



COMMISSION IMPLEMENTING REGULATION (EU) 2025/81

of 13 January 2025

imposing a provisional anti-dumping duty on imports of flat-rolled products of iron or non-alloy steel plated or coated with tin originating in the People's Republic of China

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾, and in particular Article 7 thereof,

After consulting the Member States,

Whereas:

1. PROCEDURE

1.1. Initiation

- (1) On 16 May 2024, the European Commission ('the Commission') initiated an anti-dumping investigation regarding imports of flat-rolled products of iron or non-alloy steel plated or coated with tin ('tinplated products' ⁽²⁾) originating in the People's Republic of China ('the country concerned', 'China or 'the PRC') based on Article 5 of Regulation (EU) 2016/1036 of the European Parliament and of the Council ('the basic Regulation'). It published a Notice of Initiation in the *Official Journal of the European Union* ⁽³⁾ ('the Notice of Initiation').
- (2) The Commission initiated the investigation following a complaint lodged on 2 April 2024 by EUROFER ('the complainant'). The complaint was made on behalf of the Union industry of tinplated products in the sense of Article 5(4) of the basic Regulation. The complaint contained evidence of dumping and of resulting material injury that was sufficient to justify the initiation of the investigation.

1.2. Registration

- (3) The Commission made imports of tinplated products subject to registration by Commission Implementing Regulation (EU) 2024/2731 of 24 October 2024 ('the registration Regulation') ⁽⁴⁾.

1.3. Interested parties

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

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ In the Notice of Initiation, the short name of 'tinplate' was used. However, in the Combined Nomenclature additional note 1 (second indent) to Chapter 72 (see https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202402522), tinplate has been defined as follows: for the purposes of subheadings 7210 12 20, 7210 70 10, 7212 10 10 and 7212 40 20, flat-rolled products (of a thickness of less than 0,5 mm) coated with a layer of metal containing, by weight, 97 % or more of tin. Since the product covered by this investigation is broader than this definition, the Commission decided to use 'tinplated products' instead to define the product under investigation.

⁽³⁾ OJ C, C/2024/3112, 16.5.2024, ELI: <http://data.europa.eu/eli/C/2024/3112/oj>.

⁽⁴⁾ OJ L, 2024/2731, 25.10.2024, ELI: http://data.europa.eu/eli/reg_impl/2024/2731/oj.

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

1.4. Comments on initiation

- (6) Several parties opposing the potential imposition of anti-dumping duties provided comments on initiation, arguing that the complaint did not contain evidence to indicate that the Union industry suffered any material injury, nor that it was facing a threat of injury, and is therefore procedurally deficient.
- (7) First, to demonstrate the alleged lack of evidence in the complaint concerning the material injury suffered by the Union industry, an unrelated importer, Steelforce Packaging BV ('Steelforce'), pointed to the performance of the Union industry presented in the complaint. Specifically, Steelforce claimed that the average sales prices remained above average cost of production both in 2022 and in the investigation period used in the complaint, which ran from October 2022 to September 2023 ('Complaint IP'), resulting in the Union industry being profitable during that period.
- (8) Steelforce also contended that, rather than such positive performance being a temporary trend, as the complainant claimed, it was the negative performance in 2020 and 2021 which was of temporary nature, due to the overall disruption of Union's economy caused by the COVID-19 pandemic, which dramatically reduced demand. Steelforce alleged that years 2018 or 2019 would also show a generally positive trend for the Union industry.
- (9) Furthermore, Steelforce claimed that the Union industry's market share remained very high and largely stable. All these elements showed that the Union industry did not suffer any injury.
- (10) Steelforce further claimed the Union industry is not threatened by further imminent injury either, because, as they are not suffering any material injury, any threat can thus only be of future harm.
- (11) Steelforce also argued that the complaint's assertion that imports from China were suppressing and depressing Union industry's prices was unfounded since it was based on data from only one unnamed Union producer in the complaint, and this data was also not disclosed, precluding Steelforce from properly exercising their right of defence as they could not meaningfully comment on that data or assess the size of the Union producer providing the data.
- (12) Finally, Steelforce claimed that the quarterly data on profitability presented in the complaint was not conclusive to the existence of a threat of injury due to the natural seasonality of demand in this market.
- (13) Notwithstanding the above, Steelforce claimed that all the evidence and claims presented in the complaint were outdated. First, it argued that the Complaint IP ended in Q3 2023 while the investigation was initiated in May 2024, and thus any evidence provided in the complaint demonstrated, at best, past injury and not its persistence in the present. Second, it claimed that the Notice of Initiation did not show that the Commission would have strived to update the figures in the complaint in order to comply with Article 5 of the basic Regulation. Steelforce thus maintained that the investigation was unlawful claiming that it violated Article 5(3) of the basic Regulation.
- (14) Similar to Steelforce's claims from recitals (7) and (13) above, China Iron and Steel Association ('CISA') claimed that the complaint lacked positive evidence justifying the initiation of the proceeding and that the complainant relied excessively on confidential information which did not allow other interested parties to meaningfully respond to allegations contained in the complaint. In particular, CISA claimed that the period considered selected in the complaint was not representative to lead to reliable findings in these proceedings, contrary to the requirements of Article 6(1) of the basic Regulation, due to the effects that the COVID-19 pandemic had on the situation on the market. In view of the lockdowns disrupting production, demand, and supply chains in 2020 and 2021, CISA requested the Commission to adopt a period considered which would start in 2019 or 2018 reflecting normal business conditions, so that the extraordinary nature of the Union industry's performance in 2020 and 2021 would be visible in the trends of micro and macroeconomic indicators.

- (15) CISA also argued that the complaint failed to address several factors which had a bearing on the state of the Union industry, including return on investment, ability to raise capital, cash flow, wages, and export performance. Concerning the quality of the non-confidential version of the complaint, CISA claimed that the fact that Union consumption, market share and the macroeconomic dataset was presented as ranges instead of actual figures prevented interested parties from responding to the claims contained in the complaint and therefore breached their right of defence.
- (16) The complainant argued that the focus of the material injury assessment in the complaint was based on annual figures and that quarterly trends were provided for further context and as evidence of a threat of injury. Concerning the non-confidential version of the complaint, the complainant argued that the injury data was given in ranges to respect antitrust policies which require that aggregated data must come from at least five companies to be shared, and the complainant producers are only four.
- (17) Concerning the claims that there was no sufficient evidence that the Union industry suffered injury in the complaint, the Commission noted that Article 5(2) of the Basic Regulation states that relevant (not necessarily all) factors and indices having a bearing on the state of the Union industry, must show deterioration in order for material injury to be established.
- (18) The complaint showed that after an uptick in 2022, the average profit margin decreased substantially in the Complaint IP. The Commission also noted that the open version of the complaint provided actual figures for the Union sales of the complainant which showed a considerable decline between 2020 and the Complaint IP. The figures of the complainant's production and employment both showed a considerable drop over that period. In addition, contrary to the claim of Steelforce set out in recital (9), it was clear from the complaint that the market share of the Union industry went down while Chinese imports nearly doubled between 2020 and the Complaint IP. The macroeconomic data, which was provided in ranges in the complaint, also showed declining production, declining sales, and a drop in employment. Therefore, the Commission concluded that the data provided in the complaint could be considered as sufficient evidence pointing to injury.
- (19) The use of ranges instead of actual figures for confidential information in the complaint is general practice if they provide sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. The ranges provided in the complaint showed the trend over the period considered and were therefore found to be sufficiently detailed.
- (20) As to Steelforce's claims from recital (11), the Commission noted that Annex 12 of the non-confidential version of the complaint contained a price comparison between the sales price of all complaining Union producers to unrelated customers in the EU and the price of Chinese imports based on statistics which showed that Chinese prices were lower than prices of the Union industry in the complaint investigation period.
- (21) Annex 12 of the complaint also contained the aggregate sales volumes of the complaining Union producers to unrelated customers in the EU which showed a steady decline over the period considered with a sharp drop between 2022 and the Complaint IP while the volume of Chinese imports increased significantly over the same period.
- (22) In addition, the complainant provided, in the confidential version of the complaint, individual examples from Union producers which had to decrease their sales price to be able to sell their products and the complainant summarized the essence of these confidential documents in points 194 and 195 of the complaint.
- (23) The Commission thus concluded that the complainant provided sufficient evidence on price undercutting, volume injury and price suppression required under Article 5(2) of the basic Regulation for the initiation of the investigation.
- (24) The Commission noted that the period of investigation used for the purpose of the complaints is often different from the one used in the proceeding itself, given the time lapse between the lodging of a complaint and the initiation of an investigation. The basic Regulation does not set any legal obligation concerning the period for the data contained in the complaint but stipulates that it should contain information reasonable available to the complainant. The Commission considered that the data contained in the complaint was sufficiently recent to justify the initiation of the investigation.

- (25) Concerning the period considered for the injury trends, the Commission noted that in line with its usual practice, it analysed the injury indicators for four years preceding the IP and that the effects of the COVID-19 pandemic were assessed under the injury and causation analysis in recitals (235), (293), (300) and (323). Therefore, the Commission concluded that the period considered was appropriate to assess the injury trends.
- (26) On the basis of the above, the Commission concluded that the complaint contained sufficient evidence to indicate that the Union industry suffered injury, that imports from China were dumped and that there was a causal link between dumping and injury. The Commission found that this evidence was sufficient for the initiation of the investigation and rejected the arguments of the other parties in this respect.

1.5. Sampling

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

Sampling of Union producers

- (28) In its Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. The Commission selected the sample on the basis of representativity in terms of the production and sales quantity of the product under investigation during the investigation period and geographic location. This sample consisted of three Union producers. The sampled Union producers accounted for more than 80 % of estimated total Union production and more than 70 % of estimated Union sales of the like product. The Commission invited interested parties to comment on the provisional sample.
- (29) Given that no comments were received on the provisional sample, the Commission confirmed it to be the definitive sample as well. The sample is representative of the Union industry.

Sampling of unrelated importers

- (30) To decide whether sampling is necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation.
- (31) One unrelated importer provided the requested information and agreed to be included in the sample. In view of the low number of replies, the Commission decided that sampling was not necessary.

Sampling of exporting producers

- (32) To decide whether sampling is necessary and, if so, to select a sample, the Commission asked all exporting producers in China to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the PRC to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.
- (33) Eleven exporting producers in China provided the requested information and agreed to be included in the sample. In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of three based on the largest representative quantity of exports to the Union which could reasonably be investigated within the time available.
- (34) In accordance with Article 17(2) of the basic Regulation, all known exporting producers concerned, and the authorities of China were consulted on the selection of the sample. No comments were received.

1.6. Questionnaire replies and verification visits

- (35) The Commission sent a questionnaire concerning the existence of significant distortions in China within the meaning of Article 2(6a)(b) of the basic Regulation to the Government of the People's Republic of China ('GOC').
- (36) Furthermore, the complainant provided in the complaint sufficient evidence of raw material distortions in China regarding the product concerned. Therefore, as announced in the Notice of Initiation, the investigation covered those raw material distortions to determine whether to apply the provisions of Article 7(2a) and 7(2b) of the basic Regulation. For this reason, the Commission sent additional questionnaires in this regard to the GOC.
- (37) Questionnaires for exporting producers, Union producers, unrelated importers, and users were made available online ⁽⁹⁾ on the day of initiation.
- (38) The Commission received questionnaire replies from the three sampled Union producers, the three sampled exporting producers, one unrelated importer, and two users. Moreover, it received a questionnaire concerning macroeconomic data from the complainant.
- (39) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, resulting injury and Union interest. Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:

Union producers

- Tata Steel IJmuiden BV, IJmuiden, Netherlands
- ThyssenKrupp Rasselstein GmbH, Andernach, Germany
- Arcelor Mittal España SA, Aviles, Spain, and its related company:
 - Arcelor Mittal Avellino & Canossa S.p.a., Milano, Italy

Importers

- Steelforce Packaging BV, Antwerp, Belgium

Exporting producers

- Baoshan Iron and Steel Co., Ltd., Shanghai
- WISCO Nippon Steel Tinsplate Co., Ltd., Wuhan
- Shougang Jingtang United Iron & Steel Co., Ltd., Caofeidian

1.7. Investigation period and period considered

- (40) The investigation of dumping and injury covered the period from 1 April 2023 to 30 March 2024 ('the investigation period'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2020 to the end of the investigation period ('the period considered').

⁽⁹⁾ <https://tron.trade.ec.europa.eu/investigations/case-view?caseId=2726>.

2. PRODUCT UNDER INVESTIGATION, PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product under investigation

- (41) The product under investigation is tin mill flat-rolled products, of iron or non-alloy steel, coated or plated with tin, whether or not coated with a plastic material and/or varnished ('tinplated products'), currently falling under CN codes 7210 11 00, 7210 12, ex 7210 70, 7210 90 40, ex 7210 90 80, 7212 10, and ex 7212 40 (TARIC codes 7210 70 10 15, 7210 70 80 20, 7210 70 80 92, 7210 90 80 20, 7212 40 20 10, 7212 40 80 12, 7212 40 80 30, 7212 40 80 80, and 7212 40 80 85) ('the product under investigation').
- (42) Tinplated products are a packaging material, mainly used in the production of tin cans. They form part of the steel sector as they are mainly produced from cold rolled steel coils which are then electroplated with tin.

2.2. Product concerned

- (43) The product concerned is product under investigation originating in the PRC ('the product concerned').

2.3. Like product

- (44) The investigation showed that the following products have the same basic physical chemical and technical characteristics as well as the same basic uses:
- the product concerned when exported to the Union;
 - the product under investigation produced and sold on the domestic market of China; and
 - the product under investigation produced and sold in the Union by the Union industry.
- (45) The Commission decided at this stage that those products are therefore like products within the meaning of Article 1(4) of the basic Regulation.

2.4. Claims regarding product scope

- (46) One exporting producer, Baosteel Group, and CISA both requested a product exclusion for double reduced tinplated products ('DRT'). They both claimed that DRT has distinct production process and physical characteristics compared to other tinplated products, insofar that it is thinner, flatter, and easier to process, while also having higher yield strength. Furthermore, DRT has its own production standards (DIN EN 10203, DIN EN 10202, and JIS G3303) and Baosteel Group claimed that there is lack of supply of such tinplated products in the Union.
- (47) CISA additionally asked to exclude drawn and ironed tinplated products ('DIT') from the product scope as well. They claimed that DIT production includes ironing the product which has already been drawn out into a cylinder, a process which reduces wall thickness while maintaining the diameter of the cylinder. This makes the cans lightweight and strong enough to withstand internal pressures, specifically tailored for its main application – use as beverage cans for carbonated drinks. CISA claimed that DIT and other tinplated products are thus not substitutable and highlighted that DIT also has its own production standard (DIN EN 10202). CISA further claimed that EU demand for DIT often exceeds supply and pointed out that US Department of Commerce ('DOC') has accepted this exclusion within Section 232 measures on steel and aluminium (Section 232 of the US Trade Expansion Act of 1962).
- (48) The complainant disputed those claims, and they were not supported by any users. The complainant argued that DRT was produced on the same production line and equipment, the only specificity being that rolling speeds in the final stage of the process are higher. Furthermore, standards DIN EN 10203, DIN EN 10202, and JIS G3303 cover not only DRT but also single reduced tinplated products, while Union producers' catalogues show that DRT and single reduced tinplated products often have same uses. In addition, the complainant argued that the fact that certain importers in the United States obtained from the US Bureau of Industry and Security temporary authorisation to import DIT based on the absence of US production of this type of tinplated products has no bearing to the present investigation.

- (49) Baosteel Group and CISA did not provide evidence and the Commission could not therefore conclude that DRT has any special physical, chemical, or technical characteristics which would warrant its exclusion from the product scope. At the same time, it is clearly covered by the product definition from Section 2 of the Notice of Initiation. Double reduced tinplated product is therefore a part of product concerned and thus within the scope of investigation. Paragraphs 28, 30, and 32 of the complaint discuss and consider specifically double reduced tinplated products in the production process while the structure of product control numbers ('PCNs') in the questionnaires has a category for thickness ('up to 0,179 mm') which covers the double reduced tinplated products ⁽⁶⁾. The Commission therefore decided to provisionally reject this request.
- (50) Regarding DIT, like for DRT, the production standard DIN EN 10202 (which they both share) does not cover just this one particular type of product. Furthermore, the producers' catalogues show that they sell DIT cans to the food and beverage packaging industry, so the same users as other types of tinplated products. Furthermore, even if production of DIT includes a specific step in the process, this does not suggest that it would in any way not be covered by the product definition from Section 2 of the Notice of Initiation. Finally, as concerns the fact that US has excluded this product under Section 232 measures, this decision was taken within a legal framework entirely different from the investigation at hand. In any case, this decision was taken because there was no sufficient production of DIT of satisfactory quality in the United States of America, which was not demonstrated to be the case for the Union. The Commission therefore provisionally rejected this request.

3. DUMPING

3.1. Procedure for the determination of the normal value under Article 2(6a) of the basic Regulation

- (51) In view of the sufficient evidence available at the initiation of the investigation pointing to the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation regarding China, the Commission considered it appropriate to initiate the investigation regarding the exporting producers from this country having regard to Article 2(6a) of the basic Regulation.
- (52) Consequently, to collect the necessary data for the eventual application of Article 2(6a) of the basic Regulation, in the Notice of Initiation the Commission invited all exporting producers in China to provide information regarding the inputs used for producing tinplated products. Eleven exporting producers submitted the relevant information.
- (53) In order to obtain information it deemed necessary for its investigation with regard to the alleged significant distortions, the Commission sent a questionnaire to the GOC. In addition, in the Notice of Initiation the Commission invited all interested parties to make their views known, submit information and provide supporting evidence regarding the application of Article 2(6a) of the basic Regulation within 37 days of the date of publication of the Notice of Initiation in the *Official Journal of the European Union*.
- (54) No reply was received from the GOC. Subsequently, the Commission informed the GOC that it would use facts available within the meaning of Article 18 of the basic Regulation for the determination of the existence of the significant distortions in China.
- (55) In the Notice of Initiation, the Commission also specified that, in view of the evidence available, it may need to select an appropriate representative country pursuant to Article 2(6a)(a) of the basic Regulation for the purpose of determining the normal value based on undistorted prices or benchmarks.
- (56) On 19 August 2024, the Commission informed interested parties by a note ('the First Note') on the relevant sources it intended to use for the determination of the normal value. In that note, the Commission provided a list of all factors of production such as raw materials, labour and energy used in the production of tinplated products. In addition, based on the criteria guiding the choice of undistorted prices or benchmarks, the Commission identified Argentina, Brazil, Malaysia, Thailand, and Türkiye as possible representative countries.

⁽⁶⁾ Which, according to Baosteel Group, usually has a thickness below 0,17 mm.

- (57) The Commission received comments on the First Note from the complainant, and the Chinese exporting producers Baoshan Iron and Steel and WISCO-Nippon Steel ('Baosteel Group') and Shougang Jingtang United Iron and Steel Co., Ltd. ('Shougang Jingtang' or 'Shougang'). These comments were addressed in the Second Note and are summarised below.
- (58) Eurofer requested that the Commission use Brazil as representative country as set out in the complaint, and if this was not possible, to use Argentina.
- (59) The Commission rejected Brazil as a representative country in the First Note as the producer of tinplated products in the complaint was not profitable in 2023, and Eurofer did not provide an alternative.
- (60) The Commission considered Argentina in the First Note as an appropriate representative country and would consider it further in the Second Note.
- (61) Eurofer also made comments on the use of Malaysia, Thailand, and Türkiye as representative country, arguing that Asian and other neighbouring countries including Türkiye are heavily affected by cheap Chinese imports of steel and both Türkiye and Malaysia have ongoing anti-dumping investigations targeting Chinese hot rolled steel. Moreover, Eurofer argued that Malaysia has licensing requirements on exports of iron ore and the annual reports of Malaysian producers have a different financial year from China. Regarding Thailand, Eurofer argued that the GDP per capita is less than half of China, the steam coal market in Thailand is distorted and there is no 2023 financial data readily available for any Thai producer of the product under investigation. Eurofer claimed concerning Türkiye that its coal market is distorted by imports from Russia. However, none of these comments would exclude either country from consideration in the Second Note.
- (62) The Baosteel Group agreed with the Commission in its rejection of Brazil as representative country, confirmed the difficulties identified in the First Note for the use of Argentina, because of the absence of cold-rolled steel imports and the unreasonably high profit of the identified producer of tinplated products, and Türkiye, because of high level of Russian imports of various FOP, and noted that either Malaysia or Thailand could be suitable.
- (63) Shougang noted the Commission's arguments in the First Note and commented that Argentina or Thailand could be suitable candidates for representative country.
- (64) On 18 October 2024, the Commission informed interested parties by a second note ('the Second Note') on the relevant sources it intended to use for the determination of the normal value, with Malaysia as the representative country.
- (65) It also informed interested parties that it would establish selling, general and administrative ('SG&A') costs and profits based on available information for the company Perusahaan Sadur Timah Malaysia (Perstima) Berhad, a producer in the representative country.
- (66) Comments were received from the 'Baosteel Group' and Shougang Jingtang United Iron and Steel.
- (67) Baosteel Group made specific comments on the use of particular benchmarks for raw materials, which will be addressed below. They also commented on the calculation of the SG&A costs for the company selected for this source of data.
- (68) Shougang Jingtang also commented on the use of particular benchmarks, which will also be addressed below.

3.2. Normal value

- (69) According to Article 2(1) of the basic Regulation, *'the normal value shall normally be based on the prices paid or payable, in the ordinary course of trade, by independent customers in the exporting country'*.

- (70) However, according to Article 2(6a)(a) of the basic Regulation, ‘in case it is determined [...] that it is not appropriate to use domestic prices and costs in the exporting country due to the existence in that country of significant distortions within the meaning of point (b), the normal value shall be constructed exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks’, and ‘shall include an undistorted and reasonable amount of administrative, selling and general costs and for profits’ (‘administrative, selling and general costs’ is referred to here as ‘SG&A’).
- (71) As further explained below, the Commission concluded in the present investigation that, based on the evidence available, the application of Article 2(6a) of the basic Regulation was appropriate.

3.2.1. Existence of significant distortions

- (72) In recent investigations concerning the steel sector in China ⁽⁷⁾, the Commission found that significant distortions in the sense of Article 2(6a)(b) of the basic Regulation were present.
- (73) In those investigations, the Commission found that there is substantial government intervention in China resulting in a distortion of the effective allocation of resources in line with market principles ⁽⁸⁾.
- (74) In particular, the Commission concluded that in the steel sector, which is the main raw material to produce the product under investigation, not only does a substantial degree of ownership by the GOC persist in the sense of Article 2(6a)(b), first indent of the basic Regulation ⁽⁹⁾, but the GOC is also in a position to interfere with prices and costs through State presence in firms in the sense of Article 2(6a)(b), second indent of the basic Regulation ⁽¹⁰⁾.

⁽⁷⁾ Commission Implementing Regulation (EU) 2024/1666 of 6 June 2024 imposing a definitive anti-dumping duty on imports of steel ropes and cables originating in the People's Republic of China as extended to imports of steel ropes and cables consigned from Morocco and the Republic of Korea, whether declared as originating in these countries or not, following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council, http://data.europa.eu/eli/reg_impl/2024/1666/oj; Commission Implementing Regulation (EU) 2023/1444 of 11 July 2023 imposing a provisional anti-dumping duty on imports of steel bulb flats originating in the People's Republic of China and Türkiye, http://data.europa.eu/eli/reg_impl/2023/1444/oj; Commission Implementing Regulation (EU) 2023/100 of 11 January 2023 imposing a provisional anti-dumping duty on imports of stainless steel refillable kegs originating in the People's Republic of China, http://data.europa.eu/eli/reg_impl/2023/100/oj; Commission Implementing Regulation (EU) 2022/2068 of 26 October 2022 imposing a definitive anti-dumping duty on imports of certain cold-rolled flat steel products originating in the People's Republic of China and the Russian Federation following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council, http://data.europa.eu/eli/reg_impl/2022/2068/oj; Commission Implementing Regulation (EU) 2022/191 of 16 February 2022 imposing a definitive anti-dumping duty on imports of certain iron or steel fasteners originating in the People's Republic of China, http://data.europa.eu/eli/reg_impl/2022/191/oj.

⁽⁸⁾ See Commission Implementing Regulation (EU) 2024/1666, recital 76; Commission Implementing Regulation (EU) 2023/1444, recital 66; Commission Implementing Regulation (EU) 2023/100, recital 58; Commission Implementing Regulation (EU) 2022/2068, recital 80; Commission Implementing Regulation (EU) 2022/191, recital 208.

⁽⁹⁾ See Commission Implementing Regulation (EU) 2024/1666, recital 60; Commission Implementing Regulation (EU) 2023/1444, recital 45; Commission Implementing Regulation (EU) 2023/100, recital 38; Commission Implementing Regulation (EU) 2022/2068, recital 64; Commission Implementing Regulation (EU) 2022/191, recital 192.

⁽¹⁰⁾ See Commission Implementing Regulation (EU) 2024/1666, recitals 66-68; Commission Implementing Regulation (EU) 2023/1444, recital 58; Commission Implementing Regulation (EU) 2023/100, recital 40; Commission Implementing Regulation (EU) 2022/2068, recital 66; Commission Implementing Regulation (EU) 2022/191, recitals 193-4. While the right to appoint and to remove key management personnel in SOEs by the relevant State authorities, as provided for in the Chinese legislation, can be considered to reflect the corresponding ownership rights, CCP cells in enterprises, state owned and private alike, represent another important channel through which the State can interfere with business decisions. According to China's company law, a CCP organisation is to be established in every company (with at least three CCP members as specified in the CCP Constitution) and the company shall provide the necessary conditions for the activities of the party organisation. In the past, this requirement appears not to have always been followed or strictly enforced. However, since at least 2016 the CCP has reinforced its claims to control business decisions in SOEs as a matter of political principle. The CCP is also reported to exercise pressure on private companies to put ‘patriotism’ first and to follow party discipline. In 2017, it was reported that party cells existed in 70 % of some 1,86 million privately owned companies, with growing pressure for the CCP organisations to have a final say over the business decisions within their respective companies. These rules are of general application throughout the Chinese economy, across all sectors, including to the producers of the product under investigation and the suppliers of their inputs.

- (75) The Commission further found that the State's presence and intervention in the financial markets, as well as in the provision of raw materials and inputs have an additional distorting effect on the market. Indeed, overall, the system of planning in China results in resources being concentrated in sectors designated as strategic or otherwise politically important by the GOC, rather than being allocated in line with market forces ⁽¹¹⁾.
- (76) The Commission concluded that the Chinese bankruptcy and property laws do not work properly in the sense of Article 2(6a)(b), fourth indent of the basic Regulation, thus generating distortions when maintaining insolvent firms afloat and when allocating land use rights in China ⁽¹²⁾.
- (77) The Commission found distortions of wage costs in the steel sector in the sense of Article 2(6a)(b), fifth indent of the basic Regulation ⁽¹³⁾, as well as distortions in the financial markets in the sense of Article 2(6a)(b), sixth indent of the basic Regulation, in particular concerning access to capital for corporate actors in China ⁽¹⁴⁾.
- (78) As in previous investigations concerning the iron and steel sector in China, the Commission examined in the present investigation whether it was appropriate or not to use domestic prices and costs in China, due to the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation.
- (79) The Commission did so based on the evidence available on the file, including the evidence contained in the complaint, as well as in the Commission Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the Purposes of Trade Defence Investigations ⁽¹⁵⁾ ('the Report'), which relies on publicly available sources. That analysis covered the examination of the substantial government interventions in China's economy in general, but also the specific market situation in the relevant sector including the product under investigation.
- (80) The Commission further supplemented this evidence with its own research on the various criteria relevant to confirm the existence of significant distortions in China as also found by its previous investigations in this respect.
- (81) The complaint, referring to the Commission Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the Purposes of Trade Defence Investigations, which was first published on 20 December 2017 ⁽¹⁶⁾, as well as to the updated Report, alleged that the Chinese economic model is based on certain basic axioms, including the concept of the 'socialist market economy', the leading role of the Chinese Communist Party ('CCP') or the complex industrial planning system, which provide for and encourage manifold government interventions.
- (82) Such substantial government interventions are at odds with the free play of market forces, resulting in distorting the effective allocation of resources in line with market principles. Given that Chinese steel product markets are affected by significant distortions resulting from those foundations of the Chinese economic model, the complaint concluded that the normal value should be established by using non-distorted production costs in a representative country.

⁽¹¹⁾ See Commission Implementing Regulation (EU) 2024/1666 recitals 61-65; Commission Implementing Regulation (EU) 2023/1444, recital 59; Commission Implementing Regulation (EU) 2023/100, recital 43; Commission Implementing Regulation (EU) 2022/2068, recital 68; Commission Implementing Regulation (EU) 2022/191, recitals 195-201.

⁽¹²⁾ See Commission Implementing Regulation (EU) 2023/1444 recital 62; Commission Implementing Regulation (EU) 2023/100 recital 52; Commission Implementing Regulation (EU) 2022/2068 recital 74; Commission Implementing Regulation (EU) 2022/191 recital 202.

⁽¹³⁾ See Commission Implementing Regulation (EU) 2024/1666, recital 72; Commission Implementing Regulation (EU) 2023/1444, recital 45; Commission Implementing Regulation (EU) 2023/100, recital 33; Commission Implementing Regulation (EU) 2022/2068, recital 75; Commission Implementing Regulation (EU) 2022/191, recital 203.

⁽¹⁴⁾ See Commission Implementing Regulation (EU) 2024/1666, recital 73; Commission Implementing Regulation (EU) 2023/1444, recital 64; Commission Implementing Regulation (EU) 2023/100, recital 54; Commission Implementing Regulation (EU) 2022/2068, recital 76; Commission Implementing Regulation (EU) 2022/191, recital 204.

⁽¹⁵⁾ Commission staff working document SWD(2024) 91, 10 April 2024, available at: [https://ec.europa.eu/transparency/documents-register/detail?ref=SWD\(2024\)91&lang=en](https://ec.europa.eu/transparency/documents-register/detail?ref=SWD(2024)91&lang=en).

⁽¹⁶⁾ Commission staff working document SWD(2017) 483, 20 December 2017, available at: [https://ec.europa.eu/transparency/documents-register/detail?ref=SWD\(2017\)483&lang=en](https://ec.europa.eu/transparency/documents-register/detail?ref=SWD(2017)483&lang=en).

- (83) The complaint provided examples of elements pointing to the existence of distortions, as listed in the first to sixth indent of Article 2(6a)(b) of the basic Regulation. In addition to references to the relevant parts of the Report, the complaint pointed out that:
- in the steel sector – hot-rolled flat steel being by far the biggest input in the production of the product under investigation – a substantial degree of ownership by the Chinese Government persists. Moreover, the government is aiming to consolidate 60 % to 70 % of iron and steel production to around ten large-scale enterprises by 2025. Many of the major producers of the product under investigation are state-owned. The evidence available therefore suggests that producers of the product under investigation in China are subject to the same ownership, control and policy supervision or guidance by the GOC and hence do not operate in accordance with market principles;
 - CCP cells existed in 70 % of around 1,86 million privately owned companies in 2017, with growing pressure from the CCP organisations to have the final say over business decisions within their respective companies. These rules apply in general in the Chinese economy, including to the producers of tinplated products and the suppliers of their inputs;
 - there is publicly available information manifesting the links between Chinese steel producers and local/regional authorities in China, such as the 2016 Semi-Annual Report of the company Baoshan Iron & Steel Ltd.;
 - the GOC has measures in place to induce operators to comply with the public policy objectives of supporting particular industries, including the production of the product under investigation and the sourcing of raw materials used for producing it (mainly hot-rolled flat steel). Chinese producers of hot-rolled flat steel enjoyed benefits under a number of subsidy programs as being part of a supported industry, as indicated in the Catalogue for Guiding Industry Restructuring (2011 Version) (2013 Amendment);
 - Chinese tinplated products producers are affected by the distortions of wage costs, both directly (when producing the product under investigation) and indirectly (when having access to capital or inputs from companies subject to wage cost distortions);
 - the substantial intervention of the GOC in the financial system has led to the market conditions being severely affected, including within the Chinese tinplated products industry;
 - in addition to the product under investigation being affected to significant distortions, all input costs (including hot-rolled flat steel and the underlying raw materials (i.e., iron ore, coke, scrap, and ferroalloys), tin, energy, land, financing, labour, etc.) are also affected by significant distortions.
- (84) In the sector of the product under investigation – the iron and steel sector – a substantial degree of ownership by the GOC persists in the sense of Article 2(6a)(b), first indent of the basic Regulation. Both public and privately owned enterprises in the sector are subject to policy supervision and guidance. Examples include the Ansteel Group ⁽¹⁷⁾ and the Baowu Steel Group ⁽¹⁸⁾, which are both State Owned Enterprises ('SOEs') under the central SASAC; the Baotou Steel Group, an SOE held by the Inner Mongolian Government ⁽¹⁹⁾; as well as the Shougang Group ⁽²⁰⁾, an SOE 100 % held by the Beijing State-Owned Asset Management Ltd. ⁽²¹⁾.

⁽¹⁷⁾ See <http://wap.sasac.gov.cn/n2588045/n27271785/n27271792/c14159097/content.html> (accessed on 24 September 2024).

⁽¹⁸⁾ See <http://wap.sasac.gov.cn/n2588045/n27271785/n27271792/c14159097/content.html> (accessed on 24 September 2024).

⁽¹⁹⁾ See <https://www.baoganggf.com/gsjj> (accessed on 24 September 2024).

⁽²⁰⁾ See <https://www.shougang.com.cn/en/ehhtml/ShougangNews/20180416/1028.html> (accessed on 2 October 2024).

⁽²¹⁾ See <https://www.shougang.com.cn/sgweb/html/index.html> (accessed on 24 September 2024).

- (85) While more specific information may not be available for the product under investigation, the sector represents a sub-sector of the iron and steel industry and the findings concerning the iron and steel sector are therefore deemed indicative also for the product under investigation.
- (86) The latest Chinese policy documents concerning the iron and steel sector confirm the continued importance which GOC attributes to the sector, including the intention to intervene in the sector to shape it in line with the government policies. This is exemplified by the MIIT Guiding Opinion on Fostering a High Quality Development of Steel Industry which calls for further consolidation of the industrial foundation and significant improvement in the modernization level of the industrial chain ⁽²²⁾.
- (87) Specifically, this Guiding Opinion requires the GOC to *'[p]romote mergers and reorganizations of enterprises. Encourage leading enterprises in the industry to implement mergers and reorganizations and create a number of world-class super-large steel enterprise groups. Relying on the industry's dominant enterprises, cultivate 1 to 2 specialized leading enterprises in the fields of stainless steel, special steel, [...].'*
- (88) Another example of the GOC's intention to intervene in the sector can be found in the 14th Five-Year Plan on Developing the Raw Material Industry ('14th FYP') according to which the sector will *'adhere to the combination of market leadership and government promotion'* and will *'cultivate a group of leading companies with ecological leadership and core competitiveness'* ⁽²³⁾, and also in the MIIT 2023 Work Plan on the Stable Growth of the Steel Industry ⁽²⁴⁾ which sets the following objectives: *'In 2023, [...] the investment in fixed assets in the entire industry shall maintain a steady growth, and the economic benefits shall be significantly improved; the industry's R&D investment shall eventually reach 1,5 %; the industry's added value growth shall reach about 3,5 %; in 2024, the industry development environment and industry structure shall be further optimized, the move towards high-end, intelligent, and green products shall continue, and the industry added value growth shall exceed 4 %'.*
- (89) The Work Plan also foresees government mandated corporate consolidation of the steel sector: *'[e]ncourage industry-leading enterprises to implement mergers and acquisitions, build world-class super-large iron and steel enterprise groups, and foster the optimal layout of national iron and steel production capacity. Support specialized enterprises with leading power in particular steel market segments to further integrate resources and create a steel industry ecosystem. Encourage iron and steel enterprises to carry out cross-regional [...] mergers and reorganizations [...]. Consider giving greater policy support for capacity replacement to iron and steel enterprises that have completed substantive mergers and reorganizations.'*
- (90) Similar examples of the intention by the Chinese authorities to supervise and guide the developments of the sector can be seen at the provincial level, such as in Hebei where the provincial government released the Three-Year Action Plan on Cluster Development in the Steel Industry Chain in 2020. This plan requires the government to *'steadily implement the group development of organizations, accelerate the reform of mixed ownership of state-owned enterprises, focus on promoting the cross-regional merger and reorganization of private iron and steel enterprises, and strive to establish 1-2 world-class large groups, 3-5 large groups with domestic influence as the support'* and to *'further expand the recycling and circulation channels of scrap steel, strengthen the screening and classification of scrap steel.'* ⁽²⁵⁾
- (91) Hebei's plan in the steel sector states: *'Adhere to structural adjustment and highlight product diversification. Unswervingly promote the structural adjustment and layout optimization of the iron and steel industry, promote the consolidation, reorganization, transformation and upgrading of enterprises, and comprehensively promote the development of the iron and steel industry in the direction of large-scale enterprises, modernization of technical equipment, diversification of production processes, and diversification of downstream products'.*

⁽²²⁾ See https://www.gov.cn/zhengce/zhengceku/2022-02/08/content_5672513.htm (accessed on 26 September 2024).

⁽²³⁾ See Section IV, Subsection 3 of the 14th FYP on Developing the Raw Materials Industry.

⁽²⁴⁾ See https://www.miit.gov.cn/zwgk/zcwj/wjfb/tz/art/2023/art_2a4233d696984ab59610e7498e333920.html (accessed on 26 September 2024).

⁽²⁵⁾ See the Hebei Province's Three Year Action Plan on Cluster Development in the Steel Industry Chain, Chapter I, Section 3; available at: <https://huanbao.bjx.com.cn/news/20200717/1089773.shtml> (accessed on 3 October 2024).

- (92) The Henan Implementation Plan for the Transformation and Upgrade of the Steel Industry during the 14th FYP foresees the ‘construction of characteristic steel production bases [...], build 6 characteristic steel production bases in Anyang, Jiyuan, Pingdingshan, Xinyang, Shangqiu, Zhouou, etc., and improve the scale, intensification and specialization of the industry. Among them, by 2025, the production capacity of pig iron in Anyang will be controlled within 14 million tons, and the production capacity of crude steel will be controlled within 15 million tons.’⁽²⁶⁾
- (93) Further industrial policy objectives can also be found in the planning documents of other provinces, such as Jiangsu⁽²⁷⁾, Shandong⁽²⁸⁾, Shanxi⁽²⁹⁾, Liaoning Dalian⁽³⁰⁾ or Zhejiang⁽³¹⁾.
- (94) Another example of effective steering by the GOC through the plans is the Notice of the Ansteel Group Co., Ltd.’s Party Committee on conscientiously studying, publicizing and implementing the spirit of the Party’s 20th National Congress⁽³²⁾. The notice claims that the Ansteel Group will conscientiously implement the guiding plans and better introduce them to Party members, cadres and employees of the entire group.
- (95) As to the GOC being in a position to interfere with prices and costs through State presence in firms in the sense of Article 2(6a)(b), second indent of the basic Regulation, given that the product under investigation represents a subsector of the steel sector, information available with respect to steel producers is relevant also to the product under investigation.
- (96) For instance, the Chairman of the Board of Directors and the General Manager of Baoshan Iron and Steel Ltd., a tinplated products producer whose controlling shareholder is the Baowu Steel Group, also serve as the company’s Party Committee Secretary and Deputy Secretary respectively⁽³³⁾.
- (97) Also the Chairman of the Board of Directors of Wuhan Iron and Steel Group, also controlled by the Baowu Steel Group, serves as the Party Committee Secretary⁽³⁴⁾.
- (98) Moreover, ‘Wuhan Iron and Steel Group held the tenth centralized study and discussion of the Party Committee Theory Study Group in 2022 to convey and study the spirit of the Central Economic Work Conference and promote the implementation of the decisions and arrangements of the 20th National Congress of the Party and the spirit of the Central Economic Work Conference in Wuhan Iron and Steel Group. [The] General Representative of China Baowu Wuhan Headquarters, Secretary of the Party Committee and Chairman of Wuhan Iron and Steel Group, presided over the meeting and put forward requirements for implementing the requirements of the Party Central Committee, the Hubei Provincial Party Committee and the China Baowu Party Committee, and further implementing the spirit of the Central Economic Work Conference’⁽³⁵⁾.

⁽²⁶⁾ See the Henan Implementation Plan for the Transformation and Upgrade of the Steel Industry during the 14th FYP, Chapter II, Section 3; available at: <https://huanbao.bjx.com.cn/news/20211210/1192881.shtml> (accessed on 26 September 2024).

⁽²⁷⁾ Jiangsu Province’s Work Plan Steel Sector Transformation and Upgrade and Layout Optimisation 2019-2025; available at: http://www.jiangsu.gov.cn/art/2019/5/5/art_46144_8322422.html (accessed on 26 September 2024).

⁽²⁸⁾ Shandong Province’s 14 FYP on the Steel Industry Development; available at: https://m.mysteel.com/21/1119/11/DFD9D26D73D90F7D_abc.html (accessed on 4 October 2024).

⁽²⁹⁾ Shanxi Province’s 2020 Steel Industry Transformation and Upgrade Action Plan; available at: https://m.mysteel.com/20/0715/11/7BF7729C99CEB3EA_abc.html (accessed on 14 October 2024).

⁽³⁰⁾ Liaoning Dalian Municipality’s 14 FYP on Developing Manufacturing Industry: ‘By 2025, the industrial output value of new materials will reach 15 million yuan, and the level of equipment and key materials guarantee ability is obviously improved.’; available at: https://www.dl.gov.cn/art/2021/12/20/art_854_1995411.html (accessed on 5 December 2023).

⁽³¹⁾ Zhejiang Province’s Action Plan to Foster a High Quality Development of the Steel Industry: ‘Foster enterprise mergers and reorganisation, accelerate the concentration process, reduce the number of steel smelting enterprises to approximately 10 enterprises’; available at: https://www.jiaxing.gov.cn/art/2022/4/20/art_1228922756_59529426.html (accessed on 14 October 2024).

⁽³²⁾ See: <http://www.ansteel.cn/dangdejianshe/dangjiandongtai/2023-03-17/12429.html> (accessed on 26 September 2024).

⁽³³⁾ See Baoshan Iron and Steel Ltd. 2023 annual report, page 41 https://static.sse.com.cn/disclosure/listedinfo/announcement/c/new/2024-04-27/600019_20240427_B5D4.pdf (accessed on 4 October 2024).

⁽³⁴⁾ See <https://www.wuganggroup.cn/people/3143> (accessed on 3 October 2024).

⁽³⁵⁾ See https://mp.weixin.qq.com/s?__biz=MjM5Njg2NjIwMQ==&mid=2654952836&idx=1&sn=505b807e2826f1e3e6f08ba15b727722&chksm=bd294c728a5ec5641240246649545fda2b2065c015f861fa599249b2165962ca848a25a1faa2&token=1369557425&lang=zh_CN#rd (accessed on 3 October 2024).

- (99) The Chairman of the Board of Directors of the Baotou Steel Union, belonging to the Baotou Steel Group, serves also as the company's Party Secretary, and the Executive Manager of the company as well as the Chairman of the company's trade union are both Deputy Party Secretaries ⁽³⁶⁾.
- (100) Finally, within the Shougang Group, the Chairman of the Board of Directors serves as the Party Committee Secretary while the Executive Manager is the Deputy Secretary of the company's Party Committee ⁽³⁷⁾.
- (101) In certain cases, the company's articles of association of a company will demonstrate CCP allegiance. For example, Article 134 of the Articles of Association of tinplated products producer Baoshan Iron and Steel Ltd. stipulates that '[t]he company's Party committee shall perform its duties in accordance with the Constitution of the Communist Party of China and other party regulations: (1) Ensure and supervise the implementation of the Party and state policies in the company' ⁽³⁸⁾.
- (102) Article 3 of the Articles of Association of the China Foundry Association stipulates that the Association accepts the business guidance, supervision, and management by the respective Party entities, e.g. the SASAC and Ministry of Civil Affairs, and provides the necessary conditions for its participation ⁽³⁹⁾.
- (103) An identical provision can be found in Article 3 of the Articles of Association of the China Iron and Steel Association ⁽⁴⁰⁾, of which major iron and steel producers are members.
- (104) Policies discriminating in favour of domestic producers or otherwise influencing the market in the sense of Article 2(6a)(b), third indent of the basic Regulation are in place in the iron and steel sector, which are generally applicable to the product under investigation given that the product under investigation represents one of its subsectors.
- (105) The iron and steel industry keeps being regarded as a key industry by the GOC ⁽⁴¹⁾. This is confirmed in the numerous plans, directives and other documents focused on the sector, which are issued at national, regional, and municipal level. Under the 14th FYP, the GOC earmarked the iron and steel industry for transformation and upgrade, as well as optimization and structural adjustment ⁽⁴²⁾.
- (106) The 14th FYP on Developing the Raw Materials Industry, applicable also to the iron and steel industry, lists the sector as the 'bedrock of the real economy' and 'a key field that shapes China's international competitive edge' and sets a number of objectives and working methods which would drive the development of the sector in the time period 2021-2025, such as technological upgrade, improving the structure of the sector (not least by means of further corporate concentrations) or digital transformation ⁽⁴³⁾.

⁽³⁶⁾ See <https://www.baoganggf.com/ggry> (accessed on 3 October 2024).

⁽³⁷⁾ See <https://www.shougang.com.cn/sgweb/html/gslld.html> (accessed on 3 October 2024).

⁽³⁸⁾ See page 32 of the Articles of Association of Baoshan Iron and Steel Ltd., available at: https://file.finance.sina.com.cn/211.154.219.97:9494/MRGG/CNSESH_STOCK/2023/2023-11/2023-11-22/9654968.PDF (accessed on 4 October 2024).

⁽³⁹⁾ See <https://foundry.org.cn/%e5%8d%8f%e4%bc%9a%e7%ab%a0%e7%a8%8b> (accessed on 27 September 2024).

⁽⁴⁰⁾ See <https://www.chinaisa.org.cn/gxportal/xfgl/portal/content.html?articleId=5b2ddec5eba936fba45d7bd801b09f6ff30d867762906011672eada213c54ac&columnId=0227750914a0f2a722c5b71b220e0aa19ceb0ee2cd7a7e325a35f6591cdbf66a> (accessed on 27 September 2024).

⁽⁴¹⁾ Report, Part III, Chapter 14, p. 346 and the following lines.

⁽⁴²⁾ See the People's Republic of China 14th Five-Year Plan for National Economic and Social Development and Long-Range Objectives for 2035, Part III, Article VIII, available at: <https://cset.georgetown.edu/publication/china-14th-five-year-plan/> (accessed on 26 September 2024).

⁽⁴³⁾ See in particular Sections I and II of the 14th FYP on Developing the Raw Materials Industry.

- (107) The Work Plan on the Stable Growth of the Steel Industry (see recital (88)) demonstrates how the focus of the Chinese authorities on the sector is put into the wider context of the GOC steering the Chinese economy: *'[s]upport steel companies to closely follow the needs of new infrastructure, new urbanization, rural revitalization, and emerging industries, dock with major engineering projects related to the "14th Five-Year Plan" in various regions, and make every effort to ensure steel supply. Establish and deepen upstream and downstream cooperation mechanisms between steel and key steel-using sectors such as shipbuilding, transportation, construction, energy, automobiles, home appliances, agricultural machinery, and heavy equipment, carry out production-demand docking activities, and actively expand steel application fields' (44).*
- (108) Additionally, in relation to iron ore, which is a key raw material used for the production of the product under investigation, according to the 14th FYP on Developing the Raw Materials Industry, the State plans to *'rationally develop domestic mineral resources. Strengthen the exploration of iron ore [...], implement preferential tax policies, encourage the adoption of advanced technology and equipment to reduce the generation of mining solid waste' (45)* leading to the establishment of a system for the reserves of iron ore output and mineral lands that will *'become an important measure to stabilize the iron ore market price and ensure the safety of the industrial chain' (46).*
- (109) At local level, such as in the Hebei province, the authorities foresee the following for the iron and steel sector: *'new project investment discount subsidy; explore and guide financial institutions to provide low-interest loans for iron and steel enterprises to switch to new industries, and at the same time, the government will provide discount subsidies' (47).*
- (110) In sum, the GOC has measures in place to induce operators to comply with the public policy objectives of supporting encouraged industries, including the production of the main raw materials used in the manufacturing of the product under investigation. Such measures prevent market forces from operating freely.
- (111) This investigation has not revealed any evidence that the discriminatory application or inadequate enforcement of bankruptcy and property laws in the iron and steel sector, according to Article 2(6a)(b), fourth indent of the basic Regulation would not affect the manufacturers of the product under investigation.
- (112) The product under investigation is also affected by the distortions of wage costs in the sense of Article 2(6a)(b), fifth indent of the basic Regulation. Those distortions affect the sector both directly (when producing the product under investigation or the main inputs), as well as indirectly (when having access to inputs from companies subject to the same labour system in China) (48).
- (113) No evidence was submitted in the present investigation demonstrating that the sector of the product under investigation is not affected by the government intervention in the financial system in the sense of Article 2(6a)(b), sixth indent of the basic Regulation.
- (114) The Work Plan on the Stable Growth also exemplifies this type of government intervention very well: *'Encourage financial institutions to actively provide financial services to steel companies that implement mergers and reorganizations, layout adjustments, transformation and upgrading, in accordance with the principles of risk control and business sustainability'. Therefore, the substantial government intervention in the financial system leads to the market conditions being severely affected at all levels.*

(44) See: https://www.miit.gov.cn/zwgk/zcwj/wjfb/tz/art/2023/art_2a4233d696984ab59610e7498e333920.html (accessed on 3 October 2024).

(45) See the 14th FYP on Developing the Raw Materials Industry, p. 22.

(46) See https://en.ndrc.gov.cn/news/mediarresources/202203/t20220325_1320408.html (accessed on 26 September 2024).

(47) See the Hebei Tangshan Municipality Iron and Steel 1+3 Action Plan 2022, Chapter 4, Section 2; available at: <http://www.chinaisa.org.cn/gxportal/xfgl/portal/content.html?articleId=e2bb5519aa49b566863081d57aea9dfdd59e1a4f482bb7acd243e3ae7657c70b&columnId=3683d857cc4577e4cb75f76522b7b82cda039ef70be46ee37f9385ed3198f68a> (accessed on 26 September 2024).

(48) See Commission Implementing Regulation (EU) 2023/1444, recital 63; Commission Implementing Regulation (EU) 2023/100, recital 33.

- (115) Finally, the Commission recalls that to produce the product under investigation, a number of inputs is needed. When the producers of the product under investigation purchase/contract these inputs, the prices they pay (and which are recorded as their costs) are clearly exposed to the same systemic distortions mentioned before. For instance, suppliers of inputs employ labour that is subject to the distortions. They may borrow money that is subject to the distortions on the financial sector/capital allocation. In addition, they are subject to the planning system that applies across all levels of government and sectors.
- (116) As a consequence, not only the domestic sales prices of the product under investigation are not appropriate for use within the meaning of Article 2(6a)(a) of the basic Regulation, but all the input costs (including raw materials, energy, land, financing, labour, etc.) are also affected because their price formation is affected by substantial government intervention, as described in Parts I and II of the Report. Indeed, the government interventions described in relation to the allocation of capital, land, labour, energy, and raw materials are present throughout China. This means, for instance, that an input that was produced in China by combining a range of factors of production is exposed to significant distortions. The same applies for the input to the input and so forth.
- (117) In sum, the evidence available showed that prices or costs of the product under investigation, including the costs of raw materials, energy and labour, are not the result of free market forces because they are affected by substantial government intervention within the meaning of Article 2(6a)(b) of the basic Regulation, as shown by the actual or potential impact of one or more of the relevant elements listed therein. On that basis, the Commission concluded that it is not appropriate to use domestic prices and costs to establish normal value in this case.

3.2.2. *Comments by interested parties*

- (118) The GOC did not comment or provide evidence supporting or rebutting the existing evidence on the case file, including the Report and the additional evidence provided by the complainant, on the existence of significant distortions and/or appropriateness of the application of Article 2(6a) of the basic Regulation in the case at hand.
- (119) During the investigation comments were received from CISA and Baoshan Iron and Steel Ltd.
- (120) Firstly, CISA submitted that the Report fails to meet the standards of impartial and objective evidence and evidence of sufficient probative value. It argued that the fact that the Report has been drafted with a deliberate objective in mind, namely facilitating Union industries to lodge a complaint in the area of trade measures, automatically removes any likelihood for an impartial and objective analysis of the Chinese economy.
- (121) CISA also submitted that the probative value of the Report is doubtful as the Report deliberately omits factual circumstances, elements, and conclusions, which would contradict or weaken the partial purpose for which it has been prepared.
- (122) Furthermore, CISA argued that the Commission cannot rely on past cases to find positive evidence of dumping practices in the present investigation, as the complainant did to prove the existence of significant distortions. The burden of proof in anti-dumping investigations requires an investigating authority to positively establish the existence of dumping practices.
- (123) Regarding CISA's claim that the Report is not objective or impartial, the Commission noted that the Report is a comprehensive document based on extensive objective evidence, including legislation, regulations and other official policy documents published by the GOC, third party reports from international organisations, academic studies and articles by scholars, and other reliable independent sources. It was made publicly available since December 2017 so that any interested party would have ample opportunity to rebut, supplement or comment on it and the evidence on which it is based.

- (124) The Commission has since reviewed the Report and published an updated version in April 2024, as set out in recital (81)⁽⁴⁹⁾. CISA did not provide any rebuttal on the substance and evidence contained in the Report. Therefore, the claim was rejected.
- (125) Moreover, complainants can rely on past investigations evidence and findings, to the extent they are relevant and that their legality has not been put aside by a judicial authority. Article 2(6a) of the basic Regulation ensures that proceedings are neutral and impartial, and that all parties' rights of defence are respected throughout the investigation.
- (126) The Commission noted that the possibility offered to complainants to put forward allegations and evidence on possible distortions of prices and costs in countries where significant distortions induced by the State would possibly exist cannot be interpreted as an unfair and unjust practice which encourages the adducing of such allegations.
- (127) Further, the Commission's determination on the actual existence and impact of significant distortions and the consequent use of the methodology prescribed by Article 2(6a)(a) occurs at the time of the provisional and/or definitive disclosure as result of an investigation. Therefore, the claim was rejected.
- (128) Secondly, CISA and Baoshan Iron and Steel Ltd. submitted that Article 2(6a) of the basic Regulation appears to be incompatible with the WTO Antidumping Agreement ('WTO ADA'). Article 2.2 of the WTO ADA does not recognize the concept of significant distortions and that it does not allow the use of data from an appropriate representative country or international prices to construct the normal value. Specifically, Article 2.2 of the WTO ADA only permits using the cost of production in the country of origin plus a reasonable amount for administrative, selling, and general costs and profits when constructing the normal value.
- (129) Baoshan Iron and Steel Ltd. argued that the significant distortions in the exporting country would need to fall under the definition of either sales not in the 'ordinary course of trade' or a 'particular market situation', but that the concept of significant distortions does not fall in any of these categories.
- (130) According to CISA and Baoshan Iron and Steel Ltd., Article 2(6a) of the basic Regulation seems incompatible with Article 2.2.1.1 and with the Appellate Body's interpretation thereof, provided in the EU – Biodiesel (Argentina) (DS473) case ('EU – Biodiesel') which established that investigating authorities must use the product costs actually incurred by producers or exporters for the calculation of constructed normal values.
- (131) As such, CISA and Baoshan Iron and Steel Ltd. requested that the Commission accepts the domestic prices and costs reported by the cooperating Chinese exporters, thus rejecting the existence of alleged significant distortions.
- (132) The Commission considered that the provisions of Article 2(6a) are fully consistent with the European Union's WTO obligations and the jurisprudence cited by CISA and Baoshan Iron and Steel Ltd. At the outset, the WTO Report on EU – Biodiesel did not concern the application of Article 2(6a) of the basic Regulation, but of a specific provision of Article 2(5) of the basic Regulation. Moreover, WTO law as interpreted by the WTO Panel and the Appellate Body in EU – Biodiesel allows the use of data from a third country, duly adjusted when such adjustment is necessary and substantiated. The existence of significant distortions renders costs and prices in the exporting country inappropriate for the construction of normal value.
- (133) In any event, the case-law of the EU Courts has already confirmed that while Article 2(6a) of the basic Regulation sets out a 'special regime laying down rules for determining normal value in the case of exports from countries whose domestic market has been shown to have significant distortions, as defined in that provision', WTO law 'does not however, include specific rules for calculating normal value in such situations'⁽⁵⁰⁾. The arguments of CISA, Baoshan Iron and Steel Ltd. therefore cannot be upheld.

⁽⁴⁹⁾ See footnote 15.

⁽⁵⁰⁾ Judgment of the General Court of 21 February 2024, *Sinopec Chongqing SVW Chemical Co. Ltd. e. a. v Commission*, Case T-762/20, ECLI:EU:T:2024:113, paragraph 43, appealed in C-319/24 P, *Commission v Sinopec e. a.*, pending.

(134) In these circumstances, Article 2(6a) of the basic Regulation envisages the construction of costs of production and sale based on undistorted prices or benchmarks, including those in an appropriate representative country with a similar level of development as the exporting country.

(135) The Commission therefore rejected this claim by CISA and Baoshan Iron and Steel Ltd.

3.2.3. *Conclusion on the existence of significant distortions*

(136) In view of the above, the Commission proceeded to construct the normal value exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks, that is, in this case, on the basis of corresponding costs of production and sale in an appropriate representative country, in accordance with Article 2(6a)(a) of the basic Regulation, as described in the following section.

3.2.4. *Representative country*

3.2.4.1. *General remarks*

(137) The choice of the representative country was based on the following criteria pursuant to Article 2(6a) of the basic Regulation:

- A level of economic development similar to China. For this purpose, the Commission used countries with a gross national income per capita similar to China on the basis of the database of the World Bank ⁽⁵¹⁾.
- Production of the product under investigation in that country.
- Availability of relevant public data in the representative country.
- Where there is more than one possible representative country, preference was given, where appropriate, to the country with an adequate level of social and environmental protection.

(138) As explained in recitals (56) and (64), the Commission issued two notes for the file on the sources for the determination of the normal value.

(139) These notes described the facts and evidence underlying the relevant criteria, and also addressed the comments received by the parties on these elements and on the relevant sources. In the second note on factors of production, the Commission informed interested parties of its intention to consider Malaysia as an appropriate representative country in the present case if the existence of significant distortions pursuant to Article 2(6a) of the basic Regulation would be confirmed.

A level of economic development similar to China

(140) In the First Note on factors of production, the Commission identified Argentina, Brazil, Malaysia, Türkiye and Thailand as countries with a similar level of economic development as China according to the World Bank, i.e. they are all classified by the World Bank as 'upper-middle income' countries on a gross national income basis where production of the product under investigation was known to take place.

Availability of relevant public data in the representative country

(141) The First and Second Notes set out the Commission's research for readily available public data in the possible representative countries. This data concerned the company that would be the source for the amounts for SG&A costs and for profit; and the data necessary for the benchmarks needed to construct the normal value.

⁽⁵¹⁾ World Bank Open Data – Upper Middle Income, <https://data.worldbank.org/income-level/upper-middle-income>.

- (142) The First Note found readily available data from tinplated products producers in Argentina, Brazil, Malaysia, Türkiye and Thailand that would make these countries suitable as a representative country. It found, however, that the producer of tinplated products in Brazil was not profitable during 2023 and Brazil could not be considered an appropriate representative country.
- (143) The Commission further analysed imports of the main factors of production into the four potential representative countries in the First Note.
- (144) The analysis showed that the imports into Türkiye of the major factors of production (hot-rolled steel, cold-rolled steel, coke, coking coal, gas coal, steam coal, and hot briquetted iron) were affected by significant imports from the Russian Federation ('Russia'). All these factors of production were sanctioned inter alia by the Union following the full-scale invasion of Ukraine and thus major export markets became unavailable to the producers of these inputs. This in turn increased the relevant spare capacities in Russia and potentially affected prices of export to other markets in Russia's proximity, including Türkiye that remained open to the export in question.
- (145) The overcapacity in Russian steel production has been set out in the Commission Staff Working Document on Significant Distortions in the Economy of the Russian Federation for the Purposes of Trade Defence Investigations ⁽⁵²⁾. Moreover, a further increase in steel capacity in the coming years is planned ⁽⁵³⁾.
- (146) The Commission also noted that the Ministry of Trade of the Republic of Türkiye imposed anti-dumping duties on imports of hot rolled flat steel products from China, India, Japan and the Russian Federation in October 2024 by Communiqué 2024/33 ⁽⁵⁴⁾. In their investigation the Ministry of Trade analysed the effect of Russian imports on the steel industry in Türkiye and stated that these imports put pressure on the prices of the domestic production sector at a rate between 15 % and 20 %. Hot rolled flat steel is one of the main factors of production for the product under investigation.
- (147) Regarding coal, Russia holds the second largest coal reserves in the world and has been expanding its production in the last decade because of growing exports ⁽⁵⁵⁾. Combined with the sanctions, this circumstance has lowered the price of Russian exports and Turkish imports of Russian coal have increased significantly in the recent years ⁽⁵⁶⁾.
- (148) Therefore, the Commission concluded that the prices of the main FOP were distorted in Türkiye and could not be considered as a suitable representative country.
- (149) The First Note also stated that Argentina did not have imports of cold-rolled steel, which is a vital input to produce tinplated products for non-integrated producers. As a result, the Second Note concluded that Argentina could not be considered as a suitable representative country.

⁽⁵²⁾ Commission Staff Working Document on Significant Distortions in the Economy of the Russian Federation for the Purposes of Trade Defence Investigations, SWD(2020) 242 final, 22.10.2020, [https://ec.europa.eu/transparency/documents-register/detail?ref=SWD\(2020\)242&lang=en](https://ec.europa.eu/transparency/documents-register/detail?ref=SWD(2020)242&lang=en), see in Chapter 14.1 (accessed 18 December 2024).

⁽⁵³⁾ OECD, Latest developments in steelmaking capacity and outlook until 2026, DSTI/SC(2024)3/FINAL, 12.06.2024, [https://one.oecd.org/document/DSTI/SC\(2024\)3/FINAL/en/pdf](https://one.oecd.org/document/DSTI/SC(2024)3/FINAL/en/pdf).

⁽⁵⁴⁾ <https://www.ticaret.gov.tr/ithalat/ticaret-politikasi-savunma-araclari/damping-ve-subvansiyon/sorusturmalar/tamamlanan-sorusturmalar-completed-investigations/ds-teblig-no-2024-33-sicak-haddelenmis-yassi-celik-cin-halk-cumhuriyeti-hindistan-cumhuriyeti-japonya-rusya-federasyonu-hot-rolled-flat-steel-china-p-r-republic-of-india-japan-russian-federation> (accessed 18 December 2024).

⁽⁵⁵⁾ Commission Staff Working Document on Significant Distortions in the Economy of the Russian Federation for the Purposes of Trade Defence Investigations, see in Chapter 10.2.3.

⁽⁵⁶⁾ See for example: <https://www.reuters.com/markets/commodities/turkey-track-become-europes-top-coal-burner-2024-2024-01-30/> (accessed 18 December 2024).

- (150) The same analysis showed that Malaysia could be used as an appropriate representative country as their imports of the main factors of production, apart from steam coal, were not materially affected by imports from China, or any of the countries listed in Annex I to Regulation (EU) 2015/755 of the European Parliament and of the Council ⁽⁵⁷⁾.
- (151) Even though Türkiye and Argentina could not be considered appropriate representative countries due to the issues set out in recitals (144) and (149) above, in the Second Note the Commission updated the information available for the tinplate products producers in those countries, together with Malaysia and Thailand, and found that the producers in Argentina, Malaysia and Türkiye were profitable in 2023. The producer in Thailand was in essence breaking even, with a profit of less than 0,5 % of turnover, and this was not considered a reasonable profit.
- (152) Consequently, the Second Note stated that the Commission intended to use Malaysia as an appropriate representative country and Perusahaan Sadur Timah Malaysia (PERSTIMA) Berhad ('Perstima') in accordance with Article 2(6a)(a), first indent of the basic Regulation in order to source undistorted prices or benchmarks for the calculation of normal value.
- (153) Interested parties were invited to comment on the appropriateness of these choices.
- (154) No interested party provided a different proposal for representative country or another company for the source of SG&A costs and profit. However, specific comments were received regarding some factors of production and the calculation of SG&A costs and profit, which are addressed in detail below.

Level of social and environmental protection

- (155) Having established that Malaysia was the only available appropriate representative country, based on all the above elements, there was no need to carry out an assessment of the level of social and environmental protection in accordance with the last sentence of Article 2(6a)(a) first indent of the basic Regulation, since that provision requires the presence of more than one appropriate country.

3.2.5. *Conclusion*

- (156) In view of the above analysis, Malaysia met the criteria laid down in Article 2(6a)(a), first indent of the basic Regulation to be considered as an appropriate representative country.

3.2.6. *Sources used to establish undistorted costs*

- (157) In the First Note, the Commission listed the factors of production such as materials, energy and labour used in the production of the product under investigation by the exporting producers and invited the interested parties to comment and propose publicly available information on undistorted values for each of the factors of production mentioned in that note.
- (158) In the Second Note, the Commission stated that to construct the normal value in accordance with Article 2(6a)(a) of the basic Regulation, it would use GTA to establish the undistorted cost of most of the factors of production, notably the raw materials. In addition, the Commission stated that it would use in-country sources for establishing undistorted costs of labour and energy ⁽⁵⁸⁾.

⁽⁵⁷⁾ Regulation (EU) 2015/755 of the European Parliament and of the Council of 29 April 2015 on common rules for imports from certain third countries (OJ L 123, 19.5.2015, p. 33) as amended by Commission Delegated Regulation (EU) 2017/749 of 24 February 2017 (OJ L 113, 29.4.2017, p. 11).

⁽⁵⁸⁾ For labour: <https://www.dosm.gov.my/portal-main/release-subthemes/manufacturing>, for electricity: <https://www.tnb.com.my/commercial-industrial/pricing-tariffs1>, for natural gas: <https://www.st.gov.my/> and <https://www.st.gov.my/contents/files/highlights/2022-12-27/1672105122.pdf>, and for water: <https://www.span.gov.my/document/upload/n8sVd7sPHPq3A68TTVeLYLvjIU1sC3Ta.pdf>.

- (159) In the Second Note, the Commission informed the interested parties that certain factors of production reported by the sampled exporting producers who provided complete information, had a negligible impact on the total production cost. As a result, these items were grouped together under the category of 'consumables'.
- (160) The Commission then calculated the percentage of the consumables on the total cost of raw materials and applied this percentage to the recalculated cost of raw materials when using the established undistorted benchmarks in the appropriate representative country.

3.2.6.1. Factors of production

- (161) Considering all the information submitted by the interested parties and collected during the verification visits, the following factors of production and their sources have been identified to determine the normal value in accordance with Article 2(6a)(a) of the basic Regulation:

Table 1

Factors of production of Tinplated products

Factor of Production (FOP)	Commodity code(s)	Source	Price in CNY	Unit of measurement
RAW MATERIALS AND INPUTS				
Iron ore powder ⁽¹⁾	26011110 26011190	GTA	447,48	tonne
Iron ore pellets ⁽²⁾	26011210 26011290	GTA	5 267,14	tonne
Hot rolled steel	72082711 72082719 72082791 72082799	Fastmarkets	4 362,17	tonne
Cold rolled steel	72091810 72091891 72091899	GTA	6 722,64	tonne
Tin ingots	800110	GTA	193 952,02	tonne
Coke	27040010 27040020 27040030	GTA	2 806,79	tonne
Coking coal	27011210	GTA	1 795,22	tonne
Gas coal	27011290	GTA	3 874,58	tonne
Steam coal	270111	World Bank	1 085,39	tonne
Pulverised coal	270111	Fastmarkets	1 290,12	tonne
Aluminium scrap	7602	GTA	12 837,19	tonne
Ferromolybdenum	720270	Fastmarkets	357 848,05	tonne
Hot briquetted iron	720310	GTA	3 307,83	tonne
Manganese	81110010 81110090	Fastmarkets	14 482,42	tonne
Slag steel	2619	GTA	1 034,69	tonne
Steel scrap	720449	GTA	3 062,40	tonne

Factor of Production (FOP)	Commodity code(s)	Source	Price in CNY	Unit of measurement
LABOUR				
LABOUR	Department of Statistics		35,42	per labour hour
ENERGY				
Electricity	Tenaga Nasional		0,548	kWh
Coal gas	Calculated from natural gas		0,3	cubic metre
Coke gas	Calculated from natural gas		0,3	cubic metre
Natural gas	Energy Commission		1,74	cubic metre
Steam	Calculated from coal		117,15	tonne
Water	SPAN		5,48	cubic metre

- (¹) This benchmark is not used for those exporting producers who have shown that their purchases are not affected by distortions under Article 2(6a).
- (²) This benchmark is not used for those exporting producers who have shown that their purchases are not affected by distortions under Article 2(6a).

Raw materials and inputs

- (162) In order to establish the undistorted price of raw materials and inputs as delivered at the gate of a representative country producer, the Commission used as a basis the weighted average import price to the representative country as reported in GTA at the national tariff level, to which import duties and transport costs were added.
- (163) An import price in the representative country was determined as a weighted average of unit prices of imports from all third countries excluding China and countries which are not members of the WTO, listed in Annex 1 of Regulation (EU) 2015/755 of the European Parliament and the Council (⁵⁹).
- (164) The Commission decided to exclude imports from China into the representative country as it concluded that it is not appropriate to use domestic prices and costs in China due to the existence of significant distortions in accordance with Article 2(6a)(b) of the basic Regulation.
- (165) Given that there is no evidence showing that the same distortions do not equally affect raw materials and inputs intended for export, the Commission considered that the same distortions affected export prices.
- (166) After publication of the Second Note, Baosteel Group requested that the Commission change the source of the following benchmarks, rather than using import data from Malaysia:
- Iron ore pellets, as they consider the benchmark based on the whole HS code 2601 12 ('iron ores and concentrates, agglomerated') 'non-representative' and that the source should be replaced by S&P Global Atlantic iron ore Blast furnace pellet CP Premium;

(⁵⁹) Regulation (EU) 2015/755 of the European Parliament and of the Council of 29 April 2015 on common rules for imports from certain third countries (OJ L 123, 19.5.2015, p. 33). Article 2(7) of the basic Regulation considers that domestic prices in those countries cannot be used for the purpose of determining normal value.

- Hot rolled steel, as the benchmark is higher than the processed product cold rolled steel and that the source should be replaced by S&P Global Platts – HRC CFR Southeast Asia SAE1006; and
 - Cold rolled steel, as the benchmark includes prices which they consider outliers, and that the source should be replaced by S&P Global Platts – CRC East Asia Import CFR per month.
- (167) The Baosteel Group considered the price of iron ore pellets imported into Malaysia to be too high per tonne, compared to the price of tinplated products per tonne in China and noted the difference in price between the two subcodes for iron ore pellets, namely 'haematite' and 'others'.
- (168) The information provided by the Baosteel Group in its questionnaire reply and collected during the verification visit regarding the purchases of iron ore pellets showed that the classification of iron ore pellets in HS code 2601 12 was done correctly.
- (169) The imports of iron pellets into Malaysia were of significant quantities (over 300 000 tonnes) and therefore the Commission considered the benchmark on the basis of imports into Malaysia to be accurate and representative.
- (170) The Commission therefore rejects the request of the Baosteel Group to benchmark instead to a 'blast furnace pellet' as the company did not show that this index would be more appropriate than the import price into Malaysia.
- (171) Following the Baosteel Group's comment regarding the benchmark for hot rolled steel, the Commission agreed with their assessment that the data from Malaysian imports might be not representative due to the fact that the unit price of hot rolled steel was lower than the unit import price of cold rolled steel. The Commission decided to replace the import price into Malaysia with the use of data from Fastmarkets, being the index 'Steel hot-rolled coil (Japan, Korea, Taiwan-origin), import, CFR Vietnam' as an undistorted international benchmark.
- (172) For cold rolled steel, the Commission did not find any reasons why the Malaysian import price was not representative. Moreover, the alternatives suggested by the Baosteel Group cover 'East Asia' and the Commission was unable to confirm whether or not this index included prices of Chinese origin cold rolled steel and might be distorted by those prices.
- (173) After publication of the Second Note, the Baosteel Group requested that the Commission include both limestone and quicklime as consumables for Baoshan Iron and Steel rather than benchmark the consumption of these factors of production to the benchmark of Malaysian import prices.
- (174) The Commission accepted this request and both limestone and quicklime were considered as consumables.
- (175) As set out in recital (160), the Commission then calculated the percentage of the consumables on the total cost of raw materials and applied this percentage to the recalculated cost of raw materials when using the established undistorted benchmarks in the appropriate representative country.
- (176) Moreover, self-produced factors of production that only had a negligible weight in the total cost of production of the exporting producers as well as on a PCN level, were also grouped under consumables.
- (177) After disclosure of the Second Note, the Commission reconsidered the source of the benchmark for manganese and pulverised coal. Due to the limited imports of manganese into Malaysia, and the fact that the imports of pulverised coal were not given at a granular level in the import data into Malaysia, the Commission decided to replace the import price from Malaysia with an undistorted international benchmark. The Commission found these benchmarks on Fastmarkets. For manganese this was the index 'Manganese 99,7 % electrolytic manganese flake, in-whs Rotterdam, USD/tonne' and for pulverised coal this was the index 'PCI low-vol, fob DBCT, USD/wmt'.

- (178) In order to establish the undistorted price of raw materials, as provided by Article 2(6a)(a), first indent of the basic Regulation, the Commission applied the relevant import duties of the representative country.
- (179) Where transport costs existed, the Commission expressed the transport cost incurred by the cooperating exporting producer for the supply of raw materials as a percentage of the actual cost of such raw materials and then applied the same percentage to the undistorted cost of the same raw materials in order to obtain the undistorted transport cost.
- (180) The Commission considered that in the context of this investigation, the ratio between the exporting producer's raw material and the reported transport costs could be reasonably used as an indication to estimate the undistorted transport costs of raw materials when delivered to the company's factory.

Labour

- (181) The Commission used the Department of Statistics Malaysia data on manufacturing wages in the sub-sector '24 – manufacture of basic metals' published in the Monthly Manufacturing Statistics March 2024 ⁽⁶⁰⁾. The Commission then added the employer labour costs for the following programmes:

- Employee Provident Fund (EPF) ⁽⁶¹⁾
- Social Security Organisation (PERKESO) ⁽⁶²⁾
- Employment Insurance System (EIS)
- Human Resources Development Fund (HRDF) ⁽⁶³⁾

Electricity

- (182) The Commission used the electricity price statistics published by Tenaga Nasional Berhad, specifically the data of the industrial electricity prices in the consumption band 'Tariff E2 – Medium Voltage Peak/Off-Peak Industrial Tariff' for peak usage in kWh ⁽⁶⁴⁾.

Natural gas

- (183) The price of natural gas for industrial users in Malaysia is published by the Malaysian Energy Commission (Suruhanjaya Tenaga) until end 2021 ⁽⁶⁵⁾.
- (184) In the Second Note, the Commission stated that it intended to use the natural gas prices from a document listing the 2022 natural gas rates for four gas facilities that are responsible for the industrial piped gas supply in Peninsular Malaysia and Sabah on the website of Suruhanjaya Tenaga ⁽⁶⁶⁾.
- (185) This method was taken from a previous case where Malaysia was used as a representative country. However, the Commission noted that in that case finally a different method was used whereby the prices published on the website of Suruhanjaya Tenaga were used and then adjusted for inflation.

⁽⁶⁰⁾ <https://www.dosm.gov.my/portal-main/release-subthemes/manufacturing> (accessed on 12 November 2024).

⁽⁶¹⁾ <https://www.kwsp.gov.my/en/employer/responsibilities/mandatory-contribution> (accessed on 25 November 2024).

⁽⁶²⁾ <https://www.perkeso.gov.my/en/our-services/employer-employee/kadar-caruman.html> (accessed on 25 November 2024).

⁽⁶³⁾ <https://www.mida.gov.my/setting-up-content/human-resources-development-fund/> (accessed on 25 November 2024).

⁽⁶⁴⁾ <https://www.tnb.com.my/commercial-industrial/pricing-tariffs1> (accessed on 12 November 2024).

⁽⁶⁵⁾ <https://www.st.gov.my/en/web/consumer/details/2/10> (accessed on 25 November 2024).

⁽⁶⁶⁾ <https://www.st.gov.my/contents/files/highlights/2022-12-27/1672105122.pdf> (accessed on 12 November 2024).

- (186) Upon further consideration, the Commission has decided to use the same methodology, using World Bank energy inflation ⁽⁶⁷⁾ to calculate the natural gas price for 2023.

Water

- (187) Water tariffs are published by the National Water Services Commission (SPAN) on their website by state. The Commission used the water tariff charged in Johor applicable for industrial users ('non-domestic supplies') in 2024 ⁽⁶⁸⁾.

Coal and coke gas

- (188) The Commission calculated the price of coal and coke gas in Malaysia using the price of natural gas and considering the heat value of the gases concerned.

Steam

- (189) The Commission calculated the price of steam in Malaysia using the methodology suggested by the U.S. Department for Energy ⁽⁶⁹⁾ based on the cost of coal required to produce it.
- (190) The Commission used the price of coal as published by the World Bank for this calculation.

By-products and scrap

- (191) In the Second Note the Commission noted that it would use the ratio between the purchase of the 'virgin' raw material and the scrap where there was no customs code for the scrap material separate from the original raw material. The Commission has extended this ratio method also to scrap steel as a by-product as requested in the comments of Shougang Jingtang.
- (192) The Commission has therefore used the ratio method to calculate the benchmark for the following FOP:
- Steel scrap
 - Recycled cold-rolled steel
 - Recycled hot-rolled steel
 - Self-produced electricity
 - Coking electricity

3.2.6.2. SG&A costs and profit

- (193) According to Article 2(6a)(a) of the basic Regulation, *'the constructed normal value shall include an undistorted and reasonable amount for administrative, selling and general costs and for profits'*.
- (194) For establishing an undistorted and reasonable amount for SG&A costs and for profit the Commission proposed in the Second Note to use the financial data for 2023 for the Malaysian producer Perstima using their published annual accounts.
- (195) The proposed SG&A costs and profit were disclosed in the Second Note. The Commission received comments on the calculation of both these indicators from the Baosteel Group.

⁽⁶⁷⁾ <https://www.worldbank.org/en/research/brief/inflation-database> (accessed on 25 November 2024).

⁽⁶⁸⁾ <https://www.span.gov.my/document/upload/n8sVd7sPHPq3A68TTVeLYLvjU1sC3Ta.pdf> (accessed on 12 November 2024).

⁽⁶⁹⁾ https://www1.eere.energy.gov/manufacturing/tech_assistance/pdfs/steam15_benchmark.pdf.

- (196) The Commission agreed with the Baosteel Group that the SG&A costs should be composed of only costs associated with sales and general administration. The Commission also agreed that the profit of Perstima was mainly based on 'other income' rather than revenue from sales.
- (197) On this basis the Commission concluded that the profit of Perstima could not be considered reasonable, and therefore another source would have to be found in order to establish an undistorted and reasonable amount for administrative, selling, and general costs and for profits.
- (198) Perstima was found to be the sole producer of tinplated products in Malaysia, based on the information contained in its request to the Malaysian authorities for an anti-dumping investigation into imports of tinplated products from China, which was initiated on 14 August 2024 ⁽⁷⁰⁾.
- (199) Under the provisions of Article 2(6a)(a), final paragraph, the Commission then considered companies in other upper-middle income countries that were producers of the same general category of products as the product under investigation, i.e. steel production.
- (200) The Commission selected a company with readily available public financial statements showing a reasonable amount for SG&A and for profits margins for the steel producing industry, the Malaysian company Alliance Steel (M) Sdn. Bhd ⁽⁷¹⁾. The company was profitable during 2023 (which covers three-quarters of the investigation period).

3.2.7. Calculation

- (201) On the basis of the above, the Commission constructed the normal value per product type on an ex-works basis in accordance with Article 2(6a)(a) of the basic Regulation.
- (202) First, the Commission established the undistorted manufacturing costs. The Commission applied the undistorted unit costs to the actual consumption of the individual factors of production of the cooperating exporting producers. These consumption rates provided by the sampled exporting producers were verified during the verification. The Commission multiplied the usage factors by the undistorted costs per unit observed in the representative country.
- (203) For those sampled exporting producers that imported iron ore from countries without allegations of distortions under Article 2(6a), the Commission took the undistorted price paid by the sampled exporting producers rather than the benchmark established above from Malaysian import prices.
- (204) The Commission then applied the SG&A costs and profit of Alliance Steel (M) Sdn. Bhd to the cost of manufacturing. SG&A costs expressed as a percentage of the Costs of Goods Sold ('COGS') and applied to the undistorted costs of production, amounted to 6,6 %. The profit expressed as a percentage of the COGS and applied to the undistorted costs of production, amounted to 8,1 %.
- (205) On that basis, the Commission constructed the normal value per product type on an ex-works basis in accordance with Article 2(6a)(a) of the basic Regulation.

3.3. Export price

- (206) The sampled exporting producers exported to the Union either directly to independent customers or through related companies acting as an importer or as a trader in a third country.

⁽⁷⁰⁾ MITLS.600-2/2/34; PN(PU2)529/JLD.32.

⁽⁷¹⁾ <http://alliancesteel.com.my/?lang=en> (accessed on 18 December 2024).

- (207) For the exporting producer that exported the product concerned directly to independent customers in the Union, the export price was the price actually paid or payable for the product concerned when sold for export to the Union, in accordance with Article 2(8) of the basic Regulation.
- (208) For the exporting producers that exported the product concerned to the Union through related companies acting as an importer, the export price was established on the basis of the price at which the imported product was first resold to independent customers in the Union, in accordance with Article 2(9) of the basic Regulation.
- (209) In this case, adjustments to the price were made for all costs, which would normally be borne by an importer, incurred by parties associated with the exporter, which were involved in the sales of the product concerned. The relevant costs included SG&A costs of the relevant subsidiaries involved in the sales and a nominal profit normally realised by an importer.
- (210) The Commission took 4,72 % for profits accruing, being the profit of a cooperating unrelated importer of tinplated products in the European Union during the investigation period.

3.4. Comparison

- (211) The Commission compared the normal value and the export price of the sampled exporting producers on an ex-works basis.
- (212) It is recalled that Article 2(10) of the basic Regulation requires the Commission to make a fair comparison between the normal value and the export price at the same level of trade and to make allowances for differences in factors which affect prices and price comparability. In the case at hand the Commission chose to compare the normal value and the export price of the sampled exporting producers at ex-works level. As further explained below, where appropriate, the normal value and the export price were adjusted in order to: (i) net them back to the ex-works level; and (ii) make allowances for differences in factors which were claimed, and demonstrated, to affect prices and price comparability.

3.4.1. *Adjustments made to the normal value*

- (213) As explained in recital (201), the normal value was established at the ex-works level of trade by using costs of production together with amounts for SG&A costs and for profit, which were considered to be reasonable for that level of trade. Therefore, no adjustments were necessary to net the normal value back to the ex-works level.
- (214) Considering allowances, an adjustment was made to the normal value to take account of the difference in VAT treatment between domestic sales of tinplated products and their export. Exports are charged 13 % on export and this is not refunded through the VAT system, while when a domestic sale is made the producer collects 13 % VAT from the buyer and remits it to the GOC. The Commission found no reasons for making any other allowances to the normal value, nor were such allowances claimed by any of the sampled exporting producers.

3.4.2. *Adjustments made to the export price*

- (215) In order to net the export price back to the ex-works level, adjustments were made on the account of transport, insurance, handling and loading, as well as packing.
- (216) Allowances were made for the following factors affecting prices and price comparability: credit costs and bank charges.
- (217) Shougang Jingtang sold tinplated products to the first independent customer in the Union through their related trading company in Hong Kong. Considering that the trading company was acting as an agent working on commission basis and was remunerated for that in the form of a mark-up, the SG&A of the company in Hong Kong and notional profit of 4,72 % as set in recital (210) for profits accruing were then removed as an adjustment under Article 2(10)(i).

3.5. Dumping margins

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

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

Company (group)	Provisional dumping margin
Baosteel Group:	14,1 %
— Baoshan Iron & Steel Co., Ltd.	
— WISCO-Nippon Steel Tinplate Co., Ltd.	
Shougang Jingtang United Iron & Steel Co., Ltd.	47,1 %

(220) For the cooperating exporting producers outside the sample, the Commission calculated the weighted average dumping margin in accordance with Article 9(6) of the basic Regulation.

(221) That margin was established based on the margins of the sampled exporting producers. On this basis, the provisional dumping margin of the cooperating exporting producers outside the sample is 25,3 %.

(222) For all other exporting producers in China the Commission established the dumping margin on the basis of the facts available, in accordance with Article 18 of the basic Regulation. To this end, the Commission determined the level of cooperation of the exporting producers.

(223) The level of cooperation is the quantity of exports of the cooperating exporting producers to the Union expressed as proportion of the total imports from the country concerned to the Union in the investigation period on the basis of Eurostat.

(224) The Commission considered that the level of cooperation in this case is low because the imports of the cooperating exporting producers constituted around 61 % of the total exports to the Union during the investigation period.

(225) The Commission recalled that the Notice of Initiation ⁽⁷²⁾ had informed interested parties that failure to cooperate, or only partial cooperation, could lead to findings based on facts available under Article 18 of the basic Regulation, potentially resulting in less favourable outcomes for those parties. Given that the interested parties were clearly warned of the consequences of non-cooperation, and that the level of cooperation in this case was particularly low, the Commission deemed it appropriate to determine the residual dumping duty based on a representative volume of sales by Shougang Jingtang to the Union during the investigation period. These sales were considered an appropriate proxy for reflecting the dumping behaviour of companies that chose not to cooperate.

(226) The residual dumping margin was therefore set at 62,6 %.

⁽⁷²⁾ Notice of initiation of an anti-dumping proceeding concerning imports of flat-rolled products of iron or non-alloy steel plated or coated with tin ('tinplate') originating in the People's Republic of China of 16 May 2024 (C/2024/3112).

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

Company	Provisional dumping margin
Baosteel Group:	14,1 %
— Baoshan Iron & Steel Co., Ltd.	
— WISCO-Nippon Steel Tinplate Co., Ltd.	
Shougang Jingtang United Iron & Steel Co., Ltd.	47,1 %
Other cooperating companies not sampled	25,3 %
All other imports originating in the People's Republic of China	62,6 %

4. INJURY

4.1. Definition of the Union industry and Union production

- (228) The like product was manufactured by six producers in the Union during the investigation period. They constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.
- (229) The total Union production during the investigation period was established at around 2,1 million tonnes. The Commission established the figure on the basis of all the available information concerning the Union industry, namely, the verified questionnaire replies from the complainant and the three sampled Union producers. As indicated in recital (28), the three sampled Union producers represented more than 80 % of the total Union production of the like product.

4.2. Union consumption

- (230) The Commission established the Union consumption on the basis of the macro questionnaire reply received from the complainant, cross-checked, where possible, with the verified questionnaire replies of the sampled Union producers, and the imports into the Union of the product concerned from third countries based on Eurostat statistics.
- (231) Union consumption developed as follows:

Table 2

Union consumption (tonne)

	2020	2021	2022	2023	Investigation period
Total Union consumption	2 806 455	2 683 420	2 724 757	2 169 276	2 091 389
Index	100	96	97	78	75
Captive market	36 753	38 229	32 774	16 077	15 913
Index	100	104	89	44	43
Free market	2 769 702	2 645 191	2 691 983	2 153 199	2 075 477
Index	100	96	97	78	75

Source: Verified questionnaire replies of the sampled Union producers and Eurostat.

- (232) To establish whether the Union industry suffered injury and to determine consumption and the various economic indicators related to the situation of the Union industry, the Commission examined whether and to what extent the subsequent use of the Union industry's production of the like product had to be taken into account in the analysis.
- (233) The Commission found that a negligible part of the sampled Union producers' production was destined for captive use. As can be seen from Table 2, volumes of the captive market remained around 1 % of the free market consumption throughout the period considered and showed a decreasing trend. The free-market consumption developed in the same way as the total Union consumption in each year of the period considered.
- (234) The Commission thus concluded that there is no need to make a distinction between captive and free market, as difference in behaviour of the captive market (if any) would not be relevant for the injury analysis, given the negligible share of captive market in the total Union consumption.
- (235) Unlike some other markets, the COVID-19 pandemic did not cause the market of tinplated products to decline during lockdowns in the Union in the period 2020-2021. With people staying at home, demand for canned food was strong, which translated into relatively stable demand for tinplated products in both years.
- (236) Thus, between 2020 and 2022 Union consumption (including free and captive) fluctuated slightly downwards, then decreased sharply by 19 percentage points in 2023 due to destocking and poor vegetable harvest in the Union, and by further 3 percentage points in the IP. Consumption overall decreased by 25 % between 2020 and the IP.

4.3. Imports from the country concerned

4.3.1. Quantity and market share of the imports from the country concerned

- (237) The Commission established the quantity of imports on the basis of Eurostat data. The market share of the imports was established by comparing import volumes with Union market consumption.
- (238) Imports into the Union from the country concerned developed as follows:

Table 3

Import quantity and market share

	2020	2021	2022	2023	Investigation period
Quantity of imports from the country concerned (tonne)	287 599	230 420	396 226	530 028	486 583
Index	100	80	138	184	169
Market share	10,4 %	8,7 %	14,7 %	24,6 %	23,4 %
Index	100	85	142	236	225

Source: Eurostat.

- (239) Due to exceptional circumstances of lockdowns in China and disruptions in maritime trade in 2021, the volume of Chinese imports between 2020 and 2021 first decreased by 20 %. With the demand in the Union remaining strong, Chinese imports lost some market share in that year.

- (240) As exceptional circumstances abated in 2022, both volumes and market share of Chinese imports started increasing significantly in 2022 and 2023, with a small drop in the trend from 2023 to the IP. Imports from China overall increased by 69 % over the period considered, while Chinese market share rose from 10,5 % in 2022 to 23,5 % in the IP, showing an overall increase of 125 %.

4.3.2. *Prices of the imports from the country concerned and price undercutting*

- (241) The Commission established the prices of imports on the basis of Eurostat data. Price undercutting of the imports was established on the basis of verified questionnaire replies of the sampled exporting producers in China and of the sampled Union producers.
- (242) The weighted average price of imports into the Union from the country concerned developed as follows:

Table 4

Import prices (EUR/tonne)

	2020	2021	2022	2023	Investigation period
China	788	1 040	1 538	1 217	1 107
Index	100	128	189	149	136

Source: Eurostat.

- (243) Import prices from China increased until reaching a peak of an 89 % price increase in 2022 vis-a-vis 2020, then decreased again reaching an overall 36 % increase during the period considered.
- (244) The Commission determined the price undercutting during the investigation period by comparing:
- (1) the weighted average sales prices per product type of the sampled Union producers charged to unrelated customers on the Union market, adjusted to an ex-works level; and
 - (2) the corresponding weighted average prices per product type of the imports from the sampled cooperating Chinese producers to the first independent customer on the Union market, established on a Cost, insurance, freight (CIF) basis, with appropriate adjustments for customs duties and post-importation costs. Due to existence of safeguards on tinplated products ⁽⁷³⁾, the Commission considered an average duty per tonne paid by a cooperating importer in the investigation period as reasonable adjustment for customs duties. Average post-importation costs incurred by the same importer were likewise considered appropriate.
- (245) The price comparison was made on a type-by-type basis for transactions at the same level of trade after deduction of rebates and discounts. The result of the comparison was expressed as a percentage of the sampled Union producers' theoretical turnover during the investigation period. It showed a weighted average undercutting margin of between [15 - 25] % by the imports from the country concerned on the Union market in the investigation period.
- (246) Chinese prices were below Union industry's costs of production in 2020, 2023, and the investigation period. 2021 was, additionally, marked by historically high costs of shipping, suggesting that the price of goods not counting ocean freight costs may have been much lower.

⁽⁷³⁾ Commission Implementing Regulation (EU) 2024/1782 of 24 June 2024 amending Implementing Regulation (EU) 2019/159, including the prolongation of the safeguard measure on imports of certain steel products, OJ L, 2024/1782, 25.6.2024, available at: https://eur-lex.europa.eu/eli/reg_impl/2024/1782/oj.

- (247) Such prices forced Union producers to sell below their costs of production in all years except 2022. The reason being that most customers negotiate prices for tinplated products on an annual basis with Union producers (as opposed to Chinese imports which are usually made as spot sales), and in Q4 2021 the producers were in a better position to negotiate reasonable prices.
- (248) Namely, unique circumstances of 2021 caused uncertainties in the market: as less tinplated products were available from China and other third markets due to disruptions in international trade that year, while demand for cans remained strong, users were willing to pay a higher price to secure supply from Union producers in 2022. In addition, with cost of production also starting to rise in 2021, the Union producers were able to negotiate high prices for 2022.
- (249) However, as soon as such favourable market conditions ceased to exist and Chinese imports started coming in more significant quantities, the Union producers were no longer able to negotiate sufficiently high prices to cover their cost of production. Instead, they had to decrease them both in 2023 and the IP, despite costs of production still going up in 2023.
- (250) On that basis the Commission concluded there was price suppression in 2020, 2023 and the IP, and price depression in 2023 and the IP. The Commission did therefore not find it necessary to further examine, in light of extraordinarily high maritime shipping costs in 2021, whether or not there was price suppression in 2021 also.

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

4.4.1. *General remarks*

- (251) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.
- (252) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators on the basis of data contained in the questionnaire reply submitted by the complainant covering data 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. The data related to the sampled Union producers. Both sets of data were found to be representative of the economic situation of the Union industry.
- (253) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales quantity, market share, growth, employment, productivity, magnitude of the dumping margin, and recovery from past dumping.
- (254) The microeconomic indicators are: average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital.

4.4.2. *Macroeconomic indicators*

4.4.2.1. *Production, production capacity and capacity utilisation*

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

Table 5

Production, production capacity and capacity utilisation

	2020	2021	2022	2023	Investigation period
Production quantity (tonne)	3 168 396	3 203 136	2 959 547	2 142 812	2 104 114
Index	100	101	93	68	66
Production capacity (tonne)	3 736 867	3 729 583	3 707 149	3 704 686	3 694 388
Index	100	100	99	99	99
Capacity utilisation	85 %	86 %	80 %	58 %	57 %
Index	100	101	94	68	67

Source: Verified questionnaire replies of the sampled Union producers.

- (256) While the Union industry's production volumes somewhat increased between 2020 and 2021, they showed a steadily decreasing trend in the remainder of the period considered. Production quantity decreased by 8 percentage points from 2021 to 2022, dropped by further 15 percentage points in 2023, and declined by another 2 percentage points in the IP. Production quantity overall decreased by 34 % between 2020 and the IP due to decline in sales.
- (257) The decrease in production quantity negatively affected the capacity utilisation, which fell in step, from 85 % in 2020 to 57 % in the IP, a decrease of 33 %.

4.4.2.2. Sales quantity and market share

- (258) The Union industry's sales quantity and market share developed over the period considered as follows:

Table 6

Sales quantity and market share

	2020	2021	2022	2023	Investigation period
Total Sales quantity on the Union market (tonne)	2 186 606	2 225 828	2 082 400	1 441 895	1 395 352
Index	100	102	95	66	64
Market share	78 %	83 %	76 %	66 %	67 %
Index	100	106	98	85	86

Source: Verified questionnaire replies of the sampled Union producers.

- (259) Union industry sales remained fairly constant between 2020 and 2021 then steadily decreased throughout the period considered, overall decreasing by 36 %.
- (260) The market share of the Union industry increased by 5 percentage points between 2020 and 2021, from 78 % to 83 %, and then showed a steadily decreasing trend in the remainder of the period considered, falling to 67 % market share in the IP.

4.4.2.3. Growth

- (261) Over the period considered, consumption, production and sales of the product concerned on the Union market decreased. In the same period imports from China increased which led to the market share of Chinese imports more than doubling in the Union market.
- (262) As shown in Table 2 above, consumption in the Union was steadily decreasing in 2021 and 2022, before dropping significantly in 2023 and decreasing further in the IP. Consumption decreased overall 25 % during the period considered, indicating a shrinking market.
- (263) As shown in the Tables 5 and 6 above, Union production and sales volumes also show a generally decreasing trend, falling by 34 % and 36 %, respectively, between 2020 and the investigation period. This decrease was much more pronounced than the 25 % decrease in Union consumption over the same period. The Union industry's market share also fell from 78 % to 66 % over the period considered.
- (264) At the same time, imports from China showed a generally increasing trend in terms of volumes and market shares over the period considered. Imports from China increased by 69 percentage points and their market share rose from 10,4 % to 23,4 % from 2020 to the IP.
- (265) The above trends were temporarily reversed only in 2021. Due to exceptional circumstances of lockdowns in China and disruptions in maritime trade, imports from China decreased by 15 % and their market share fell from 10,4 % to 8,7 % between 2020 and 2021. At the same time, Union industry's production and sales volume increased, and Union industry increased their market share by 5 percentage points.
- (266) As soon as international trade started normalising in 2022, however, Chinese imports and market share both increased significantly, rising above the 2020 levels, and continued increasing in 2023, with slight slowdown in the investigation period.
- (267) At the same time, in 2022 Union industry's production volume, sales volumes, and market share all fell to levels below those in 2020 and continued to decrease in 2023. Due to a somewhat shrinking market in the investigation period, the market share is the only of those three indicators that remained relatively stable between 2023 and the investigation period, while production and sales volumes both decreased in the investigation period also.

4.4.2.4. Employment and productivity

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

Table 7

Employment and productivity

	2020	2021	2022	2023	Investigation period
Number of employees	6 313	5 949	6 130	4 949	4 883
Index	100	94	97	78	77
Productivity (tonne/FTE)	502	538	483	433	431
Index	100	107	96	86	86

Source: Verified questionnaire replies of the sampled Union producers.

- (269) The number of employees also consistently decreased over the period considered, with a slight fluctuation upwards in 2022 only. The number of employees fell by 6 percentage points in 2021 before increasing by 3 percentage points in 2022. It then dropped again significantly by 9 percentage points in 2023 and continued to decrease in the investigation period. Overall, the number of employees decreased by 23 %.
- (270) Productivity developed in line with the changes in production and employment, moderately increasing between 2020 and 2021, and then decreasing until the IP, reaching 86 % of the productivity of 2020. Productivity rose in 2021, consistently with production and sales volumes of the Union industry being the highest in that year out the total period considered.
- (271) Decreasing productivity in the remaining years can equally be explained by production quantity decreasing more than the number of employees between 2022 and the investigation period.

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

- (272) All dumping margins were significantly above the de minimis level. The impact of the magnitude of the actual margins of dumping on the Union industry was substantial, given the quantity and prices of imports from the country concerned.
- (273) This is the first anti-dumping investigation regarding the product concerned. Therefore, no data were available to assess the effects of possible past dumping.

4.4.3. Microeconomic indicators

4.4.3.1. Prices and factors affecting prices

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

Table 8

Sales prices in the Union

	2020	2021	2022	2023	Investigation period
Average unit sales price in the Union on the total market (EUR/ tonne)	832	897	1 541	1 419	1 363
Index	100	108	185	171	164
Unit cost of production (EUR/ tonne)	914	1 049	1 522	1 576	1 502
Index	100	115	167	172	164

Source: Verified questionnaire replies of the sampled Union producers.

- (275) Union cost of production started increasing in 2021, due to the rise in raw material costs such as iron ore and coking coal. Increase in energy prices and further increase in raw materials' costs increased the cost of production significantly, by 67 percentage points in 2022 and by another 5 percentage points in 2023, decreasing by 8 percentage points in the investigation period only. Cost of production overall increased by 64 % from 2020 to the investigation period.
- (276) The average Union sales price increased between 2020 and 2022 and began decreasing in 2023 and the investigation period. Overall sales prices grew by 64 % between 2020 and the investigation period.

- (277) Union industry's average sales prices remained below the average costs of production in all years except 2022. As already explained in recitals (246) to (250) above, Chinese dumped imports were suppressing Union industry prices in 2020, and causing price suppression and depression 2023 and the investigation period, making Union industry sell at a loss.
- (278) As also already explained in recitals (247) and (248), since the customers usually negotiate prices with the Union industry on annual basis, and due to market uncertainties in 2021, Union producers were able to negotiate high prices in 2022, allowing them to sell at a profit.
- (279) As soon as international trade flow normalised, however, Union producers had to reduce their prices again.

4.4.3.2. Labour costs

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

Table 9

Average labour costs per employee

	2020	2021	2022	2023	Investigation period
Average labour costs per employee (EUR)	76 383	89 506	97 455	85 645	90 710
Index	100	117	128	112	119

Source: Verified questionnaire replies of the sampled Union producers.

- (281) Average labour cost per full time employee increased by 17 percentage points in 2021 and further 11 in 2022, then fell by 16 in 2023 and increased by another 7 in the investigation period. Overall, labour costs increased by 19 % over the period considered.

4.4.3.3. Inventories

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

Table 10

Inventories

	2020	2021	2022	2023	Investigation period
Closing stocks (tonne)	203 112	205 936	220 537	171 931	205 236
Index	100	101	109	85	101
Closing stocks as a percentage of production	8,9 %	8,9 %	10,3 %	10,5 %	12,3 %
Index	100	100	116	118	138

Source: Verified questionnaire replies of the sampled Union producers.

- (283) Despite falling production levels in the period considered, absolute stock levels stayed relatively stable throughout the period considered with reaching a low point of 85 % of the quantity of the 2020 closing stocks in 2023.
- (284) Relative stock as a percentage of the production, after an initial stagnation between 2020 and 2021, steadily increased throughout the remainder of the period considered reaching a 38 % increase by the investigation period.

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

- (285) 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

	2020	2021	2022	2023	Investigation period
Profitability of sales in the Union to unrelated customers (% of sales turnover)	- 4,6 %	- 12,6 %	5,4 %	- 7,2 %	- 7,6 %
Index	- 100	- 275	119	- 157	- 166
Cash flow (EUR)	- 134 313 543	- 197 622 960	224 032 699	53 451 405	59 362 944
Index	- 100	- 147	167	40	44
Investments (EUR)	33 628 078	30 358 412	69 942 444	94 221 877	93 276 789
Index	100	90	208	280	277
Return on investments	- 23,0 %	- 58,7 %	68,4 %	- 16,9 %	- 19,8 %
Index	- 100	- 255	297	- 73	- 86

Source: Verified questionnaire replies of the sampled Union producers.

- (286) The Commission established the profitability of the sampled Union producers by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales. Profitability was negative throughout the period considered except for 2022, where profit reached 5,4 %.
- (287) The Union industry's losses in 2021 were due to specific market circumstances in that year. In fact, as set out in recital (247) and (301), prices between Union producers of tinplated products and their customers are typically fixed for one calendar year with little room for price adjustment. The prices of Union producers for 2021 were fixed on the basis of 2020 costs, whereas the cost of production increased considerably in 2021. Therefore, the Union industry was obliged to sell its products below its cost of production while maintaining and even slightly increasing sales volumes which led to considerable losses in that year.

- (288) Following the losses incurred due to low prices and rising costs of production in 2021, the Union industry negotiated 70 % higher prices in 2022 in order to reflect the considerable rise in production costs. As was already explained in recitals (247) to (249), and (277) and (278) above, 2022 was the only year that the Union industry managed to sell tinplated products above their costs of production, due to the favourable position it found itself in when negotiating prices for that year at the end of 2021. This naturally resulted in positive profitability.
- (289) The trend in net cash flow broadly followed the evolution in profit, remaining however positive in 2023 and the investigation period on account of export sales and inventory valuation movements in those years.
- (290) Investments, even though they decreased in 2021, more than doubled in 2022, and rose by additional 72 percentage points in 2023, before decreasing slightly in the investigation period.
- (291) The largest share of this investment is, however, attributable to a large maintenance investment undertaken by just one Union producer for regular maintenance of one of its blast furnaces. This project could not reasonably be postponed as such major overhaul has to be made at regular intervals to ensure functionality of a blast furnace and is thus necessary to maintain operations of the entire company. Additionally, several environmental compliance investments were undertaken during this period, which further increased investment figures.
- (292) The return on investments is the profit in percentage of the net book value of investments. Return on investment remained negative and stable throughout the period with a notable negative and positive exception in 2021 and 2022 respectively, broadly following the trends in profitability of sales.

4.4.4. *Conclusion on injury*

- (293) The main injury indicators showed a negative trend over the period considered. In terms of sales, profitability, cash flow, and return on investment, the situation of the Union industry temporarily improved in 2022 but declined again from 2023 on. Profitability remained negative throughout the period considered except for the temporary increase to 5,4 % in 2022, due to exceptional circumstances in the market after the COVID-19 pandemic. As explained in recitals (287) and (301), the drop in profitability in 2021 was due to specific circumstances, namely to unexpected rise in several elements of production costs, while the Union producers were not able to increase their prices sufficiently due to the nature of the contracts they have with their customers.
- (294) Investments were seemingly the only indicator which showed positive trends. However, rather than increasing investment being a sign of a healthy state of the Union industry, as mentioned above, these investments were due to necessary maintenance and environmental compliance.
- (295) All the other injury indicators showed decreasing trends. Production volumes of the Union industry decreased by 34 %, in line with Union sales which decreased by 36 % between 2020 and the investigation period. This decrease was more significant than the decrease of the Union consumption, which decreased by 25 % during the same period. Consequently, the market share of the Union industry dropped from 78 % in 2020 to 66 % in the IP.
- (296) Meanwhile, Chinese imports increased by 69 % during the period considered. The largest surge in imports happened in 2023, at the time when demand shrunk the most, resulting in an increase in the Chinese market share from 10,4 % in 2020 to 23,4 % in the investigation period.
- (297) Some loss of sales volumes might have been expected in the context of a shrinking market. However, the drop in Union industry's sales was much more pronounced than the drop in Union demand while volumes of imports from China were increasing even as demand was falling. Consequently, market share evolution trends were almost perfectly inversed between Union industry's sales and Chinese, showing clear volume injury.

- (298) The Union industry was faced with a significant increase in the cost of production, which rose by 65 % over the period considered. The increase in cost was driven mainly by higher costs of the principal raw materials and energy. The Union industry increased their sales prices sufficiently to offset this major cost increase (increase of 64 % between 2020 and the investigation period).
- (299) The Union industry was lossmaking for almost the entire period concerned, with the sole exception of 2022. However, its overall profitability decreased over the period considered from –4,6 % in 2020 to –7,6 % in the investigation period with an exceptional drop in 2021 followed by an exceptional increase in 2022 as set out in recitals (287) to (288).
- (300) These declining trends were temporarily reversed in 2021 and 2022, as the COVID-19 pandemic influenced the market. With people staying at home, demand for canned food was strong in 2021, which translated into stable demand for tinned products. At the same time, imports from China fell by 20 % in 2021, likely due to ocean freight disruptions and strict lockdowns in China, prompting users to turn more to Union suppliers. Union industry's sales volumes thus slightly increased and their market share rose by 5 percentage points in that year.
- (301) As explained above, since prices with Union producers are usually negotiated on an annual basis at the end of the year before, the Union industry could thus not profit to a sufficient extent from such increase in sales volumes in 2021, as they were locked into prices negotiated in 2020.
- (302) Conversely, given the market above-described market uncertainties that arose in 2021, at the negotiations for 2022 contracts, the users were willing to pay higher prices to secure a steady supply. With cost of production also starting to rise in 2021, the Union producers were able to negotiate high prices for 2022. The Union industry was thus able to achieve high cashflow and positive profitability in that year.
- (303) As soon as international trade flows began normalising, however, all those indicators started declining again, as the Union industry began losing market share and had to reduce its prices in both 2023 and the investigation period, despite rising costs of production.
- (304) On the basis of the above, the Commission concluded at this stage that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.
- (305) The Commission did not find it necessary, therefore, to examine the claims on the threat of injury at this stage.

5. CAUSATION

- (306) In accordance with Article 3(6) of the basic Regulation, the Commission examined whether the dumped imports from the country concerned caused material injury to the Union industry. In accordance with Article 3(7) of the basic Regulation, the Commission also examined whether other known factors could at the same time have injured the Union industry. The Commission ensured that any possible injury caused by factors other than the dumped imports from the country concerned was not attributed to the dumped imports. These factors are: declining consumption, imports from third countries, and export performance of the Union industry.

5.1. Effects of the dumped imports

- (307) As shown in Table 1 above, consumption in the Union was steadily decreasing in 2021 and 2022, before dropping significantly in 2023 and decreasing further in the investigation period. Consumption decreased overall 25 % during the period considered, indicating a shrinking market.
- (308) As shown in the Tables 5 and 6 above, Union production and sales volumes also show a generally decreasing trend, falling by 34 % and 36 %, respectively, between 2020 and the investigation period. This decrease was much more pronounced than the 25 % decrease in Union consumption over the same period. The Union industry's market share also fell from 78 % to 66 % over the period considered.

- (309) At the same time, imports from China showed a generally increasing trend in terms of volumes and market shares over the period considered. The volume of imports from China thus increased by 69 % in absolute terms and their market share rose from 10,4 % to 23,4 % (that is by 125 %) from 2020 to the investigation period.
- (310) The above trends were temporarily reversed only in 2021. Due to exceptional circumstances of lockdowns in China and disruptions in maritime trade, imports from China decreased by 15 % and their market share fell from 10,4 % to 8,7 % between 2020 and 2021. At the same time, Union industry's production and sales volume increased, and Union industry increased their market share by 5 percentage points. However, as explained in recital (287), due to the low annual sales prices set for 2021 and due to the increase in production costs, the Union industry was obliged to sell below their cost of production and therefore incurred significant losses in that year.
- (311) As soon as international trade started normalising in 2022, however, Chinese imports and market share both increased significantly, rising above the 2020 levels, and continued increasing in 2023, with slight slowdown in the investigation period.
- (312) At the same time, Union industry's production volume, sales volumes, and market share all fell to levels below those in 2020 and continued to decrease in 2023 and the investigation period. Due to somewhat shrinking market, market share of the Union industry is the only of those three indicators that remained relatively stable between 2023 and the investigation period.
- (313) CISA and Steelforce claimed that any injury could not have been caused by the dumped imports from China. CISA claimed that Chinese import volumes have no correlation with the evolution of the injury indicators, while Steelforce claimed that, even if they were gaining market share, they did so at the expense of other countries' market shares.
- (314) Furthermore, CISA claimed that Chinese prices could not have caused injury since they moved in line with market trends. Steelforce added that Union industry prices were below the Chinese in 2021 and virtually the same in 2022, indicating that Union producers were able to pursue their own pricing policy. In addition, Steelforce claimed that if it was indeed economically more sensible, Union producers could have moved from yearly contracts to spot sales, ensuring that they would be able to sell products at a profit.
- (315) As summarised in recitals (307) to (312) above, the trends of volumes and market shares of Chinese imports and the Union industry's sales and market shares are almost perfectly inverse. Contrary to CISA's claims, this shows clear correlation with the evolution of sales volumes and the injury indicators.
- (316) As concerns prices, while prices of Chinese imports were indeed higher than Union prices in 2021 and about the same in 2022, this was due to aforementioned exceptional circumstances, and the fact that Union producers are locked into annual agreements with most of their customers.
- (317) As explained in, among others, recitals (239), (246), (265) and (310) above, due to disruptions in maritime trade and strict lockdowns in China, the volume of imports to the Union in 2021 decreased, and landed prices seemingly increased above the Union producers' sales prices. However, with Union producers being locked into prices fixed by long term contracts negotiated at the end of 2020, they could not sufficiently profit from such favourable conditions to increase their sales prices. At the same time the cost of production began rising significantly in 2021, worsening Union industry's losses in that year.
- (318) As explained in recital (288), disruptions in the market in 2021 and annually negotiated contracts, on the other hand, put Union producers in a favourable position towards its customers when negotiating prices for 2022 – due to uncertainties of 2021, the users were keen to secure sufficient supply in 2022. This allowed the Union industry to raise prices and be profitable in 2022 for the only time in the period concerned.

- (319) Furthermore, as explained in recitals (244) and (245) above, significant price undercutting was established on a type-by-type basis. In addition, the evolution and effect of Chinese prices was described in recitals (246) to (250) above, and the Commission concluded that Chinese import prices caused price suppression in 2020, 2023 and the investigation period, and price depression in 2023 and the investigation period.
- (320) This is not invalidated even if, as CISA claims, Chinese prices evolved similarly to prices from other third markets or the Union industry's prices. Chinese prices were lower than almost all other third countries' import prices in almost all the years of the period considered, with the exception of India (see Table 12 below). In addition, Chinese imports held by far the largest market share of all the imports, with the next five biggest importing countries individually holding between 0,7 % and 3,2 % of the market share in any year of the period considered. Chinese imports thus clearly exerted the biggest influence on price behaviour in the market.
- (321) Finally, the Commission pointed out that, as Steelforce claimed, if the Union producers were able to pursue their own pricing policy and/or move to spot sales which would yield profitability in all years, they undoubtedly would. No evidence was presented as to why the Union industry would deliberately cause injury to itself.
- (322) Instead, as the complainant explained, the annually negotiated prices for tinplated products are a market standard, forced from the bottom of the supply chain. Major retailers demand annually negotiated prices from their canned food suppliers, which, in turn, demand the same from their can suppliers. Can producers, as the main users of tinplated products, thus demand the same from the Union industry to guarantee a stable source of supply.

5.2. Effects of other factors

5.2.1. Consumption

- (323) Demand of tinplated products was influenced by the COVID-19 pandemic in a particular way. During lockdowns of 2020 and 2021, people consumed and stockpiled more canned food. The demand for cans, and consequently tinplated products, thus, remained fairly stable in those years and in 2022, fluctuating slightly downwards.
- (324) At the end of that period, consumption in the Union decreased sharply by 19 percentage points in 2023, and further 3 in the investigation period. The sharp drop in 2023 can be attributed to destocking from previous years and a poor vegetable harvest in Europe in 2022. Consumption overall decreased by 25 % between 2020 and the investigation period.
- (325) CISA and Steelforce claimed that the injury was primarily caused by such market contraction.
- (326) The Commission noted, however, that, while demand in the Union did decrease, this cannot account for the loss of sales volumes and declining profitability of the Union industry in 2023 and the investigation period.
- (327) As already explained above, Union industry sales volumes decreased by 36 %, almost 50 % more than the shrinkage in consumption, while Chinese import volumes kept increasing, even as the market was shrinking.
- (328) Furthermore, such imports were coming into the Union at prices which undercut, suppressed, and depressed the prices of the Union industry.
- (329) The Commission thus concluded that, even in the shrinking market where the Union industry would have lost some sales volumes, Chinese imports remained the main factor causing injury.

5.2.2. Imports from third countries

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

Table 12

Imports from third countries

Country		2020	2021	2022	2023	Investigation period
Serbia	Quantity (tonne)	88 422	75 247	78 718	64 317	58 249
	Index	100	85	89	73	66
	Market share	3,2 %	2,8 %	2,9 %	3,0 %	2,8 %
	Average price (EUR/tonne)	817	965	1 546	1 411	1 352
	Index	100	118	189	173	166
Türkiye	Quantity (tonne)	61 939	46 406	52 808	25 485	40 630
	Index	100	75	85	41	66
	Market share	2,2 %	1,8 %	2,0 %	1,2 %	2,0 %
	Average price (EUR/tonne)	848	1 067	1 571	1 297	1 130
	Index	100	126	185	153	133
India	Quantity (tonne)	34 794	35 139	31 805	36 028	38 686
	Index	100	101	91	104	111
	Market share	1,3 %	1,3 %	1,2 %	1,7 %	1,9 %
	Average price (EUR/tonne)	763	1 106	1 471	1 121	1 048
	Index	100	145	193	147	137
South Korea	Quantity (tonne)	30 433	20 503	32 073	26 823	28 658
	Index	100	67	105	88	94
	Market share	1,1 %	0,8 %	1,2 %	1,2 %	1,4 %
	Average price (EUR/tonne)	844	906	1 618	1 336	1 185
	Index	100	107	192	158	141
United Kingdom	Quantity (tonne)	63 964	25 997	19 508	16 261	18 045
	Index	100	41	30	25	28
	Market share	2,3 %	1,0 %	0,7 %	0,8 %	0,9 %
	Average price (EUR/tonne)	1 154	1 031	1 401	1 589	1 544
	Index	100	89	121	138	134

Country		2020	2021	2022	2023	Investigation period
Taiwan	Quantity (tonne)	23 665	4 600	14 688	18 357	16 457
	Index	100	19	62	78	70
	Market share	0,9 %	0,2 %	0,5 %	0,9 %	0,8 %
	Average price (EUR/tonne)	815	994	1 658	1 142	1 095
	Index	100	122	203	140	134
Other third countries (except China)	Quantity (tonne)	29 034	19 281	16 532	10 083	8 728
	Index	100	66	57	35	30
	Market share	1,0 %	0,7 %	0,6 %	0,5 %	0,4 %
	Average price (EUR/tonne)	803	1 000	1 558	1 320	1 319
	Index	100	125	194	164	164
Total of all third countries except the country concerned	Quantity (tonne)	332 251	227 173	246 132	197 354	209 453
	Index	100	68	74	59	63
	Market share	12,0 %	8,6 %	9,1 %	9,2 %	10,1 %
	Average price (EUR/tonne)	803	1 000	1 558	1 320	1 319
	Index	100	125	194	164	164

Source: Eurostat.

- (331) As Table 12 above shows, imports from other third countries (excluding China) have historically been low. In total, those imports held 12 % of the market share in 2020, which fell to 10 % in the investigation period, as their import volumes decreased by 37 % during that period. China is by far the biggest importer into the Union, while the next five biggest importers individually held between 0,7 % and 3,2 % of the market share over the period considered.
- (332) Import prices from other third countries were higher than Union industry prices in 2020 and 2021, and at the same level in 2022. They were 7 % lower than the Union industry's prices in 2023, and 10 % lower in the investigation period.
- (333) However, the volume of those imports and their market share has been low and, furthermore, significantly decreased between 2020 and the investigation period. They could thus not have exerted nearly as significant an impact on the Union industry as Chinese imports, which increased significantly in both volume and market share.
- (334) The notable exception to the above are imports from India, which increased by 4 000 tonnes between 2020 and the investigation period, gaining 0,6 % in total market share over that period, and were sold to the Union at prices lower than Chinese imports in all years except 2021.

- (335) However, since total Union demand in the investigation period was at over 2 million tonnes, the Commission considered that any impact such increase in imports from India could have had on the Union market was negligible and could not have caused injury to the Union industry, even if their prices were below Union industry's prices.
- (336) Furthermore, prices of Chinese imports were on average 14 % lower than Union industry prices in 2023 and 19 % lower in the investigation period. We thus concluded that imports from third countries could not have caused injury to the Union industry.

5.2.3. *Export performance of the Union industry*

- (337) The quantity of exports of the sampled Union producers developed over the period considered as follows:

Table 13

Export performance of the sampled Union producers

	2020	2021	2022	2023	Investigation period
Export quantity (tonne)	986 312	980 151	858 804	746 431	752 726
Index	100	99	87	76	76
Average price (EUR/tonne)	783	870	1 590	1 469	1 370
Index	100	111	203	188	175

Source: Verified questionnaire replies of the sampled Union producers.

- (338) Union industry's export volumes evolved similarly as their sales to the Union: they have been gradually decreasing from 2020 to the investigation period, notably without the uptick observed in the Union market in 2022, further reinforcing the conclusion that this was an exceptional year on the Union market.
- (339) However, this decrease in export volumes was just 24 % between 2020 and the investigation period, while the sales to the Union market fell by 36 % over the same period.
- (340) The average export price increased until 2022, where it more than doubled compared to 2020. From 2022 export prices started decreasing but stayed at 75 % above the 2020 prices during the investigation period.
- (341) Furthermore, export prices were slightly lower than sales prices to the Union in 2020 and 2021, but higher in 2022, 2023 and the investigation period.
- (342) The Commission thus concluded that the export performance of the Union industry was not the cause of the suffered injury.

5.2.4. *Cost of production and investments*

- (343) CISA and Steelforce argued that the injury to Union industry was self-inflicted: as the costs of production were going up and the Union industry was nonetheless increasing investments significantly.
- (344) First, the Commission clarified in that regard that the global increase in cost of production and, notably, in raw materials and energy had affected all market players to a similar extent as evidence by the fact that prices of imports from all other third countries including China increased considerably over the period considered. Consequently, such an increase in costs was not an element that was unique to the Union industry only.

- (345) At the same time, neither CISA, Steelforce nor any other interested party presented evidence that would indicate that other market players, such as Chinese exporting producers, would have been affected differently.
- (346) As explained in recitals (291) and (294), the Union industry's investments during the period considered were required to comply with environmental standards or were necessary in order to maintain existing capacities by making essential repairs and replacements.
- (347) The Commission thus concluded that the rising costs of production did not contribute to the injury suffered by the Union industry in the investigation period. Similarly, investments required by law or necessary to maintain safe production cannot be considered to have contributed to the injury of the Union industry.

5.2.5. *Long term contracts between Union producers and users*

- (348) As explained in recital (317), sales of the Union industry in the Union market were typically based on yearly contracts with customers that fix prices for the following year with a possibility for only exceptional adjustments. This means that prices cannot follow short-term cost variations that happen within the given year. The Union industry thus need some time to adjust its prices to changes in market conditions. In fact, throughout 2021, they were constrained to offer prices negotiated in Q4/2020 whereas production costs increased by 15 % from 2020 to 2021. However, as explained in recital (318), disruptions in the market in 2021 and the consequent decrease in imports from China at low prices allowed Union producers to negotiate significantly higher prices for 2022 reflecting their increased production costs and to regain their profitability.
- (349) Therefore, the time lag between the increase of raw materials cost and the increase of the sales prices due to the yearly contracts did not appear to prevent the Union industry from adapting its sales prices to the increasing cost of production over the period considered. As a result, the Commission provisionally concluded that fixing the sales prices in yearly contracts did not attenuate the causal link between the dumped imports and the injury found.

5.3. **Conclusion on causation**

- (350) In a shrinking market, and after the Union market was temporarily shielded from Chinese imports in 2021, imports from China were increasing in volume and gaining market share in 2022, 2023 and the investigation period, at the expense of sales volumes and market share of the Union industry, which were decreasing in step.
- (351) Such Chinese imports were coming into the Union at prices which undercut Union prices, causing price suppression and depression. With 2022 being the only exception when the Union industry was, as a consequence of market uncertainties in the year before, able to achieve prices sufficiently high to cover their costs of production. The Chinese dumped imports were dragging down Union industry's profitability, which was already loss-making at the beginning of the period considered.
- (352) No other factors were found to be causing such injury to the Union industry.
- (353) The Commission distinguished and separated the effects of all known factors on the situation of the Union industry from the injurious effects of the dumped imports. The effect of decrease in consumption, imports from other third countries, and export performance of the Union industry on the Union industry's negative developments in terms of loss of sales volumes, prices, and declining profitability was limited, if any.
- (354) On the basis of the above, the Commission concluded at this stage that the dumped imports from the country concerned caused material injury to the Union industry and that the other factors, considered individually or collectively, did not attenuate the causal link between the dumped imports and the material injury. The injury consisted mainly of loss of market share, price undercutting, suppression, and depression, and falling profitability.

6. LEVEL OF MEASURES

- (355) In the present case, the complainant claimed the existence of raw material distortions within the meaning of Article 7(2a) of the basic Regulation, regarding hot-rolled steel. Thus, in order to conduct the assessment on the appropriate level of measures, the Commission first established the amount of duty necessary to eliminate the injury suffered by the Union industry in the absence of distortions under Article 7(2a) of the basic Regulation. Then it examined whether the dumping margin of sampled exporting producers would be higher than their injury margin.

6.1. Injury margin

- (356) The injury would be removed if the Union industry was able to obtain a target profit by selling at a target price in the sense of Articles 7(2c) and 7(2d) of the basic Regulation.
- (357) In accordance with Article 7(2c) of the basic Regulation, for establishing the target profit, the Commission took into account the following factors: the level of profitability before the increase of imports from the country concerned, the level of profitability needed to cover full costs and investments, research and development (R&D) and innovation, and the level of profitability to be expected under normal conditions of competition. Such profit margin should not be lower than 6 %.
- (358) As a first step, the Commission established a basic profit covering full costs under normal conditions of competition. As not all sampled Union producers could provide reliable data to show profitability on sales to unrelated customers in the Union before the increase of imports from the country concerned, the Commission established the target profit to determine the non-injurious price at 6 %, in accordance with Article 7(2c) of the basic Regulation.
- (359) On this basis, the non-injurious price was calculated, by applying the above-mentioned profit margin of 6 % to the cost of production during the investigation period of the sampled Union producers.
- (360) In accordance with article 7(2d) of the basic Regulation, as a final step, the Commission assessed the future costs resulting from Multilateral Environmental Agreements, and protocols thereunder, to which the Union is a party, and of ILO Conventions listed in Annex Ia that the Union industry will incur during the period of the application of the measure pursuant to Article 11(2). Based on the evidence presented by the sampled Union producers, the Commission established an additional cost for each Union producer, from which it deducted the actual cost of compliance with such conventions during the investigation period for the respective producer, leading to a result of [0 – 70] EUR/tonne. This difference was added to the non-injurious price mentioned in recital (359) above.
- (361) On this basis, the Commission calculated a final target unit price ranging from 1 323 to 1 821 EUR/tonne for the like product of the Union industry by applying the above-mentioned target profit margin (see recital (358) above) to the cost of production of the sampled Union producers during the investigation period on a type-by-type basis and then adding the adjustments under Article 7(2d).
- (362) The Commission then determined the injury margin level on the basis of a comparison of the weighted average import price of the sampled cooperating exporting producers in China, as established for the price undercutting calculations, with the weighted average non-injurious price of the like product sold by the sampled Union producers on the Union market during the investigation period. Any difference resulting from this comparison was expressed as a percentage of the weighted average import CIF value.
- (363) The injury elimination level for 'other cooperating companies' and for 'all other imports originating in the People's Republic of China' is defined in the same manner as the dumping margin for these companies (see recitals (220) to (227) above).

Company	Dumping margin (%)	Injury margin (%)
Baosteel Group:	14,1 %	44,8 %
— Baoshan Iron & Steel Co., Ltd.		
— WISCO-Nippon Steel Tinplate Co., Ltd.		
Shougang Jingtang United Iron & Steel Co., Ltd.	47,1 %	60,8 %
Other cooperating companies not sampled	25,3 %	50,5 %
All other imports originating in the People's Republic of China	62,6 %	70,0 %

6.2. Examination of the margin adequate to remove the injury to the Union industry

- (364) As explained in the Notice of Initiation, the complainant provided the Commission sufficient evidence that there are raw material distortions in the country concerned regarding the product under investigation. Therefore, in accordance with Article 7(2a) of the basic Regulation, this investigation examined the alleged distortions to assess whether, if relevant, a duty lower than the margin of dumping would be sufficient to remove injury.
- (365) However, as the margins adequate to remove injury are higher than the dumping margins, the Commission considered that, at this stage, it was not necessary to address this aspect.

6.3. Conclusion on the level of measures

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

Company	Provisional anti-dumping duty
Baosteel Group:	14,1 %
— Baoshan Iron & Steel Co., Ltd.	
— WISCO-Nippon Steel Tinplate Co., Ltd.	
Shougang Jingtang United Iron & Steel Co., Ltd.	47,1 %
Other cooperating companies not sampled	25,3 %
All other imports originating in the People's Republic of China	62,6 %

7. UNION INTEREST

- (367) Having decided to apply Article 7(2) of the basic Regulation, the Commission examined whether it could clearly conclude that it was not in the Union interest to adopt measures in this case, despite the determination of injurious dumping, in accordance with Article 21 of the basic Regulation. The determination of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, importers, and users.

7.1. Interest of the Union industry

- (368) The Union industry consists of four producers, whose sales and market share deteriorated significantly during the second half of the period considered, with a consequent negative impact on its profitability, inventory level, and employment. The Commission concluded at this stage that the Union industry suffered material injury caused by the dumped imports from the country concerned.

- (369) If provisional measures are not imposed it is likely that, as a result of the price pressure from the dumped imports, loss of market share, and accumulated losses will force the Union industry to cease production of tinplated products. However, following the imposition of anti-dumping provisional measures it is expected that the sales volumes and prices of the Union industry on the Union market will rise, thus improving profitability and other financial indicators of this industry and preventing closure of production facilities.
- (370) The Commission therefore concluded provisional anti-dumping measures would be in the interest of the Union industry.

7.2. Interest of unrelated importers and traders

- (371) One importer, Steelforce, submitted the questionnaire reply which was verified. The Commission services also held a hearing with Steelforce where the company elaborated on its position.
- (372) Steelforce employs around [50-70] people and represented a large share of the total Chinese imports during the investigation period. The importer claimed that the imposition of duties would be against the Union interest. Since the majority of Steelforce's arguments in support of that claim concerned the impact the duties would have on users, these comments are analysed together with the users' comments in section 7.3 below.
- (373) Assessing the impact that the duties would have on this importer, the Commission noted that even though Steelforce imported a significant share of total Chinese imports into the Union, it also imported many other products. In fact, resale of tinplated products represented only a relatively minor share of the company's total turnover.
- (374) Considering that the company was profitable in the investigation period in all segments of its business and that it held a significant share of the tinplated products imports market, while also having a majority of its business not related to tinplated products, the Commission concluded that this importer would not be significantly adversely affected by the duties.
- (375) Considering that no other importers or traders came forward to oppose the duties, the Commission concluded that the duties are not likely to have a significant negative effect on the situation of importers and traders in the Union.

7.3. Interest of users

- (376) Two users provided questionnaire replies, Massilly Holding S.A.S ('Massilly') and Trivium Packaging B.V. ('Trivium'). Massilly and another user, Pirlo Holding GmbH ('Pirlo'), also provided comments opposing the imposition of duties, as did one user association, Metal Packaging Europe ('MPE').
- (377) Massilly, Pirlo, and MPE claimed that the imposition of duties would be against the Union interest, as it would have a severe negative impact on users' businesses. Steelforce made similar claims, particularly in the context of the protection that the tinplated products sector already has with the safeguard measures.
- (378) Steelforce and MPE further claimed that there is insufficient production capacity in the Union and thus imports are essential to guarantee stability of supply, as Union users are already facing significant delays on deliveries from Union producers. Furthermore, since there is high demand for tinplated products globally, spare capacities for exports to the Union are limited and, in any case, protected by the safeguard measures.
- (379) Furthermore, MPE, Steelforce, Pirlo, and Massilly claimed that anti-dumping duties would strain the profitability of metal can manufacturers, since their main market (packaged food and beverages industry) is extremely price sensitive, and they cannot pass on the price increases to their downstream customers. In addition, any increase in price would hurt their competitiveness against the manufacturers of other types of packaging, notably plastic and Tetra Pak.

- (380) Steelforce and Massilly claimed that this would furthermore be detrimental to Union environmental policies since steel cans have much higher recyclability than other types of packaging.
- (381) Steelforce and CISA further claimed that anti-dumping duties would harm the whole supply chain, notably the canned food industry, accelerating divestment outside of the Union. Since imports of downstream products (empty cans) or finished products (cans filled with food/beverages) to the Union are increasing, anti-dumping duties on tinplated products will surely contribute to such divestment trends.
- (382) With respect to the safeguard measures mentioned in recital (244) and the claims by interested in this respect summarised in recitals (363) and (378), the Commission noted that safeguard measures do not have as a purpose and cannot protect against dumped imports. As mentioned in recital (244), the Commission took into account the duties paid for quantities of the product under investigation imported above the duty-free tariff-rate-quotas fixed by the safeguard measures, and found that the undercutting margin was still significant, between [15 - 25] %.
- (383) As concerns available capacities, the Union industry's capacity surpassed the total Union tinplated product demand by almost one million tonnes even in the highest demand year of 2020. In addition, imports from multiple third countries have been consistently sold to the Union market. The Commission therefore concluded that there is no risk of shortage of supply.
- (384) Regarding the impact of duties on the users, the questionnaire replies from Trivium and Massilly showed that tinplated products represent around [35-55] % in their total costs of production, while they source a relatively minor share of their tinplated products from China.
- (385) Both Massilly and Trivium were profitable in 2023, and Trivium maintained similar levels of profitability in the investigation period while Massilly did not provide profitability figures for the investigation period.
- (386) Based on the available, unverified, data the Commission estimated that even with 50 % duty on Chinese tinplated products that these users purchase, with all other elements remaining unchanged, the overall costs of production of these two users in the segment of the business relying on tinplated products would increase by less than 2 %.
- (387) The Commission thus concluded that these users, even if they could not pass on a part of cost increase to their customers, would still remain profitable and the impact of duties on them would be negligible.
- (388) The claims on increased competition from abroad in downstream sectors and the switch to other materials in the packaging industry as supposed result of anti-dumping duties were not substantiated by comprehensive evidence. The Commission was thus not able to verify the veracity of those claims nor quantify how serious such impact might be.
- (389) In the same vein, the Commission could not estimate to what extent the duties would thus negatively affect its environmental policies.
- (390) The Commission thus concluded that users would not be significantly negatively affected by the imposition of duties.

7.4. Conclusion on Union interest

- (391) As shown above, the Union tinplated products industry is in precarious state, as it has been lossmaking for the better part of the period considered. The Commission noted in that regard that the cooperating importer and both users which submitted questionnaire replies were, on the other hand, profitable.
- (392) Similarly, on the basis of the data it had available from cooperating users, the Commission could not conclude that the business of a tinplated product user would be seriously negatively affected by the duties. A 2 % increase in cost of production could not be as detrimental to a user as consistently deteriorating business environment is for the Union producers.

- (393) Finally, one of the users itself in its questionnaire reply mentioned that Union producers offer service flexibility and short lead times, indicating that users themselves benefit from the presence of Union producers and thus it is in their interest for the industry not to disappear.
- (394) On the basis of the above, the Commission concluded that there were no compelling reasons that it was not in the Union interest to impose measures on imports of tinplated products originating in China at this stage of the investigation.

8. PROVISIONAL ANTI-DUMPING MEASURES

- (395) On the basis of the conclusions reached by the Commission on dumping, injury, causation, level of measures and Union interest, provisional measures should be imposed to prevent further injury being caused to the Union industry by the dumped imports.
- (396) Provisional anti-dumping measures should be imposed on imports of tinplated products originating in China in accordance with the lesser duty rule in Article 7(2) of the basic Regulation. The Commission compared the injury margins and the dumping margins (recital (363) above). The amount of the duties was set at the level of the lower of the dumping and the injury margins.
- (397) On the basis of the above, the provisional anti-dumping duty rates, expressed on the CIF Union border price, customs duty unpaid, should be as follows:

Company	Provisional anti-dumping duty (%)
Baosteel Group:	14,1 %
— Baoshan Iron & Steel Co., Ltd.	
— WISCO-Nippon Steel Tinplate Co., Ltd.	
Shougang Jingtang United Iron & Steel Co., Ltd.	47,1 %
Other cooperating companies not sampled	25,3 %
All other imports originating in the People's Republic of China	62,6 %

- (398) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of this investigation. Therefore, they reflect the situation found during this investigation with respect to these companies. These duty rates are exclusively applicable to imports of the product concerned originating in the country concerned and produced by the named legal entities. Imports of the product concerned produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other imports originating in the People's Republic of China.' They should not be subject to any of the individual anti-dumping duty rates.
- (399) To minimise the risks of circumvention due to the difference in duty rates, special measures are needed to ensure the application of the individual anti-dumping duties. The application of individual anti-dumping duties is only applicable upon presentation of 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. Until such invoice is presented, imports should be subject to the anti-dumping duty applicable to 'all other imports originating in the People's Republic of China'.
- (400) While presentation of this invoice is necessary for the customs authorities of the Member States to apply the individual rates of anti-dumping duty to imports, it is not the only element to be taken into account by the customs authorities. Indeed, even if presented with an invoice meeting all the requirements set out in Article 1(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.

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

9. REGISTRATION

- (403) As mentioned in recital (3), the Commission made imports of the product concerned subject to registration. Registration took place with a view to possibly collecting duties retroactively under Article 10(4) of the basic Regulation.
- (404) In view of the findings at provisional stage, the registration of imports should cease/be discontinued.
- (405) No decision on a possible retroactive application of anti-dumping measures can be taken at this stage of the proceeding.

10. INFORMATION AT PROVISIONAL STAGE

- (406) In accordance with Article 19a of the basic Regulation, the Commission informed interested parties about the planned imposition of provisional duties. This information was also made available to the general public via DG TRADE's website. Interested parties were given three working days to provide comments on the accuracy of the calculations specifically disclosed to them.
- (407) Comments were received from Baosteel Group and Shougang Jingtang, but none of these comments raised any concerns regarding the accuracy of the calculations, and the Commission will address the comments made by those parties in the definitive stage.

11. FINAL PROVISIONS

- (408) In the interests of sound administration, the Commission will invite the interested parties to submit written comments and/or to request a hearing with the Commission and/or the Hearing Officer in trade proceedings within a fixed deadline.
- (409) The findings concerning the imposition of provisional duties are provisional and may be amended at the definitive stage of the investigation,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is imposed on imports of tin mill flat-rolled products, of iron or non-alloy steel, coated or plated with tin, whether or not coated with a plastic material and/or varnished, currently falling under CN codes 7210 11 00, 7210 12, ex 7210 70, 7210 90 40, ex 7210 90 80, 7212 10, and ex 7212 40 (TARIC codes 7210 70 10 15, 7210 70 80 20, 7210 70 80 92, 7210 90 80 20, 7212 40 20 10, 7212 40 80 12, 7212 40 80 30, 7212 40 80 80, and 7212 40 80 85) and originating in the People's Republic of China.

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

Company	Provisional anti-dumping duty	TARIC additional code
Baosteel Group:	14,1 %	89LB
— Baoshan Iron & Steel Co., Ltd.		
— WISCO-Nippon Steel Tinplate Co., Ltd.		
Shougang Jingtang United Iron & Steel Co., Ltd.	47,1 %	89LC
Other cooperating companies listed in Annex	25,3 %	
All other imports originating in China	62,6 %	8999

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 their name and function, drafted as follows: *'I, the undersigned, certify that the tonnes of tinplated products sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in the People's Republic of China. I declare that the information provided in this invoice is complete and correct.'* Until such invoice is presented, the duty applicable to all other imports originating in the People's Republic of China shall apply.

4. The release for free circulation in the Union of the product referred to in paragraph 1 shall be subject to the provision of a security deposit equivalent to the amount of the provisional duty.

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

Article 2

1. Interested parties shall submit their written comments on this regulation to the Commission within 15 calendar days of the date of entry into force of this Regulation.

2. Interested parties wishing to request a hearing with the Commission shall do so within 5 calendar days of the date of entry into force of this Regulation.

3. Interested parties wishing to request a hearing with the Hearing Officer in trade proceedings are invited to do so within 5 calendar days of the date of entry into force of this Regulation. The Hearing Officer may examine requests submitted outside this time limit and may decide whether to accept to such requests if appropriate.

Article 3

1. Customs authorities are hereby directed to discontinue the registration of imports established in accordance with Article 1 of Commission Implementing Regulation (EU) 2024/2731 of 24 October 2024.

2. Data collected regarding products which entered the EU for consumption not more than 90 days prior to the date of the entry into force of this regulation shall be kept until the entry into force of possible definitive measures, or the termination of this proceeding.

Article 4

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

Article 1 shall apply for a period of six months.

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

Done at Brussels, 13 January 2025.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

CHINESE COOPERATING EXPORTING PRODUCERS NOT SAMPLED

Company Name	TARIC additional code
Jiangsu Youfu Sheet Technology Co., Ltd.	89LD
Hesteel Group Hengshui Strip Processing Co.,Ltd. and Handan Steel Group Hengshui Cold Rolling Steel Co., Ltd.	89LE
Handan Jintai Packing Material Co., Ltd.	89LF
Jiangsu Suxun New Material Co., Ltd.	89LG
Jiangyin Comat Metal Products Co., Ltd.	89LH
GDH Zhongyue (Qinhuangdao) Tinsplate Industrial Co., Ltd. and GDH Zhongyue (Zhongshan) Tinsplate Industry Co., Ltd.	89LI