40 00, 7208 52 10, 7208 52 99, 7208 53 10, 7208 53 90, 7208 54 00, 7211 13 00, 7211 14 00, 7211 19 00, ex 7225 19 10 (TARIC code 7225 19 10 90), 7225 30 90, ex 7225 40 60 (TARIC code 7225 40 60 90), 7225 40 90, ex 7226 19 10 (TARIC codes 7226 19 10 91, 7226 19 10 95), 7226 91 91 and 7226 91 99. The CN and TARIC codes are given for information only, without prejudice to a subsequent change in the tariff classification.

(22) Hot-rolled flat steel products are produced through hot-rolling. This is a metal forming process in which hot metal is passed through one or more pairs of hot rolls to reduce the thickness and to make the thickness uniform, whereby the temperature of the metal is above its recrystallization temperature. They can be delivered in various forms; in coils (oiled or not oiled, pickled or not pickled), in cut lengths (sheet) or in narrow strips.

(23) There are two main uses for hot-rolled flat steel products. First, they are the primary material for the production of various value-added downstream steel products, starting with cold-rolled flat and coated steel products. Second, they are used as an industrial input purchased by end users for a variety of applications, including in construction (production of steel tubes), shipbuilding, gas containers, cars, pressure vessels and energy pipelines.

2.2. Product concerned

(24) The product concerned by this investigation is the product under review originating in the People's Republic of China.

2.3. Like product

(25) As established in the original investigation, this expiry review investigation confirmed that the following products have the same basic physical characteristics as well as the same basic uses:

— the product concerned, exported to the Union;

— the product under review produced and sold on the domestic market of the PRC; and

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

(26) These products are therefore considered to be like products within the meaning of Article 2(c) of the basic Regulation.

3. LIKELIHOOD OF CONTINUATION OF SUBSIDISATION

(27) In accordance with Article 18 of the basic Regulation, and as stated in the Notice of Initiation, the Commission examined first whether the expiry of the existing measures would be likely to lead to a continuation of subsidisation.

3.1. **Non-cooperation and the use of facts available in accordance with Article 28(1) of the basic Regulation**

(28) On 12 July 2022 the Commission sent a questionnaire to the GOC. The GOC was asked to forward a questionnaire for banks and other financial institutions known by the GOC to have provided loans to the industry concerned as well as to the producers and distributors of the hot-rolled and cold-rolled steel providing inputs for the production of the product under review.

(29) The Commission received no reply.

(30) By Note Verbale of 2 September 2022, the Commission informed the Chinese authorities that following non-cooperation from the GOC and the producers of the product under review the Commission intended to make its findings on the basis of the facts available, in accordance with Article 28(1) of the basic Regulation. They were also informed that a finding based on facts available may be less favourable than if the GOC and producers cooperated.

(31) No comments in this regard were received. The Commission, in accordance with Article 28 of the basic Regulation, considered the use of facts available necessary in order to establish the continuation of subsidy practices of China in the hot-rolled flat steel industry.

(32) Accordingly, the Commission used for its analysis all facts available to it, in particular:

(a) the request;

(b) findings of the original investigation carried out by the Commission against the same product in China, such as hot-rolled flat products ([9]);

(c) findings of the most recent anti-subsidy investigations carried out by the Commission concerning encouraged industries in China, such as, pneumatic tyres ([10]) ('the tyres investigation'), electric bicycles ([11]) ('the e-bike investigation'), organic coated steel products ([12]) ('the OCS investigation'), optical fibre cables ([13]) ('fibre glass investigation') and aluminium converter foil ([14]) ('aluminium foil investigation') where similar subsidies were examined;

(d) Commission Staff Working Document on significant distortions in the economy of the PRC for the purpose of trade defence investigation ('the Report on China') ([15]).

([9]) Commission Implementing Regulation (EU) 2017/969 of 8 June 2017 imposing a countervailing duty on imports of certain hot-rolled flat products or iron, non-alloy or other alloy steel originating in the People's Republic of China, (OJ L 146, 9.6.2017, p. 17).

([10]) Commission Implementing Regulation (EU) 2018/1690 of 9 November 2018 imposing a definitive countervailing duty on imports of certain pneumatic tyres, new or retreated, of rubber, of a kind used for busses or lorries and with a load index exceeding 121 originating in the People's Republic of China (OJ L 283, 12.11.2018, p. 1).

([11]) Commission Implementing Regulation (EU) 2019/72 of 17 January 2019 imposing a definitive countervailing duty on imports of electric bicycles originating in the People's Republic of China (OJ L 16, 18.1.2019, p. 5).

([12]) Commission Implementing Regulation (EU) 2019/688 of 2 May 2019 imposing a definitive countervailing duty on imports of certain organic coated steel products originating in the People's Republic of China following an expiry review pursuant to Article 18 of the Regulation (EU) 2016/1037 of the European Parliament and of the Council (OJ L 116, 3.5.2019, p. 39).

([13]) Commission Implementing Regulation (EU) 2022/72 of 18 January 2022 imposing definitive countervailing duties on imports of optical fibre cables originating in the People's Republic of China and amending Implementing Regulation (EU) 2021/2011 imposing a definitive anti-dumping duty on imports of optical fibre cables originating in the People's Republic of China (OJ L 12, 19.1.2022, p. 34).

([14]) Commission Implementing Regulation (EU) 2021/2287 of 17 December 2021 imposing definitive countervailing duties on imports of aluminium converter foil originating in the People's Republic of China and amending Implementing Regulation (EU) 2021/2170 imposing definitive anti-dumping duties on imports of aluminium converter foil originating in the People's Republic of China (OJ L 458, 22.12.2021, p. 344).

([15]) Available at http://trade.ec.europa.eu/doclib/docs/2017/december/tradoc_156474.pdf

3.2. **General remarks on the steel sector in China**

(33) Before analysing the alleged subsidisation in the form of specific subsidies or subsidy programmes (sections 3.3 and following below) the Commission assessed government plans, projects and other documents, which were relevant for more than one of the subsidies or subsidy programmes. It found that all subsidies or subsidy programmes under assessment form part of the implementation of the GOC's central planning for the following reasons.

3.2.1. ***14th Five-Year-Plan***

(34) The Commission in the current investigation established that the main document of relevance during the review investigation period was the 14th Five-Year-Plan on developing the raw materials industry, such as the steel one. Steel industry being an important part of the raw materials industry, it represents a key field that shapes China's international competitive edges, and the 'main battlefield' for the restructuring of the industrial foundation and green industrial development. The Plan carries an emphasis on cultivating a group of leading enterprises in the industrial chain with ecological leadership and core competitiveness.

(35) Hebei Province's Three year action plan on cluster development in the steel industry chain (2020 – 2022) elaborates the reform of mixed ownership of state-owned enterprises, focuses on promoting the cross-regional merger and reorganization of private steel enterprises.

(36) Shangdong Province's 14th Five-Year-Plan on the steel industry development emphasizes competitiveness of the steel industry as the goal, as strict control of production capacity is brought forward. Furthermore, it carries objectives of optimizing industrial layout, strengthening innovation drive, promoting green development and building an advanced steel manufacturing industrial base with domestic first-class competitiveness and international influence.

(37) After disclosure, CISA claimed that the Commission relied heavily on the '14th Five-Year Plan' in order to prove the strategic importance of the relevant industry and in doing so it evidences the existence of subsidies in relation to this specific sector. CISA emphasised that 'five-year plans' are merely guiding documents expressing policy views for the future and as such do not have binding force because there is no violation or penalty clause in such plans. In addition to that, CISA referred in this regard to equivalent documents and reports on the side of the EU Commission such as the Commission's own publication titled 'A New Industrial Strategy' in which the Commission itself identifies various priorities in terms of public investments in a clear attempt to steer future development of the EU's key industries.

(38) This argument could not be accepted. First of all, the FYPs published by the GOC are not merely general guidance documents, but are of a legally binding nature. The 14th FYP explicitly reminds all authorities to diligently implement the plans: '*We will strengthen planning management systems such as catalogues and lists, compilation and archival, and alignment and coordination, develop lists and catalogues such as the "14th Five-Year" National-Level Special Plans, promote plan archival relying on the national planning integrated management information platform, and bring various plans under unified management. We will establish and improve planning alignment and coordination mechanisms, align plans approved by the CCP Central Committee and the State Council and provincial development plans with this plan before submission for approval, ensure that national-level spatial planning, special planning, regional planning, and other levels of planning are coordinated with this plan in terms of main goals, development directions, overall layout, major policies, major projects, and risk prevention and control.*' ([16]) Furthermore, the 14th FYP on Developing the Raw Materials Industry stipulates that '*all localities need to better themselves with this Plan, and include the main contents and major projects herein in their primary local tasks*', while '*steel and other key sectors shall formulate specific implementation opinions based on the objectives and tasks of this Plan.*' Therefore, the claim was rejected.

(39) No evidence or argument to the contrary has been adduced by the GOC in the present investigation.

([16]) See Article LXIV, Section 2 of the 14th FYP.

3.2.2. ***Order No 35***

(40) Order No 35 of the National Development and Reform Commission – Policies for the development of Iron and Steel Industry (2005) ('Order No 35') is another policy document that governs the Chinese steel sector. Adopted by the State Council, it covers various aspects of GOC's control over the industry, including:

— The prohibition of majority foreign ownership of steelmakers in China (Article 1);

— The setting up of goals in terms of output for the biggest steel producers (Article 3);

— The provision of rules for the changes in the corporate structure of steel companies (Article 20);

— The setting up of GOC's approval procedures for investment in steel producers (Article 22);

— The provision of loans and land-use rights only to steel producers that comply with the national development policies for the sector (Articles 24 and 25); and

— State intervention aimed at supporting large backbone enterprise groups to establish overseas production and supplying bases of raw materials (Article 30).

3.2.3. ***Decision No 40***

(41) Decision No 40 is a State Council Order that classifies, for investment purposes, the industrial sectors into different categories, namely 'encouraged, restrictive and eliminated projects'. This Decision states that the 'Guidance Catalogue for the Industrial Structure Adjustment', which is an implementing measure of Decision No 40, is an important basis for guiding investment directions. It also guides the GOC to administer investment projects, and to formulate and enforce policies on public finance, taxation, credit, land, import and export ([17]). The steel industry is indicated as an encouraged industry in Chapter VIII of this Guidance Catalogue. As to its legal nature, the Commission noted that Decision No 40 is an Order from the State Council, which is the highest administrative body in the PRC. In that regard, the decision is legally binding for other public bodies and the economic operators ([18]).

3.2.4. ***The Revitalization Plan***

(42) The Blueprint for the Adjustment and Revitalisation of the Steel Industry (2009) is an action plan for the steel industry. The plan aims to deal with the international financial crisis and addresses the overall policy requirements of the GOC to maintain growth. It also seeks to 'guarantee the stable operation of the industry' as it is 'regarded as an important pillar industry of the national economy'. The document provides the following:

— an increase in the financial support for 'key backbone' steel producers;

— an acceleration of the structural adjustments and the promotion of industrial upgrading;

— the support of the key companies that go abroad in their development, technical cooperation and Merger and Acquisitions;

— the increase in the scale of the export credit for metallurgical equipment.

3.2.5. ***Guiding Catalogue of industrial structure adjustment***

(43) According to its chapter VIII, the Guiding Catalogue of industrial structure adjustment (2019), the steel sector is an encouraged sector.

([17]) Chapter III, Article 12 of Decision No 40.
([18]) See recital (182) of the original Regulation.

3.2.6. ***Overall conclusions on the GOC's intervention in the steel sector***

(44) Taking into account the above-listed documents and their provisions, on which there is no evidence that they are no longer in place, the Commission reiterated its conclusion from the original investigation that the Chinese steel industry continued to be a key/strategic industry during the review investigation period, the development of which continues to be actively pursued and directed by the GOC as a policy strategic objective.

3.3. **Subsidies and subsidy programmes examined in the current expiry review**

(45) In view of the lack of cooperation by the GOC and the Chinese producers specified in recitals (27) and (30), the Commission decided to examine whether there was continuation of subsidisation as follows. First, the Commission examined whether the subsidies countervailed in the original investigation continued to confer benefit to the hot rolled flat steel industry. Subsequently, the Commission analysed whether that industry benefitted from subsidies which were not countervailed in the original investigation ('additional subsidies' or 'new subsidies') as alleged in the request.

(46) The Commission has decided that, in view of the findings confirming the existence of continued subsidisation with respect to most of the subsidies countervailed in the original investigation, as well as some of the additional subsidies, there is no need to investigate all the other subsidies alleged to exist by the applicant.

(47) After disclosure, CISA claimed that findings reached in past anti-subsidy investigations cannot merely be transposed on to the Commission's current investigation as such reversals of the burden of proof deviates from the accepted rights of defence by any defendant in such investigations. According to CISA, the Commission used past findings in other separate and unrelated investigations to paint economic practices in China as examples of subsidisation. However, this approach does not prove the existence of subsidisation in relation to the product under review.

(48) The Commission considered that the applicant provided sufficient evidence of the existence, amount, nature, benefit and specificity as was reasonably available to it. Furthermore, the Commission also considered that in the absence of cooperation, the recent EU anti-subsidy investigations related to the same subsidy programmes alleged in the request had also examined benefit, specificity and the amounts of subsidisation of the same programmes. These previous findings of subsidisation, coupled with the wealth of information contained in the request and confirmed by the Commission in the course of this investigation, constituted facts available with regards to continuation of subsidisation in accordance with Article 28 of the basic Regulation. Consequently, the claim was rejected.

3.4. **Subsidies countervailed in the original investigation**

3.4.1. ***Preferential lending***

3.4.1.1. *Findings of the original investigation*

(49) In the original investigation ([19]), the Commission established that State-owned banks ('SOBs') were public bodies as they performed governmental functions and, in doing so, they exercised government authority.

(50) With respect to the banks that provided loans to the producers who cooperated in the original investigation, the great majority was State-owned. The available information in the original investigation showed that at least 35 out of the 45 reported banks were State-owned banks, including the major commercial banks in China, like the Bank of China, the China Construction Bank and the Industrial and Commercial Bank of China. Furthermore, it was also found that these State-owned commercial banks held a predominant place in the market and in their capacity as public bodies were engaged in offering lending at below-market interest rates. Accordingly, it was concluded that the GOC had a policy to provide preferential lending to the HRF sector.

([19]) See recitals (83) to (244) of the original regulation.

(51) The Commission also established, on the basis of, inter alia, Articles 34 and 38 of the Commercial Banking Law and Articles 17 and 18 of Order No 40, that privately owned commercial banks in China were entrusted and directed by the GOC to provide preferential loans to the producers in line with Article 3(1)(a)(iv) of the basic Regulation.

(52) Therefore, the Commission concluded that: there was a financial contribution to the HRF producers in the form of a direct transfer of funds from the government within the meaning of Article 3(1)(a)(i) of the basic Regulation; and privately owned banks were also entrusted or directed by the government to provide financial contributions to the same producers within the meaning of Article 3(1)(a)(iv) of the basic Regulation.

(53) A benefit within the meaning of Articles 3(2) and 6(b) of the basic Regulation was found to exist to the extent that the government loans were granted on terms more favourable than the recipient could actually obtain on the market. Since it was established that non-government loans in China do not provide an appropriate market benchmark (privately owned banks being entrusted and directed by the GOC), such a benchmark was constructed on the basis of standard lending rate of the People's Bank of China. This rate was adjusted to reflect normal market risk by adding the appropriate premium expected on bonds issued by firms with rating of 'non-investment grade' bonds (at BB rate).

(54) This subsidy programme was found to be specific within the meaning of Article 4(2)(a) of the basic Regulation, as the steel industry belonged to the encouraged category according to the Decision No 40 and the provisions of loans were limited only to steel enterprises which fully complied with the development policies for the iron and steel industry (Order No 35).

(55) Furthermore, the programme was found to be specific under Article 4(2)(b) of the basic Regulation, as certain government plans and documents were encouraging and instructing to provide financial support to steel industry, also in specific geographical regions of China.

(56) The subsidy rate established in the original investigation for the sampled exporting producers varied from 1,99 % to 27,91 %.

3.4.1.2. *Continuation of the subsidy programme*

(57) In the request and corresponding annexes ([20]), the applicant provided evidence that Chinese HRF producers continued to benefit from preferential lending and below-market interest rates from domestic banks in China.

(58) The applicant provided evidence of the significant presence and continued market dominance of SOBs in the Chinese banking sector. In point (67), the request listed the major SOBs which have provided lending on preferential terms to the HRF producers in China.

(59) Finally, the applicant indicated that private banks continued to be entrusted and directed by the GOC to provide subsidized loans, in line with Article 3.1(a)(iv) of the basic Regulation. Hence, the Commission findings in the original investigation are still valid in this regard.

(60) In the absence of cooperation from the GOC, no arguments were presented which would challenge the evidence presented by the applicant with regard to the current situation of the Chinese banking system.

([20]) See recitals 70-82 and annexes S-1, S-2 and S-3 of the request.

(61) Furthermore, the critical facts relevant for the establishment of this subsidisation programme and its continuation, namely acting of SOBs as public bodies, their dominance in the banking sector, entrustment and direction of private banks, were confirmed by the Report on China ([21]) and the findings of the most recent tyres ([22]), e-bikes ([23]), OCS ([24]), fibre glass ([25]) and aluminium foil ([26]) investigations.

3.4.1.3. *Benefit*

(62) In the absence of cooperation from the Chinese producers, the Commission had no company-specific information on which the amount of subsidy conferred during the review investigation period could be calculated. While the amount of subsidisation during the review investigation period could not be precisely established due to the lack of cooperation, based on the request, the findings in previous investigations referred in recital (61), and absent any indication to the contrary, it could be concluded that Chinese HRF producers continued to be subsidized.

3.4.1.4. *Specificity*

(63) The subsidy programme in question was still specific within the meaning of Articles 4(2)(a) and 4(2)(b) of the basic Regulation, given that the legal situation described in recital (54) had not changed and in the light of the new 14th Five-Year plan for the steel sector, confirming the steel industry as an encouraged industry.

3.4.1.5. *Conclusion*

(64) Accordingly, the Commission concluded that there is sufficient evidence showing that the preferential lending as a countervailable subsidy continued during the review investigation period.

3.4.2. ***The provision of land-use rights for less than adequate remuneration***

3.4.2.1. *Findings of the original investigation*

(65) In the original investigation ([27]), the Commission established that the provision of land-use rights by the GOC should be considered a subsidy measure within the meaning of Article 3(1)(a)(iii) and Article 3(2) of the basic Regulation. As there was no functioning market for land in China, the GOC provides land-use rights for less than adequate remuneration, thereby conferring a benefit upon the recipient companies. The use of an external benchmark demonstrated that the amount paid for land-use rights by the HRF producers is well below the normal market rate.

([21]) See chapter 6.3 of the Report.

([22]) See recitals (167) to (236) of Commission Implementing Regulation (EU) 2018/1690 of 9 November 2018 imposing definitive countervailing duties on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries and with a load index exceeding 121 originating in the People's Republic of China and amending Commission Implementing Regulation (EU) 2018/1579 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries, with a load index exceeding 121 originating in the People's Republic of China and repealing Implementing Regulation (EU) 2018/163 (OJ L 283, 12.11.2018, p. 1).

([23]) See recitals (175) to (237) of Commission Implementing Regulation (EU) 2019/72 of 17 January 2019 imposing a definitive countervailing duty on imports of electric bicycles originating in the People's Republic of China (OJ L 16, 18.1.2019, p. 5).

([24]) See recitals (101) to (118) of Commission Implementing Regulation (EU) 2019/688 of 2 May 2019 imposing a definitive countervailing duty on imports of certain organic coated steel products originating in the People's Republic of China following an expiry review pursuant to Article 18 of the Regulation (EU) 2016/1037 of the European Parliament and of the Council (OJ L 116, 3.5.2019, p. 39).

([25]) See recitals (222) to (285) of Commission Implementing Regulation (EU) 2020/776 of 12 June 2020 imposing definitive countervailing duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt and amending Commission Implementing Regulation (EU) 2020/492 imposing definitive anti-dumping duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt (OJ L 189, 15.6.2020, p. 1).

([26]) See recitals (146) to (223) of Commission Implementing Regulation (EU) 2021/2287 of 17 December 2021 imposing definitive countervailing duties on imports of aluminium converter foil originating in the People's Republic of China and amending Implementing Regulation (EU) 2021/2170 imposing definitive anti-dumping duties on imports of aluminium converter foil originating in the People's Republic of China (OJ L 458, 22.12.2021, p. 344).

([27]) See recitals (215),(281) to (311) of the original regulation.

(66) The Commission also established that the subsidy is specific under Article 4(2)(a) and 4(2)(c) of the basic Regulation, because the access to industrial land is by law limited only to companies respecting the industrial policies set by the State. Furthermore, only certain transactions were subject to a bidding process, prices were often being set by the authorities, and government practices in this area are unclear and non-transparent.

(67) Using the benchmark of prices of land in Taiwan, the subsidy rate with regard to this measure was established in the original investigation for the sampled producers in the range of 1,20 % to 7,63 %.

3.4.2.2. *Continuation of the subsidy programme*

(68) In the request and corresponding annexes ([28]), the applicant provided evidence that Chinese HRF producers continued to benefit from land-use rights for less than adequate remuneration.

(69) The applicant indicated that the law governing this matter has not changed since the original investigation. Private ownership of land is prohibited in China. The Land Administration Law, and Article 2 in particular, still provides that all land in China is ultimately owned by the GOC as it belongs collectively to China. The Property Law (Articles 45-48) specifies that land in China is either 'collectively owned' or 'state owned'. No land can be sold but land-use rights can be assigned through public bidding, quotation or auction.

(70) Neither the GOC nor the producers provided evidence suggesting the HRF industry stopped benefiting from the provision of land-use rights for less than adequate remuneration.

(71) On the basis of available information, including the evidence contained in the Report on China ([29]) in this regard and the findings of the most recent countervailing duty investigations concerning the PRC on tyres ([30]), e-bikes ([31]) and optical fibre cables ([32]), the Commission concluded that the rates paid for land use continued to be subsidised because the system imposed by the GOC does not adhere to market principles.

3.4.2.3. *Benefit*

(72) In the absence of cooperation from the GOC and the Chinese producers, the Commission had no company-specific information on the basis of which to calculate the amount of subsidy conferred during the review investigation period. While the amount of subsidisation could not be precisely established due to the lack of cooperation, based on the request, the findings in the previous investigations referred in recital (71), and absent any indication to the contrary, it could be concluded that Chinese HRF producers continued to be subsidized.

3.4.2.4. *Specificity*

(73) The subsidy is specific within the meaning of Articles 4(2)(a) and 4(2)(c) of the basic Regulation. Land-use rights are only granted to a limited group of companies. Furthermore, the steel sector, which is part of the encouraged category within the framework of Decision No 40 of the State Council, falls within the sectors that benefit from land-use rights.

([28]) See recitals 209-215.
([29]) See chapter 9 of the Report.
([30]) See recitals (474) to (493).
([31]) See recitals (503) to (512).
([32]) See recitals (533) to (557) Commission Implementing Regulation (EU) 2022/72 of 18 January 2022 imposing definitive countervailing duties on imports of optical fibre cables originating in the People's Republic of China and amending Implementing Regulation (EU) 2021/2011 imposing a definitive anti-dumping duty on imports of optical fibre cables originating in the People's Republic of China (OJ L 12, 19.1.2022, p. 34).

3.4.2.5. *Conclusion*

(74) Accordingly, the Commission concluded that there is sufficient evidence showing that the provision of land-use rights for less than adequate remuneration as a countervailable subsidy continued during the review investigation period.

3.4.3. ***Direct tax exemption and reduction programmes***

3.4.3.1. *Findings of the original investigation*

(75) In the original investigation ([33]), the Commission established that HRF producers were receiving countervailable subsidies related with preferential treatment under income and other direct tax programmes and policies.

(76) With regard to three specific programmes: Enterprise Income Tax (EIT) privileges for Resource Products from Synergistic Utilisation, EIT offset for research and development expenses and Land use tax exemption, the Commission based its findings as to the legal basis, eligibility, nature of the subsidy and its specificity on the verified questionnaire replies and was able to calculate individual subsidy rates for the sampled companies.

(77) The income and other direct tax programmes were found to be subsidies within the meaning of Article 3(1)(a)(ii) and Article 3(2) of the basic Regulation in the form of government revenue foregone which confers a benefit upon the recipient companies.

(78) The subsidy schemes were also found to be specific within the meaning of Article 4(2)(a) of the basic Regulation, given that the legislations pursuant to which the granting authority operated, limited the access to the schemes only to certain enterprises and industries classified as encouraged, such as those belonging to HRF industry.

(79) The subsidy rate established in the original investigation for the sampled exporting producers varied from 0,00 % to 0,66 %.

3.4.3.2. *Continuation of the subsidy programme*

(80) In the expiry review request ([34]), the applicant provided evidence that many Chinese HRF producers continue to benefit from several Enterprise Income Tax (EIT) privileges' programmes countervailed in the original investigation. The legal basis of the EIT privileges' programme is Article 28 of the EIT Law and Article 93 of the Implementation Rules for the Enterprise Income Tax Law of the PRC. Furthermore, the applicant provided evidence on the EIT offset for research and development subsidy with legal basis in Article 30(1) of the EIT law, along with the Implementation Rules for the Enterprise Income Tax Law of the PRC.

(81) Optical fiber cables ([35]) and aluminium foil ([36]) investigations confirmed that the schemes were still in use and their nature had not changed.

(82) In the absence of cooperation from the GOC, no arguments were presented which would challenge the evidence presented by the applicant with regard to the continued benefits of the HRF producers from income and other direct tax programmes and policies.

(83) The schemes in question are considered to be subsidies within the meaning of Articles 3(1)(a)(ii) and 3(2) of the basic Regulation, in the form of foregone government revenue which confers a benefit upon the recipient companies.

([33]) Recitals (312) to (344) of the original Regulation.
([34]) See recitals 198 to 204 and Annex S-4.
([35]) See recitals (463) to (488).
([36]) See recitals (474) to (505).

3.4.3.3. *Benefit*

(84) In the absence of cooperation from the GOC and the Chinese producers, the Commission had no company-specific information on the basis of which to calculate the amount of subsidy conferred during the review investigation period. While the amount of subsidisation could not be precisely established due to the lack of cooperation, based on the request, the findings in previous investigations referred in recital (81), and absent any indication to the contrary, it could be concluded that Chinese HRF producers continued to be subsidized.

3.4.3.4. *Specificity*

(85) The schemes are specific within the meaning of Article 4(2)(a) of the basic Regulation given that the legislations pursuant to which the granting authority operated, limited the access to the schemes only to certain enterprises and industries.

3.4.3.5. *Conclusion*

(86) Accordingly, the Commission concluded that there is sufficient evidence showing that some of the tax programmes continued being countervailable subsidies during the review investigation period.

3.4.4. ***Indirect tax and import tariff programmes and policies***

3.4.4.1. *Findings of the original investigation*

(87) In the original investigation ([37]), the Commission established that HRF producers were receiving countervailable subsidies related with preferential treatment under two indirect tax and import tariff programmes:

(a) VAT exemptions and import tariff rebates for the use of imported equipment and technology

(b) Tax exemption for policy-based relocation

(88) The indirect tax and import tariff programmes were found to be subsidies within the meaning of Articles 3(1)(a)(ii) and 3(2) of the basic Regulation in the form of foregone government revenue which confers a benefit upon the recipient companies.

(89) The subsidy schemes were also found to be specific within the meaning of Article 4(2)(a) of the basic Regulation, given that the legislations pursuant to which the granting authority operated, limited the access to the schemes only to certain enterprises and industries. In addition, the lack of cooperation from the GOC did not permit the Commission to reach the conclusion to whether objective criteria of eligibility to certain schemes existed which made them also specific under Article 4(2)(b) of the basic Regulation.

(90) The subsidy rate established in the original investigation for the sampled exporting producers was 1,01 %.

3.4.4.2. *Continuation of the subsidy programme*

(91) The request as well as the findings of the most recent anti-subsidy investigations carried out by the Commission concerning encouraged industries in China such as tyres ([38]), OCS ([39]) and aluminium foil ([40]) investigations confirmed that the schemes were still in use and their nature had not changed.

(92) In the absence of cooperation from the GOC and the Chinese HRF producers, no arguments were presented which would challenge the evidence presented by the applicant with regard to the continued benefits of the HRF producers from indirect tax and import tariff programmes and policies.

([37]) See recitals (345) to (364).
([38]) See recitals (549) to (552).
([39]) See recitals (189) to (202).
([40]) See recitals (516) to (531).

(93) The schemes in question are considered to be subsidies within the meaning of Articles 3(1)(a)(ii) and 3(2) of the basic Regulation, in the form of foregone government revenue which confers a benefit upon the recipient companies.

3.4.4.3. *Benefit*

(94) In the absence of cooperation from the GOC and the Chinese HRF producers, the Commission had no company-specific information on the basis of which to calculate the amount of subsidy conferred during the review investigation period. While the amount of subsidisation could not be precisely established due to the lack of cooperation, based on the request, the findings in previous investigations referred in recital (91), and absent any indication to the contrary, it could be concluded that HRF producers continued to be subsidized.

3.4.4.4. *Specificity*

(95) The schemes are specific within the meaning of Article 4(2)(a) of the basic Regulation, as the access to the schemes is limited only to certain enterprises and industries.

3.4.4.5. *Conclusion*

(96) Accordingly, the Commission concludes that there is sufficient evidence showing that the indirect tax and import tariff programmes continued being countervailable subsidies during the review investigation period.

3.4.5. ***Grant programmes***

3.4.5.1. *Findings of the original investigation*

(97) In the original investigation ([41]), the Commission concluded that all the sampled companies benefited from a variety of grants related to environmental protection and reduction of emissions and from grants related to R & D, technological upgrading and innovation.

(98) The original investigation also positively concluded on the existence of a number of *ad hoc* subsidies granted to certain HRF producers from different levels of government authorities, i.e. local, regional and national. Examples of such grants were patent funds, science and technology funds and awards, business development funds, grants for basic infrastructure, support funds provided at district or provincial level, funds for the import of iron ore, funds for the company's relocation, overseas advanced technology introduction special fund, interest discounts on loans for imported equipment.

(99) These grants and other *ad hoc* subsidies were found to constitute a subsidy in the meaning of Article 3(1)(a)(i) and Article 3(2) of the basic Regulation i.e. a transfer of funds from the GOC in the form of grants to the producers of the product concerned.

(100) They were also found to be specific either under Article 4(2)(a) of the basic Regulation, given that they appear to be limited to certain companies or specific projects in specific regions and/or the steel industry, or under Article 4(2)(b), given that the eligibility conditions and the actual selection criteria for enterprises to be eligible are not transparent, not objective and do not apply automatically.

(101) The subsidy rate established in the original investigation for the sampled exporting producers varied from 0,09 % to 1,45 %.

3.4.5.2. *Continuation of the subsidy programmes*

(102) In the expiry review request ([42]), the applicant provided evidence that many HRF producers continue to benefit from grant programmes.

([41]) See recitals (365) to (393) of the original Regulation.
([42]) See recitals 183-197 and Annex S-4 of the request.

(103) Findings of the most recent anti-subsidy investigations carried out by the Commission concerning encouraged industries in China such as OCS ([43]) and aluminium foil ([44]) investigations confirmed that the schemes were still in use and their nature had not changed.

(104) Most of the grants were provided in order to finance particular projects or assets, reward energy conservation or environmental protection, and modernise steel mills.

(105) The applicant also provided evidence, based on analysis of annual accounts of specific companies, that at least 12 HRF producers received subsidies between 2018 and 2021.

(106) All grants and other *ad hoc* subsidies analysed during expiry review investigation constituted a subsidy in the meaning of Article 3(1)(a)(i) of the basic Regulation, in the form of a direct transfer of funds with regard to the grants and similar transfers of resources.

(107) In the absence of cooperation from the GOC and HRF producers, no arguments were presented which would challenge the evidence presented by the applicant with regard to the continued benefits of the HRF producers from grants or awarded *ad hoc*.

3.4.5.3. *Benefit*

(108) In the absence of cooperation from the GOC and the Chinese producers, the Commission had no company-specific information on the basis of which to calculate the amount of subsidy conferred during the review investigation period. While the amount of subsidisation could not be precisely established due to the lack of cooperation, based on the request, the findings in the previous investigations referred in recital (103), and absent of the any indication to the contrary, it could be concluded that HRF producers continued to be subsidized.

3.4.5.4. *Specificity*

(109) These subsidies were considered to be specific in law or in fact, within the terms of Article 4(2) of the basic Regulation. In the absence of cooperation from the GOC and Chinese producers of HRF, they are deemed to be granted to a limited number of HRF producers, and/or because of the manner in which discretion of the granting authorities has been exercised for their granting.

3.4.5.5. *Conclusion*

(110) Accordingly, the Commission concluded that there is sufficient evidence showing that the producers continued receiving grants as countervailable subsidies during the review investigation period.

3.5. **Additional subsidies**

3.5.1. ***Debt for equity swaps***

3.5.1.1. *Introduction*

(111) The expiry review request ([45]) contained extensive evidence that several Chinese HRF producers were involved in the second generation of the debt for equity instruments carried out from 2016 to 2019, for a combined total of 237 billion RMB of debts. It is alleged that outstanding debt due by State-owned steelmakers to State-owned commercial banks ('SOCBs') was cancelled in exchange for equity through the involvement of various types of Implementation Agencies (IAs) which are non-bank financial institutions under the jurisdiction of the China Banking and Insurance Regulatory Commission. The most common form of debt for equity swaps (DES) IAs are financial asset investment

([43]) See recitals 141-156
([44]) See recitals 447-451
([45]) See recitals 90 to 182.

companies (FAIC) which are spun off from banks or insurance companies. The request further asserted that IAs were specifically created to dispose of massive non-performing loans in key industries, including the steel sector and to restructure the debts of SOEs through, inter alia, debt to equity swaps.

(112) Given that the GOC failed to provide any information on this programme, the Commission made its findings on this programme based on the information contained in the request and on the information from the anti-subsidy investigation carried out by the Commission concerning the steel sector in China, that is OCS ([46]).

(113) As examined recital (91) above, the Commission established that HRF is an encouraged industry and in section 3.4.1 it found that the HRF producers avail themselves of preferential financing thanks to the fact that the GOC had a policy to provide preferential lending to the HRF sector via State-owned banks and also privately owned banks were entrusted and directed by the GOC to provide such preferential loans to the HRF producers. Furthermore, the Commission established that the GOC has built an entire regulatory ecosystem around the DES concept which covers a growing number and variety of creditors, target companies, implementation agencies, investors, service platforms and supervisory institutions. And while GOC documents consistently highlight the market-orientation of this system, they also remind participants that they are expected serve the greater good and further national economic policy goals.

(114) According to the 'Guiding Opinions on Regulating the Asset Management Business of Financial Institutions', document referenced in the request, financial institutions are encouraged to raise funds through the issuance of asset management products to invest in areas that meet the requirements of national strategies and industrial policies and meet the requirements of national supply-side structural reform policies under the premise of compliance with laws and regulations and business sustainability. Furthermore, the financial institutions are also encouraged to raise funds through the issuance of asset management products to support the transformation of the economic structure, support market oriented, legalised debt-to-equity swaps, and reduce corporate leverage.

(115) The request also referred to 'Opinions on Resolving Excess Capacity in the Steel Industry and Realizing a Recovery' which emphasised the need to increase financing support for steel enterprises and the need to attract investment capital from sources other than the state budget and financial institutions, like wealth management products, pension funds etc. Furthermore, this document urges to develop market-based approaches in processing corporate debt and support banks in disposing of distressed debt by transferring troubled loan positions to asset management corporations.

(116) 'Opinions on Supporting the Steel and Coal Industries in Resolving Excess Capacity and Realizing a Recovery', published in 2016 by the People's Bank of China and the regulatory commissions overseeing the banking, insurance and securities sectors, gives instructions on how to help steel and coal industries resolve overcapacity and insolvency problems. This is achieved through the 'guiding role of financial services' enterprises which would enable the coal and steel industries improve their financial, technological and environmental performance. Furthermore, enterprises that comply with national industrial policies and can meet several vaguely defined conditions pertaining to restructuring, solvency and environmental protection may benefit from the readjustment of credit periods.

(117) In the expiry review request, there is an information on establishment of the joint conference system under the leadership of State Council which reviewed and approved regulatory and support policies, including implementation of a new round of debt-equity-swaps. At the same time, it worked out joint punishment mechanisms to sanction rule violations. Furthermore, the joint conference has called for DES transactions to benefit enterprises and industries with great significance for economic transformation and as well as for national security.

([46]) See recitals 119-134, and Commission Implementing Regulation (EU) 2019/688 of 2 May 2019 imposing a definitive countervailing duty on imports of certain organic coated steel products originating in the People's Republic of China following an expiry review pursuant to Article 18 of the Regulation (EU) 2016/1037 of the European Parliament and of the Council (OJ L 116, 3.5.2019, p. 39), Section 3.5.2.

(118) At the 2017 Financial Work Conference of the Communist Party of China Central Committee (CPCCC), General Secretary Xi Jinping confirmed long-held positions that financial institutions must understand their role first and foremost as serving the real economy and must do their utmost to strengthen its weak points. In his statement he elaborated on the duty of financial sector to serve the real economy by guarding it from financial risks. By doing so financial sector should improve service efficiency and quality and channel more resources into major and weak areas of economic and social development. In addition to that, the government is engaged in deleveraging of the economy by firmly taking a prudent monetary policy and prioritizing leverage reduction in state-owned enterprises.

(119) The meeting of the China State Council's (SC) Standing Committee in 2017 placed the deleveraging of SOE at the very centre of the general corporate deleveraging task. The Standing Committee proposed the development of relevant fiscal support measures for over-leveraged state-owned assets in the steel and coal industries. It also discussed establishing a state-owned capital complementary mechanism and making available the capital needed for transformation and upgrading.

(120) In view of the considerations above, the Commission concluded that the debt for equity swaps constitute a financial contribution in the form of equity infusion and/or loan within the meaning of Article 3(1)(a)(i) of the basic Regulation or in the form of revenue forgone resulting from debt cancelled or not repaid within the meaning of Article 3(1)(a)(ii). The government provided this financial contribution through public bodies involved in these transactions, i.e. the four IAs and various SOCBs. In the absence of any cooperation from the GOC during the expiry review investigation, the Commission concluded that the evidence on the record sufficiently demonstrated that IAs were public bodies, as they were specifically created by the GOC to dispose of massive non-performing loans in key industries, including the steel sector, and to restructure the debts of SOEs. Consequently, it was considered that their behaviour corresponded to the exercise of government authority.

(121) Furthermore, the request contained evidence that the large amount of debt cancellations was not subject to normal commercial considerations, as the GOC did not carry out an assessment whether a normal private investor would have carried out these debts to equity swaps in the expectation that a reasonable rate of return would be generated over time. The request contained information that the GOC exchanged massive amounts of debt for equity with the objective to reduce the liabilities-to-assets ratio of HRF producers to increase their competitiveness aside from commercial considerations that a private investor would make. The Commission, after careful analysis of the information provided in the request and in the absence of any other information on the file, concluded that the measures conferred a benefit within the meaning of Article 6(a) of the basic Regulation.

3.5.1.2. *Benefit*

(122) Debt for equity swaps constitute a financial contribution in the form of equity infusion and/or loan within the meaning of Article 3(1)(a)(i) of the basic Regulation or in the form of revenue forgone resulting from debt cancelled or not repaid within the meaning of Article 3(1)(a)(ii) of the basic Regulation.

(123) In the absence of any cooperation from the GOC and Chinese producers of HRF during this review, the Commission, after careful analysis of the information provided in the request and in the absence of any other information on the file, concluded that the measures therefore conferred a benefit within the meaning of Article 6(a) of the basic Regulation.

3.5.1.3. *Specificity*

(124) The subsidy was specific in accordance with Articles 4(2)(b) of the basic Regulation, as there were no objective criteria for the provision of the subsidies and it has been unclear under which conditions HRF producers may or may not be involved into this programme. The swaps were also specific in line with Article 4(2)(c) of the basic Regulation, given major discretion of the public authorities to grant the subsidy and only certain sectors have benefitted from the subsidy such as those suffering overcapacity.

3.5.1.4. *Conclusion*

(125) Accordingly, the Commission concluded that there is sufficient evidence showing that HRF producers in the PRC benefited from the debt for equity swaps as a countervailable subsidy during the review investigation period in the form of financial assistance to reduce corporate debt of heavily indebted companies.

3.6. **Overall conclusion regarding the continuation of the subsidisation**

(126) In the light of the above, the Commission concluded that the HRF producers in China continued to benefit from countervailable subsidies during the review investigation period.

4. **DEVELOPMENT OF IMPORTS SHOULD THE MEASURES BE REPEALED**

(127) Further to the finding of the existence of subsidisation during the review investigation period, the Commission investigated the likelihood of continuation of subsidised imports from the country concerned, should the measures be repealed. The following additional elements were analysed: the production capacity and spare capacity in the PRC and the attractiveness of the Union market.

4.1. **Production capacity and spare capacity in the PRC**

(128) In the absence of cooperation by the producers in the PRC, the Commission based its findings with regard to the capacity of the other producers on facts available and relied on the information contained in the expiry review request, as well as other available sources.

(129) In 2020, China accounted for 56,5 % of the world's crude steel output, against 53,3 % in 2019 ([47]). In September 2020, a statement by the 88th Session of the OECD Steel Committee noted that '*despite the global negative demand shock, production and inventories have significantly increased from year-ago levels in China*'. Moreover, the Steel Committee noted '*with concern the divergence from [the] global trend in China, where steel production reached record volumes in the first semester of 2020, and where inventories have reached historically high levels. These developments pose a risk of oversupply in China exacerbating global imbalances resulting from the COVID-19 demand shocks*.' The trend of ever-expanding steel production capacity in China has been further supported by a '*huge loosening of credit conditions*', combined with increasing investment by large steel producers, while smaller players are still outside of the capacity control system. Also, an OECD Report of February 2021 noted an increasing steel making overcapacity worldwide and particularly driven by Asian countries including China ([48]).

(130) The Chinese government has ambitious plans for its steel industry ([49]) as it aims to remove obsolete plants and uncompetitive companies with excessive costs while focusing on boosting and promoting steel producers which are in line with government policies and priorities. The idea is to clean-up the industry, strengthening leading players and clearing underperformers and those who do not comply (or align) with government priorities. The goal is to nurture '*a new generation of industry leaders*'. This is achieved through policies such as capacity swap system, debt-equity swaps, which allow for a very substantial state discretion over the operations of individual firms. The underlying purpose is to increase capacities of 'selected' players, which are high-performer producers that comply with the government's current objectives to the steel industry.

([47]) Worldsteel, 26.1.2021, in ThinkDesk China Research & Consulting, 'China's State-Business Nexus Revisited – Government Interventions and Market Distortions in the Chinese Steel Industry', 17 October 2021, p. 92.

([48]) OECD, 'Latest developments in steelmaking capacity', February 2021, page 11.

([49]) ThinkDesk China Research & Consulting, 'China's State-Business Nexus Revisited – Government Interventions and Market Distortions in the Chinese Steel Industry', 17 October 2021.

(131) The information contained in the expiry review request estimated the total Chinese capacity of certain hot-rolled flat products of iron, non-alloy or other alloy steel at more than 345 million tonnes, while production and Chinese consumption were both estimated at 314 million tonnes in 2020. On this basis, the spare capacity in China was estimated at 31 million tonnes in 2020, which is indicative for the spare capacity in the review investigation period and is almost equal to the total Union consumption on the free market (about 35 million tonnes) in the review investigation period.

(132) The deceleration in Chinese steel demand in the beginning in 2021 is and will be a key driver of increasing exports. The resulting imbalance between capacity and demand is likely to increase pressure on producers to export. Chinese capacities are too big compared to the actual needs of the Chinese economy.

(133) On this basis, it is likely that Chinese producers will direct their spare capacities to the Union market in large quantities at subsidised prices should the measures lapse.

4.2. **Attractiveness of the Union market**

(134) The Union market is among the largest markets of certain hot-rolled flat steel products worldwide. The Chinese market cannot absorb the excess steel capacity and major third countries markets are closed for Chinese exports as they have anti-dumping, safeguards or other protective measures in place against the PRC ([50]). In addition, price levels in the Union (the average price charged by the Union industry was EUR/tonne 734 during the review investigation period) are above the average price charged by Chinese exporting producers to the rest of the world (EUR/tonne 714 at CIF level). Since, as explained in recital (206) below, HRF is a highly price sensitive commodity product, the Chinese exporters would have a strong incentive to direct their exports to the Union should the measures lapse.

(135) The applicant claimed in its request that the Union steel safeguard measures alone, which apply to the product under review, would not be sufficient to protect the Union market against imports in significant quantities at subsidised prices. As China did not receive any country-specific quota for the product under review, Chinese producers have access to a large amount of residual quota volumes under which they could direct their exports to the Union market if the countervailing measures were to lapse. As a result, if the countervailing measures were to be repealed, Chinese export volumes are likely to increase significantly within the residual quota and thus flood the Union market before any out-of-quota duty under the safeguard measure would become applicable.

4.3. **Conclusion on the likelihood of continuation of subsidisation**

(136) The Commission, on the basis of facts available, concluded that there is sufficient evidence that subsidisation of the HRF industry in the PRC continued during the review investigation period and is likely to continue in the future. No evidence showed that the subsidies and subsidy programmes at issue will be terminated in the near future.

(137) The subsidisation of the HRF industry allows the Chinese producers to maintain their production capacities at a level by far exceeding domestic demand and could possibly cover the entire Union consumption.

(138) Therefore, the Commission found that the repeal of the countervailing measures is likely to result in a redirection of significant volumes of subsidised imports of the product under review to the Union market. Various subsidy programmes continue to be offered by the GOC to the HRF industry and the Commission determined that the HRF industry benefited from a number of them during the review investigation period.

([50]) Currently there anti-dumping measures in the following countries: Canada, USA, Türkiye, Mexico and UK. GCC (Gulf countries) has safeguard measures and USA has also Section 232 measures.

5. INJURY

5.1. Definition of the Union industry and Union production

(139) The like product was manufactured by 21 producers in the Union during the period considered. They constitute the 'Union industry' within the meaning of Article 9(1) of the basic Regulation.

(140) The total Union production of the product under review during the review investigation period was established at around 70 million tonnes. The Commission established the figure on the basis of all the available information concerning the Union industry, such as the request for the expiry review, the verified questionnaire replies and the macro questionnaire reply submitted by EUROFER. As indicated in recital (13), the Union producers selected in the sample represented 29 % of the total Union production of the like product during the review investigation period.

5.2. Union consumption

(141) The product under review is regarded as a primary material for the production of various value-added downstream products, starting with cold-rolled products. Given that the Union industry is mostly vertically integrated and produces both the product under review and downstream products, both the captive and free market were analysed separately, where appropriate.

(142) The distinction between captive and free market is relevant for the injury analysis because products destined for the captive market are not exposed to direct competition from imports, and transfer prices, if any, are set within the groups according to various price policies. By contrast, production destined for the free market is in direct competition with imports of the product concerned, and prices are set according to market conditions.

(143) To provide a picture of the Union industry that is as complete as possible, the Commission obtained data for the entire activity of the like product and determined whether the production was destined for the captive or the free market. The Commission found that around 60 % of the total Union production of the like product was destined for the captive market during the review investigation period.

(144) The Commission established the Union free market consumption on the basis of (a) the sales on the Union market of all known producers in the Union, as reported in the macro questionnaire reply from EUROFER and (b) the imports to the Union from all third countries as reported by Eurostat. The Union captive market consumption was established on the basis of the captive use and captive sales on the Union market of all known producers in the Union, as reported in the macro questionnaire reply from EUROFER.

(145) Union consumption developed as follows:

Table 1

Union consumption (000 tonnes)

	2018	2019	2020	Review investigation period
Free market consumption	34 533	32 411	27 899	34 869
Index	*100*	*94*	*81*	*101*
Captive consumption	45 289	42 011	36 989	40 424
Index	*100*	*93*	*82*	*89*

Total Union consumption	79 822	74 422	64 888	75 293
Index	*100*	*93*	*81*	*94*

Source: Eurostat, Macro questionnaire reply from EUROFER.

(146) Total Union consumption declined by 7 % in 2019 and sharply dropped further by another 12 % in 2020 due to a slump in demand caused by the COVID-19 pandemic. This decrease was however followed by a good recovery driven by the rebound in steel demand during the review investigation period but was still 6 % below the level of 2018.

(147) Free market consumption followed a similar trend to that of total Union consumption. It decreased sharply by 19 % up to 2020 and recovered strongly during the review investigation period, reaching even a level 1 % above that of 2018.

(148) The captive market consumption trend was nearly identical to the total Union consumption trend, declining sharply until 2020 by 18 % followed by a recovery reaching however only 89 % of the 2018 level.

(149) Overall, total Union consumption decreased 6 % during the period considered.

5.3. **Imports from the country concerned**

5.3.1. ***Volume and market share of the imports from the country concerned***

(150) The Commission established the volume of imports on the basis of Eurostat data. The market share of the imports was established on the basis of a comparison between import volumes and the Union free market consumption, as reported in Table 2 above.

(151) Imports into the Union from the country concerned developed as follows:

Table 2

Import volume (000 tonnes), market share and prices (EUR/tonne)

	2018	2019	2020	Review investigation period
Volume of imports from the PRC	1,7	0,5	0,3	28,7
Market share (%)	0,0	0,0	0,0	0,1
PRC import prices	1 674	3 177	2 482	664
Index	*100*	*190*	*148*	*40*

Source: Eurostat, Macro Questionnaire reply from EUROFER.

(152) After the imposition of measures in 2017, imports from China dropped to an insignificant level, with a negligible market share of 0,002 % in 2018. From 2018 to 2020, imports declined even further. During the review investigation period, imports from the PRC, however, spiked in April 2021 in comparison to the low levels in the preceding three years. Market share, however, remained very low at 0,1 %.

(153) Chinese import prices as reported in Eurostat were exceptionally high during 2018, 2019 and 2020, though they plummeted during the review investigation period. The exceptionally high import prices from 2018 to 2020 are likely connected with the fact that China exported a negligible volume to the Union which cannot be considered reliable.

(154) The Commission considered that Chinese import prices reported in Eurostat during the period considered are not representative of HRF average prices due to the very low volume of imports from the PRC during that period and that they could not be used to draw meaningful or relevant conclusions.

(155) The imports of the product under review from other third countries developed as follows:

Table 3

Imports from third countries

Country		2018	2019	2020	Review investigation period
Total of all third countries except the PRC	Volume (000 tonnes)	7 997	7 225	5 879	9 635
	Index	*100*	*90*	*74*	*120*
	Market share (%)	23	22	21	28
	Average price (EUR/tonne)	532	482	428	765
	Index	*100*	*90*	*80*	*144*

Source: Eurostat.

(156) Total imports of the product under review from third countries other than the country concerned decreased from 2018 to 2020 by 26 % and sharply increased in 2021 to reach a market share of 28 %, which is 20 % above the 2018 level. Overall, the Union imports HRF from more than 40 countries worldwide. The five biggest exporters of HRF to the EU during the review investigation period were Russia, India, Türkiye, Egypt and Taiwan, representing 18 % of the Union free market and 65 % of all imports of HRF. Individually, Russia was the largest exporter with a market share of 5,8 % whilst the other four countries held a market share between 2 % and 4 %, respectively. No other country holds a market share above 2 %. Among the biggest exporters, imports from Russia ([51]) and Türkiye ([52]) are currently covered by anti-dumping measures.

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

5.4.1. ***General remarks***

(157) In accordance with Article 8(4) of the basic Regulation, the examination of the impact of the subsidised 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.

(158) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators on the basis of data provided by the applicant that related to all Union producers. The Commission evaluated the microeconomic indicators on the basis of data contained in the questionnaire replies from the sampled Union producers. Both sets of data were found to be representative of the economic situation of the Union industry.

([51]) OJ L 258, 5.10.2017, p. 24.
([52]) OJ L 238, 6.7.2021, p. 32.

(159) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, employment, productivity, magnitude of the amount of countervailable subsidies and recovery from past subsidisation.

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

(161) As explained in recitals (143) – (144), to provide a picture of the Union industry that is as complete as possible, the Commission obtained data for the entire production of the product concerned and determined whether the production was destined for the captive or the free market. Where relevant and possible the Commission analysed separately injury indicators related to the free and the captive market.

5.4.2. ***Macroeconomic indicators***

5.4.2.1. *Production, production capacity and capacity utilisation*

(162) 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	Review investigation period
Production volume (000 tonnes)	75 626	70 920	61 096	69 531
Index	*100*	*94*	*81*	*92*
Production capacity (000 tonnes)	90 923	92 584	91 965	93 249
Index	*100*	*102*	*101*	*103*
Capacity utilisation (%)	83	77	66	75
Index	*100*	*92*	*80*	*90*

Source: Macro questionnaire reply from EUROFER.

(163) The production volume of the Union industry followed a similar trend as total Union consumption and decreased overall by around 8 % during the period considered, with a significant drop in 2020 followed by a recovery due to the reasons explained in recital (146).

(164) While the production capacity of the Union industry slightly increased during the period considered by 3 %, the capacity utilisation followed the same negative trend as production volume and consumption and decreased by 10 % between 2018 and the review investigation period.

5.4.2.2. *Sales volume and market share*

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

Table 5

Sales volume and market share in the free market (000 tonnes)

	2018	2019	2020	Review investigation period
Sales on the free market	26 534	25 185	22 020	25 205
Index	*100*	*95*	*83*	*95*
Market share (%)	77	78	79	72
Index	*100*	*101*	*104*	*99*

Source: Macro questionnaire reply from EUROFER.

(166) The Union industry sales volume on the Union market followed the trend of consumption during the period considered. It decreased between 2018 and 2020 for the reasons explained in recital (146), followed by a rebound in the review investigation period. Yet, the rebound in the review investigation periodwas still below 2018 levels.

(167) During the period considered, the Union industry's market share in terms of Union consumption increased slightly from 2018 to 2020 from 77 to 79 % to drop by seven percentage points between 2020 and the review investigation period to 72 %. As shown in table 4, this decline is explained by the fact that the market share of imports from third countries increased by 7 % between 2020 and the review investigation period, which explains the loss of the Union industry on the free market share.

Table 6

Captive volume on the Union market and market share (000 tonnes)

	2018	2019	2020	Review investigation period
Captive volume on the Union market	45 289	42 011	36 989	40 424
Index	*100*	*93*	*82*	*89*
Total production of Union Industry	75 626	70 920	61 096	69 531
% of captive volume compared to total production	59,9	59,2	60,5	58,1

Source: Macro questionnaire reply from EUROFER.

(168) The Union industry captive volume (composed of captive use and captive sales on the Union market) decreased by 18 % from 2018 to 2020 and recovered by 7 percentage points in 2021, resulting in an overall decrease of 11 % during the period considered, from about 45 million tonnes to 40 million tonnes from the start to the end of the review investigation period. Overall, the captive and free market followed the same trend. Therefore, the Commission concluded that development of the captive market did not have any significant impact on the Union industry performance on the free market.

(169) The Union industry's captive market share (expressed a percentage of total production) remained relatively stable during the period considered, ranging between 58,1 % and 60,5 %.

5.4.2.3. *Growth*

(170) In a context of decreasing consumption and production, the Union industry lost sales volume and market share on the free market. Overall, there was no growth for the Union industry over the period considered.

5.4.2.4. *Employment and productivity*

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

Table 7

Employment and productivity

	2018	2019	2020	Review investigation period
Number of employees	41 161	38 980	36 207	38 470
Index	*100*	*95*	*88*	*93*
Productivity (unit/employee)	1 824	1 819	1 687	1 807
Index	*100*	*100*	*93*	*99*

Source: Macro questionnaire reply from EUROFER.

(172) Between 2018 and the review investigation period, the number of employees engaged in the production of the product under review followed the trend of the volume of Union production, it decreased sharply between 2018 and 2020 to recover slightly during the review investigation period. Overall resulting in a decrease by 7 % over the period considered.

(173) The productivity of the Union industry's workforce, measured as output (tonnes) per employee, remained overall stable during the period considered.

5.4.2.5. *Magnitude of the amount of countervailing subsidies and recovery from past subsidisation*

(174) The Commission concluded that there is sufficient evidence showing that the producers continued receiving countervailable subsidies during the review investigation period. The amount of countervailing subsidies for China, specified above in the subsidy section, is significant.

(175) The anti-subsidy measures imposed following the original investigation allowed the Union industry to recover from past subsidisation, as is shown by the data for 2018. This was also confirmed by the Commission findings in the anti-dumping investigation against hot-rolled flat products from Türkiye ([53]).

5.4.3. ***Microeconomic indicators***

5.4.3.1. *Prices and factors affecting prices*

(176) The average unit sales prices of the sampled Union producers to customers in the Union developed over the period considered as follows:

([53]) Recital 139, Commission Implementing Regulation (EU) 2021/9 of 6 January 2021 imposing a provisional anti-dumping duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in Turkey (OJ L 3, 7.1.2021, p. 4).

Table 8

Sales prices and cost of production in the Union (EUR/tonne)

	2018	2019	2020	Review investigation period
Average unit sales price on the free market	549	509	450	734
Index	*100*	*93*	*82*	*134*
Unit cost of production	518	557	534	669
Index	*100*	*108*	*103*	*129*

Source: Sampled Union producers questionnaire reply.

(177) The Union industry's average sales prices decreased by 17 % between 2018 and 2020 and increased drastically by 34 % in 2021. The trend of unit sales prices during the period considered was influenced by the severe disruptions caused by the COVID-19 pandemic and the post-pandemic resumption in demand. In 2021, high steel demand, tight supply, and increased cost of production were the factors that influenced the sudden and significant rise in the unit sales price.

(178) The unit cost of production increased over the period concerned by 29 %. However, in 2019 the cost of production increased whilst the unit sales prices dropped. The inability for the Union industry to reflect the increased cost of production in their sales price was due to large volumes of dumped imports from Türkiye, pushing the prices downwards. In 2020, both cost of production and sales prices dropped, but the former to a smaller extent. This was due to the slump in the market during the COVID-19 pandemic, depressing prices significantly whilst the cost of production was less affected. The unit cost of production surged in 2021 due to a jump in energy and commodity prices. However, due to the post-COVID recovery demand surged as well and consequently, prices also increased significantly (more than 50 % between 2020 and the review investigation period), even more than the increase in production costs in the same period.

5.4.3.2. *Labour costs*

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

Table 9

Average labour costs per employee

	2018	2019	2020	Review investigation period
Average labour costs per employee (EUR/FTE)	64 164	69 352	69 748	78 444
Index	*100*	*108*	*109*	*122*

Source: Sampled Union producers questionnaire reply.

(180) During the period considered average labour costs increased by 22 %. While the number of employees in the review investigation period went down, compared to 2018, the average labour cost per employee increased.

5.4.3.3. *Inventories*

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

Table 10

Inventories

	2018	2019	2020	Review investigation period
Closing stocks (tonnes)	631 608	533 200	390 880	522 405
Index	*100*	*84*	*62*	*83*
Closing stocks as a percentage of production	5,0	4,5	3,8	4,6
Index	*100*	*90*	*76*	*92*

Source: Sampled Union producers questionnaire reply.

(182) During the period considered, the Union industry stock of HRF decreased continuously, with a drastic fall in 2020, which is explained by the effects of the Covid-19 pandemic, and a rebound in 2021. The HRF industry in the Union is characterised by framework contracts (monthly, quarterly, yearly) between producers and customers that fix the quantities and prices. These framework contracts are implemented through purchasing orders according to customers' needs. As a result, the Union industry can plan its production and inventories. Accordingly, and as also established in the original investigation, stocks are not considered an important injury indicator for this industry, since most types of the like product are produced by the Union industry based on specific orders of the users.

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

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

Table 11

Profitability, cash flow, investments and return on investments

	2018	2019	2020	Review investigation period
Profitability of sales in the Union free market (% of sales turnover)	8,4	- 7,2	- 18,0	14,1
Index	*100*	*- 86*	*- 214*	*168*
Cash flow (EUR)	496 319 788	- 6 211 922	- 130 468 840	645 183 908
Index	*100*	*- 1,3*	*- 26*	*130*
Investments (EUR)	216 927 207	433 154 031	181 406 902	394 535 083
Index	*100*	*200*	*84*	*182*

Return on investments (%)	9,1	- 6,0	- 13,3	17,4
Index	*100*	*- 66*	*- 146*	*191*

Source: Sampled Union producers questionnaire reply.

(184) The Commission established the profitability of the sampled Union producers by expressing the pre-tax net profit of the free market sales of the like product in the Union as a percentage of the turnover of those sales.

(185) Profitability fluctuated during the period considered although overall profitability increased by 5,7 percentage points during the period considered. After the imposition of measures in 2017, the industry recovered and recorded a profit in 2018. Losses were, however, incurred in 2019 and profitability reached its lowest level, namely -18 %, in 2020 at the core of the pandemic, while in 2021 profit strongly rebounded to 14,1 %. At the same time, following the imposition of measures against the PRC, dumped imports at low prices from Türkiye rapidly increased, which explains the drop in profitability in 2019. This decrease in profitability was then exacerbated by the shocks caused by the global pandemic in 2020, such as supply chain disruptions and the decline in steel consumption. Spike in steel demand, coupled with increased sales prices, led to unusually high profits in 2021, which marked an exceptional year for the Union industry.

(186) The net cash flow is the ability of the Union producers to self-finance their activities. The trend in net cash flow developed in a similar manner to profitability: a drastic fall in 2019-2020, followed by strong rebound in the review investigation period.

(187) Between 2018 and the review investigation period, investments increased by 82 %. Overall, during the period considered, the investment flows followed a bimodal distribution: investment increased significantly in 2019, followed by a drop in 2020 and a second peak in 2021. In general, the investments were aimed at improving quality and greening of production.

(188) The return on investments (ROI) is the profit in percentage of the net book value of investments. The return on investment significantly improved during the review investigation period as compared to 2018. In fact, during the period considered, the ROI increased by 8,3 percentage points. It developed in a similar way as the profitability: a drastic fall in 2019 and 2020, followed by strong rebound in the review investigation period.

(189) The sampled Union producers' ability to raise capital was not affected during the review investigation period, which saw a speedy recovery from the pandemic.

5.5. **Conclusion on injury**

(190) Following the imposition of countervailing measures against imports of HRF from China in 2017, imports from China decreased and remained below the de minimis level during the period considered, allowing the Union industry to start recovering from the injurious effects of the subsidised imports from China and, as confirmed by in Commission Implementing Regulation (EU) 2021/1100 ([54]) concerning imports of HRF originating in Türkiye, had recovered by the end of 2018. However, the recovery of the Union industry's economic situation came to an abrupt halt and was reversed in 2019, when the Union industry had to compete with significant volumes of low-priced dumped imports from Türkiye, forcing it to set its prices below costs to keep its market share and thus causing a material injury to the Union industry ([55]). In July 2021, the Commission imposed definitive measures against Türkiye and thanks to various factors at play, as explained in recital (185), the situation of the Union industry improved and recovered by the end of 2021 to an economic situation similar to that of 2018. Hence, during the review investigation period, the Union industry was no longer considered injured.

([54]) Recital 210, Commission Implementing Regulation (EU) 2021/1100 of 5 July 2021 imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in Turkey (OJ L 238, 6.7.2021, p. 32).

([55]) *Ibid.*

(191) More particularly, almost all injury indicators, notably production, capacity utilisation, sales volumes and sales prices, employment and productivity, profit, cash flow and ROI followed a similar trend during the period considered. This trend was characterised by a decrease in 2019, a sharper decrease in 2020 and a rebound in the review investigation period to levels similar to those at the beginning of the period considered in 2018. The reason behind this irregular trend lies largely in the coincidence of a considerable influx of low-priced dumped imports of HRF from Türkiye and the unique dynamics created by the COVID-19 pandemic. Lockdowns and interruptions of industrial activity led to extremely low consumption levels and low demand for steel in 2020, whilst steel demand and prices soared in 2021 during the post-COVID recovery leading, amongst others, to exceptionally high profits for the steel industry during the review investigation period.

(192) On the basis of the above, the Commission concluded that the Union industry did not suffer material injury within the meaning of Article 8 of the basic Regulation during the review investigation period.

(193) However, the indicators cannot be analysed without considering the exceptionally favourable steel market conditions of 2021. In 2020, however, the pandemic-induced slowdown of industrial activity and its consequent decrease of steel demand, led to a severe downturn of the performance of the steel industry and global economy in general. In 2021, driven by a rebound in demand, steel consumption strongly bounced back, as did steel prices.

6. **LIKELIHOOD OF RECURRENCE OF INJURY**

(194) As explained in recital (192), the Commission concluded that the Union industry did not suffer material injury during the review investigation period. On the other hand, as explained in recital (138), the Commission concluded that the repeal of the countervailing measures is likely to result in a redirection of significant volumes of subsidised imports of the product under review to the Union market. Therefore, the Commission assessed, in accordance with Article 18(2) of the basic Regulation, whether there would be a likelihood of recurrence of injury caused by the subsidised imports from the PRC if the measures were allowed to lapse.

(195) In this regard, the Commission examined the production capacity and spare capacity in China, the attractiveness of the Union market and likely Chinese import prices and impact on the Union industry.

6.1. **Production capacity and spare capacity in the PRC**

(196) As described in recital (131), the producers in China have significant spare capacity. Indeed, Chinese estimated spare capacity corresponds to 89 % of the size of the EU free market consumption. This spare capacity could be used to produce the product under review for export to the Union if measures were allowed to lapse. Moreover, as stated in recital (132), shrinking Chinese steel demand is, and will be, a key driver of increasing exports. The resulting imbalance between capacity and demand in China is likely to increase pressure on Chinese producers to export.

(197) In addition, one of main markets, the USA, is protected by anti-dumping measures on the product under review, which reduces access of the Chinese producers.

6.2. **Attractiveness of the Union market**

(198) As described in recital (134), the Union market is among the largest markets of certain hot-rolled flat steel products worldwide. Moreover, the Chinese market cannot absorb the excess steel capacity and major third countries markets are closed for Chinese exports as they have anti-dumping, safeguards or other protective measures in place against the PRC. Also, the price levels in the Union are higher than the average price charged by the Chinese exporters to the rest of the world. Therefore, the Union market represents an attractive target for the existing spare capacity in the PRC if anti-subsidy measures were to be repealed.

(199) After disclosure, CISA contested the conclusions with regard to the attractiveness of the Union market, arguing that the Chinese steel industry relies on its domestic market, and that Chinese domestic consumption is ten times larger than the EU free market segment. It further highlighted that as of 1 August 2021, certain steel products, including hot-rolled flat steel, are no longer eligible for VAT export rebates, thus having a discouraging effect on exports and redirecting Chinese steel production to the Chinese domestic industry.

(200) The Commission acknowledged that Chinese domestic HRF consumption is significantly larger the EU free market but as explained in recital (196), the producers in China have significant spare capacity which they are not able to deploy in their domestic market. There is thus nothing that prevent the Chinese producers to use this spare capacity to produce the product under review for export to the Union if measures were allowed to lapse. Besides, as stated in recital (132), shrinking Chinese steel demand is, and will be, a key driver of increasing exports. The resulting imbalance between capacity and demand in China is likely to increase pressure on Chinese producers to export. With regard to the alleged change in the VAT system, the Commission noted that CISA had not provided any evidence supporting the argument that the change of VAT rebates would have led, or will lead, to any significant changes in the export behaviour of Chinese producers. The Commission therefore rejected this claim as unsubstantiated.

6.3. **Likely Chinese import prices and impact on the Union industry**

(201) Taking into account the low volumes of imports from the PRC from 2018 until 2021, the Commission considered that the import prices reported in Eurostat could not be relied on to establish the likely prices of imports of HRF from China in the absence of anti-dumping measures. Instead, the Commission considered as a representative proxy export prices from the PRC to all third countries other than the Union ('rest of the world' or 'ROW').

(202) The Commission established that during the review investigation period Chinese exports prices (FOB) to the rest of the world was on average 660 EUR/tonne. Based on that price and to determine a likely price at which Chinese exports would arrive at the Union border, the Commission added cost for insurance and freight. In the absence of cooperation from Chinese exporting producers the Commission resorted to the costs used in the original investigation, i.e. 52 EUR/tonnes, or 7,9 % of the price/tonne, as the best facts available. Accordingly, the Commission concluded that the likely import CIF price of Chinese exports of HRF to the Union would, absent measures, be not more than 712 EUR/tonne.

(203) Given that statistical data, in the absence of cooperation of Chinese exporting producers, was used, only an average price per tonne for a large variety of product types could be established. Hence, in the absence of information at product type level the Commission could not carry out a precise undercutting calculation but had to limit itself to a price comparison between average prices per tonne.

(204) The Chinese exports price thus determined was compared with the weighted average sales prices during the review investigation of the sampled Union producers charged to customers on the Union market, adjusted to an ex-works level.

(205) The price comparison was made at the same level of trade and, in analogy with a precise undercutting calculation methodology, the result of the comparison was expressed as a percentage of the sampled Union producers' theoretical turnover during the review investigation period. It showed that on average the Chinese exports to the Union would undercut Union industry's average prices by around 8 %.

(206) HRF is a highly price sensitive commodity product and as observed in the original investigation concerning imports of HRF from China and also in the investigation on the identical product from Türkiye, rather modest levels of price undercutting combined with large volumes are susceptible to have significant and immediate impact on the Union industry's performance ([56]). In both those investigations, undercutting margins below 5 % forced the Union industry to lower sales prices (or lose market share) to such an extent that it incurred material injury in the short term.

([56]) Recital 98, OJ L 3, 7.1.2021, p. 4.

(207) Given that the Union industry during the review investigation period had just rebounded from a turbulent and economically difficult period, including the Covid-19 pandemic, with accumulated losses, it is still in a fragile situation. In addition, the Commission established that various subsidy programmes continue to be offered by the GOC to the HRF industry and the Commission determined that the HRF industry benefited from a number of them during the review investigation period. It is therefore highly likely that the recurrence of low-priced subsidised imports from China in significant volumes that undercut Union prices would have a significant adverse effect on the Union industry's performance, notably with regard to production, sales volumes and prices, profitability and investment needs, resulting in material injury recurring.

(208) After disclosure, CISA challenged the selection of the period considered for the injury analysis. It argued that the dumped imports of HRF at increased volumes from Türkiye in 2019, the COVID-induced economic slowdown, and the post-pandemic recovery boom distorted the evidence serving as a basis for the dumping and injury analysis. It claimed that the Commission should have analysed a different period and suggested to examine an extended period, covering one or two years prior to the period considered (2016 – 2018) as well as post-RIP (2022).

(209) The Commission rejected this claim. It recalled that the various elements listed by CISA as being capable of distorting the evidence during the period considered had been acknowledged and carefully considered in the Commission's injury analysis. The Commission further observed that even if an extended period prior to the review investigation period would have been considered, as suggested by CISA, the same elements would still have been present. With regard to the review investigation period the Commission recalled that based on Article 6(1) of the basic Regulation, *'an investigation period shall be selected which in the case of dumping shall, normally, cover a period of no less than six months immediately prior to the initiation of proceedings. Information relating to a period subsequent to the investigation period shall, normally, not be taken into account'*. It is established case-law that the Commission cannot be required to incorporate in its calculations factors relating to a period subsequent to the investigation period, unless such factors disclose new developments which make the proposed anti-dumping duty manifestly inappropriate ([57]). The same reasoning, by analogy, should apply to review investigations initiated under Article 11(2) of the basic Regulation. CISA did not provide any evidence tending to show that the developments that followed the review investigation period made the re-imposition of the duty manifestly inappropriate.

6.4. **Conclusion**

(210) On the basis of the above, it is concluded that the absence of measures would, in all likelihood, result in a significant increase of subsidised imports from the PRC at injurious prices and thus material injury would be likely to recur.

7. **UNION INTEREST**

(211) In accordance with Article 31 of the basic Regulation, the Commission examined whether maintaining the existing anti-subsidy measures would be against the interest of the Union as whole. The determination of the Union interest was based on an appreciation of all the various interests involved.

7.1. **Interest of the Union industry**

(212) The Union industry is located in 15 Member States (Austria, Belgium, Czech Republic, Finland, France, Germany, Hungary, Italy, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia and Spain). It employs over 38 000 employees in relation to the product under review.

([57]) Judgment of 17 December 2008 in T-462/04, *HEG and Graphite India v Council*, ECLI:EU:T:2008:586, para. 67.

(213) In the absence of measures, the Union industry will no longer be protected against the likely increase of subsidised imports from China, which will cause material injury. The effect of anti-subsidy measures will be positive for the Union producers, as measures will help the Union industry to continue its recovery from subsidised imports and effects from the COVID-19 pandemic. It is therefore clearly in the interest of the Union industry to maintain the measures.

7.2. **Interest of users and unrelated importers**

(214) The Commission contacted all known users and unrelated importers. No users or unrelated importers came forward and cooperated in this investigation by submitting a questionnaire reply. Given the lack of cooperation of users and unrelated importers and in the absence of any indications to the contrary, the continuation of the measures is not considered against the interest of users and importers.

(215) Moreover, the Commission analysed whether measures against China would have a negative effect on the security of supply, as there are also measures in place on HRF against Türkiye, Brazil, Iran and Russia. The Union industry level of capacity utilisation was 75 % during the review investigation period, and the total production capacity exceeded the total Union consumption by 18 million tonnes, according to EUROFER's macro questionnaire data. In addition, despite measures against some of the major exporters of HRF, almost 40 countries exported the product under review to the Union during the review investigation period, thus showing that the imposition of measures would not impinge upon diversification of supply. For these reasons and in the absence of cooperation by users and importers, the Commission concluded that there were no potential risks at the level of supply for downstream users.

(216) After disclosure, CISA referred to the EU safeguard on imports of, inter alia, HRF from China, which significantly limits the possibility for Chinese producers to export HRF to the EU market and restrict the free trade flows to the detriment of downstream producers and end users.

(217) The Commission recalled that the safeguard in question cannot be considered of a lasting nature, and that the measure currently in place ([58]) has no impact on the assessment of the likelihood of increased imports in the absence of countervailing duties. Considering the temporary nature of the steel safeguard, the Commission hence found that they cannot have a bearing on its conclusions in this investigation. On the security of supply, as stated in recital (215), the Union industry's total production capacity exceeded the total Union consumption, and several other third countries exported HRF to the Union during the review investigation period. Moreover, the safeguard measure is regularly review and adjusted if needed in order to ensure sufficient supply of steel in the Union market. Therefore, safeguards measures would not constitute a risk to the security of supply for downstream users.

(218) In addition, CISA also claimed that the introduction of the Carbon Border Adjustment Mechanism (CBAM) would deteriorate the access to the EU market given the burdensome reporting obligations and surcharges linked to the CBAM.

(219) The Commission recalled that the CBAM will only enter into force in October 2023 and that during a transitional period, until 2026, importers will only have to report emissions embedded in their goods without incurring any financial charges. The stated reason for this transnational period is to allow parties time to adjust before the final system is put into place and to reduce the risk of trade disruptions. Accordingly, the Commission considered that it is premature to make any assessment of the potential impact of CBAM on future trade flows of HRF and rejected the claim.

7.3. **Conclusion on Union interest**

(220) On the basis of the above, the Commission concluded that there were no compelling reasons of the Union interest against the continuation of the existing measures on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the PRC.

([58]) By Commission Implementing Regulation (EU) 2019/159, the Commission imposed a safeguard measure with respect to certain steel products for a period of three years. By Commission Implementing Regulation (EU) 2021/1029, the safeguard measure was prolonged until 30 June 2024.

8. CLAIMS THAT THE MEASURES SHOULD BE SUSPENDED

(221) Following disclosure, CISA claimed that the current anti-subsidy measures should be suspended in accordance with article 24(4) of the basic Regulation arguing that both conditions set out in the aforementioned Article 24(4) of the basic Regulation are fulfilled. It claimed that market conditions have temporarily changed to such an extent that injury would be unlikely to continue or occur as a result of the suspension. In that view, CISA referred to the expected decrease of the volume of imports from Russia and Ukraine, the supply shortages following incidents at HRF facilities in the European Union, and price increases of the product concerned.

(222) The Commission rejected CISA's claim, as it was generic and unsubstantiated. On the other hand, the review investigation has established that injury would be likely to recur in the absence of measures and, *mutatis mutandis*, also in case of a suspension.

9. ANTI-SUBSIDY MEASURES

(223) On the basis of the conclusions reached by the Commission on continuation of subsidisation, recurrence of injury and Union interest, the anti-subsidy measures on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the PRC should be maintained.

(224) To minimise the risks of circumvention due to the high difference in duty rates, special measures are needed to ensure the application of the individual countervailing duties. The companies with individual countervailing 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(3) of this Regulation. Imports not accompanied by that invoice should be subject to the countervailing duty applicable to 'all other companies'.

(225) While presentation of this invoice is necessary for the customs authorities of the Member States to apply the individual rates of countervailing 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(3) 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.

(226) 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 23(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.

(227) The individual company countervailing duty rates specified in this Regulation are exclusively applicable to imports of the product under review originating in the PRC and produced by the named legal entities. Imports of the product under review 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 countervailing duty rates.

(228) A company may request the application of these individual countervailing duty rates if it changes subsequently the name of its entity. The request must be addressed to the Commission ([59]). 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*.

(229) All interested parties were informed of the essential facts and considerations on the basis of which it was intended to recommend that the existing measures be maintained. They were also granted a period to make representations subsequent to this disclosure.

(230) In view of Article 109 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ([60]) 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.

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

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive countervailing duty is imposed on imports of certain flat-rolled products of iron, non-alloy steel or other alloy steel, whether or not in coils (including 'cut-to-length' and 'narrow strip' products), not further worked than hot-rolled, not clad, plated or coated, currently falling under CN codes 7208 10 00, 7208 25 00, 7208 26 00, 7208 27 00, 7208 36 00, 7208 37 00, 7208 38 00, 7208 39 00, 7208 40 00, 7208 52 10, 7208 52 99, 7208 53 10, 7208 53 90, 7208 54 00, 7211 13 00, 7211 14 00, 7211 19 00, ex 7225 19 10 (TARIC code 7225 19 10 90), 7225 30 90, ex 7225 40 60 (TARIC code 7225 40 60 90), 7225 40 90, ex 7226 19 10 (TARIC codes 7226 19 10 91, 7226 19 10 95), 7226 91 91 and 7226 91 99 and originating in the People's Republic of China.

The following products are not covered by this review:

(i) products of stainless steel and grain-oriented silicon electrical steel,

(ii) products of tool steel and high-speed steel,

(iii) products, not in coils, without patterns in relief, of a thickness exceeding 10 mm and of a width of 600 mm or more, and

(iv) products, not in coils, without patterns in relief, of a thickness of 4,75 mm or more but not exceeding 10 mm and of a width of 2 050 mm or more.

2. The rates of the definitive countervailing 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:

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

([60]) 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).

Country	Company	Countervailing duty	TARIC additional code
People's Republic of China	Bengang Steel Plates Co., Ltd.	28,1 %	C157
	Handan Iron & Steel Group Han-Bao Co., Ltd.	7,8 %	C158
	Hesteel Co., Ltd. Tangshan Branch ([1])	7,8 %	C159
	Hesteel Co., Ltd. Chengde Branch ([2])	7,8 %	C160
	Zhangjiagang Hongchang Plate Co., Ltd.	4,6 %	C161
	Zhangjiagang GTA Plate Co., Ltd.	4,6 %	C162
	Shougang Jingtang United Iron and Steel Co. Ltd.	31,5 %	C164
	Beijing Shougang Co. Ltd., Qian'an Iron & Steel branch	31,5 %	C208
	Other cooperating companies listed in the Annex	17,1 %	See Annex
	All other companies	35,9 %	C999

([1]) Formerly 'Hebei Iron & Steel Co., Ltd. Tangshan Branch'.
([2]) Formerly 'Hebei Iron & Steel Co., Ltd. Chengde Branch'.

3. The application of the individual duty rates specified for the companies mentioned in paragraph 2 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 under review) 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.

4. Should the definitive countervailing duties imposed by Article 1(2) be modified or removed, the duties specified in paragraph 2 will be increased by the same proportion limited to the actual dumping margin found or the injury margin found as appropriate per company and from the entry into force of this Regulation.

In cases where the countervailing duty has been subtracted from the anti-dumping duty for certain exporting producers, refund requests under Article 21 of Regulation (EU) 2016/1037 shall also trigger the assessment of the dumping margin for that exporting producer prevailing during the refund investigation period. The amount to be reimbursed to the applicant for refund cannot exceed the difference between the duty collected and the combined countervailing and anti-dumping duty established in the refund investigation.

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

Article 2

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, 7 June 2023.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Country	Name	TARIC additional code
PRC	Angang Steel Company Limited	C150
PRC	Maanshan Iron & Steel Co., Ltd	C165
PRC	Rizhao Steel Wire Co., Ltd.	C166
PRC	Rizhao Baohua New Material Co., Ltd.	C167
PRC	Wuhan Iron & Steel Co., Ltd.	C156