

COMMISSION IMPLEMENTING REGULATION (EU) 2015/501**of 24 March 2015****imposing a provisional anti-dumping duty on imports of stainless steel cold-rolled flat products originating in the People's Republic of China and Taiwan**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community ⁽¹⁾ ('the basic Regulation'), and in particular Article 7 thereof,

After consulting the Member States,

Whereas:

1. PROCEDURE**1.1. Initiation**

- (1) On 26 June 2014, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports into the Union of stainless steel cold-rolled flat products originating in the People's Republic of China ('PRC') and Taiwan ('the countries concerned') on the basis of Article 5 of the basic Regulation. It published a Notice of Initiation in the *Official Journal of the European Union* ⁽²⁾ ('the Notice of Initiation').
- (2) The Commission initiated the investigation following a complaint lodged on 13 May 2014 by Eurofer ('the complainant') on behalf of complaining Union producers of stainless steel cold rolled flat products ('SSCR'). The complainant represents around 50 % of the total Union production of SSCR. The complaint contained evidence of dumping and of resulting material injury that was sufficient to justify the initiation of the investigation.
- (3) On 14 August 2014, the Commission initiated an anti-subsidy investigation with regard to imports into the Union of SSCR originating in the PRC and commenced a separate investigation. It published a Notice of Initiation on the anti-subsidy proceedings in the *Official Journal of the European Union* ⁽³⁾.

1.2. Registration

- (4) Following a request by the complainant supported by the required evidence the Commission adopted on 15 December 2014 Implementing Regulation (EU) No 1331/2014 ⁽⁴⁾ making imports of stainless steel cold-rolled flat products originating in the PRC and Taiwan subject to registration as of 17 December 2014.

1.3. Interested parties

- (5) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission specifically informed the complainant, other known Union producers, the known exporting producers and the Chinese and Taiwanese 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. The Commission also informed producers in the United States of America ('USA') and South Africa about the initiation and invited them to participate. In the Notice of Initiation, the Commission informed interested parties that it envisaged the USA as a third market economy country ('analogue country') within the meaning of Article 2(7)(a) of the basic Regulation.
- (6) 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⁾ OJ L 343, 22.12.2009, p. 51.

⁽²⁾ OJ C 196, 26.6.2014, p. 9.

⁽³⁾ OJ C 267, 14.8.2014, p. 17.

⁽⁴⁾ OJ L 359, 16.12.2014, p. 90.

(a) *Sampling*

- (7) In its 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

- (8) 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 production volume. This sample consisted of four Union producers. The sampled Union producers accounted for around 50 % of production volume. The Commission invited interested parties to comment on the provisional sample. No comments were made on the provisional sample and the provisional sample was confirmed. The sample is representative of the Union industry.

Sampling of importers

- (9) 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.
- (10) Thirty-one unrelated importers 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 four on the basis of the largest volume of imports into the Union. In accordance with Article 17(2) of the basic Regulation, all known importers concerned were consulted on the selection of the sample.
- (11) Comments were received concerning the ownership structure of one of the selected importers. Interested parties argued that one importer should not be included in the sample as they are related to a Union producer. However, this importer was not related to any Union producer during the investigation period, but only became related subsequently. Furthermore, the term 'unrelated importer' means not related to exporting producers. An unrelated importer can indeed be related to a Union producer.

Sampling of exporting producers in Taiwan

- (12) To decide whether sampling is necessary and, if so, to select a sample, the Commission asked all exporting producers in Taiwan to provide the information specified in the Notice of Initiation. In addition, the Commission asked the representatives of Taiwan to the EU to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.
- (13) A total of nine allegedly exporting producers in the country concerned 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 four (of which three are related) on the basis of the largest representative volume of exports to the Union which could reasonably be investigated within the time available. In accordance with Article 17(2) of the basic Regulation, all known exporting producers concerned, and the authorities of the country concerned, were consulted on the selection of the sample. No comments were made.
- (14) The investigation has shown that two sampled companies and two cooperating companies not selected in the sample do not fulfil the definition of exporting producer, as they only operate as service centres and use the product concerned as their production input. It was established that these companies do not have any hot-rolling or cold-rolling facilities and their added value is minor in relation to the cost of their inputs. In fact, they buy and sell the product concerned in different types (see recitals 26 to 28 below).
- (15) However, one of these companies is related to a sampled exporting producer. Therefore, it was considered in the investigation as belonging to that group of companies. After exclusion from the sample of the company which did not fulfil the definition of exporting producer, the remaining sample represents at least around 48 % of the total volume of exports from Taiwan to the Union and around 80 % of domestic sales in Taiwan. Therefore, the sample was still representative.
- (16) The Commission excluded from any individual dumping margin and injury elimination level calculation the other three companies. As a result, no duty rate was established for these three companies.

Individual examination

- (17) One exporting producer in Taiwan requested and was granted an individual examination under Article 17(3) of the basic Regulation.

Sampling of exporting producers in the PRC

- (18) To decide whether sampling is necessary and, if so, to select a sample, the Commission asked all exporting producers in the PRC to provide the information specified in the Notice of Initiation. In addition, the Commission asked the authorities of the PRC to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.
- (19) Eight exporting producers in the PRC 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 four companies belonging to two groups on the basis of the largest representative volume of exports to the Union which could reasonably be investigated within the time available. In accordance with Article 17(2) of the basic Regulation, all known exporting producers concerned, and the authorities of the country concerned, were consulted on the selection of the sample. No comments were made.

(b) *Market economy treatment ('MET') claim forms for exporting producers in the PRC*

- (20) For the purposes of Article 2(7)(b) of the basic Regulation, the Commission sent MET claim forms to all the cooperating exporting producers in the PRC selected to be in the sample and to non-sampled cooperating exporting producers that wished to apply for an individual examination under Article 17(3) of the basic Regulation, to known association of exporting producers, and to the authorities of the PRC. None of the exporting producers has claimed MET.

(c) *Questionnaire*

- (21) The Commission sent questionnaires to the sampled Chinese and Taiwanese exporting producers, to exporting producers wishing to claim individual examination, to producers in two potential analogue countries, as well as to the sampled Union producers, the sampled unrelated importers, as well as to users that made themselves known.
- (22) Questionnaire replies were received from four sampled Chinese exporting producers, four sampled Taiwanese exporting producers (including two that turned out not to be exporting producers), one Taiwanese exporting producer requesting individual examination, two producers in the USA (analogue country), four sampled Union producers, four sampled unrelated importers and six users.

(d) *Verification visits*

- (23) 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

- Acciai Speciali Terni SpA, Terni, Italy
- Acerinox Europa SAU, Palmones-Los Barrios and Madrid, Spain
- Aperam Stainless Europe, La Plaine Saint Denis, France

Related service centre of Acciai Speciali Terni SpA

- Terninox, Ceriano Laghetto, Italy

Complainant

- Eurofer, Brussels, Belgium

Exporting producers in Taiwan

- Chia Far Industrial Factory Co., Ltd, Taipei city

- Tang Eng Iron Works Co., Ltd, Kaohsiung city
- YC Inox Co., Ltd, Chang-Hua Hsien city
- Yieh Mau Corporation, Kaohsiung city
- Yieh United Steel Corporation, Kaohsiung city

Exporting producers in the PRC

- Baosteel Stainless Co., Ltd, Shanghai
- Ningbo Baoxin Stainless Co., Ltd, Ningbo
- Shanxi Taigang Stainless Steel Co., Ltd, Taiyuan City

Related importer in the Union

- Baosteel Europe GmbH, Hamburg, Germany

- (24) The Commission held hearings, including hearings with the Hearing Officer with exporting producers, associations and importers.

1.4. Investigation period and period considered

- (25) The investigation of dumping and injury covered the period from 1 January 2013 to 31 December 2013 ('the investigation period'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2010 to the end of the investigation period ('the period considered').

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

- (26) The product concerned is flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced) originating in the PRC and Taiwan, currently falling within CN codes 7219 31 00, 7219 32 10, 7219 32 90, 7219 33 10, 7219 33 90, 7219 34 10, 7219 34 90, 7219 35 10, 7219 35 90, 7220 20 21, 7220 20 29, 7220 20 41, 7220 20 49, 7220 20 81 and 7220 20 89 ('the product concerned').
- (27) Stainless steel cold-rolled flat products are used in a wide range of applications, for example in the production of household appliances (for example the interior of washing machines and dishwashers), welded tubes and medical devices as well as in the food processing and automotive industries.
- (28) The investigation has shown that the different types of the product concerned all share the same basic physical, chemical and technical characteristics and are basically used for the same purposes.

2.2. Like product

- (29) Stainless steel cold-rolled flat products produced and sold in the Union by the Union industry and stainless steel cold-rolled flat products produced and sold in the countries concerned and the analogue country were found to have essentially the same physical, chemical and technical characteristics and the same basic uses of the stainless steel cold-rolled flat products produced in the countries concerned and sold for export to the Union. They are therefore considered to be alike within the meaning of Article 1(4) of the basic Regulation.

2.3. Claims regarding product scope

- (30) Interested parties claimed that some product types (including narrow and precision strips) should be excluded from the scope of the investigation, as Union producers cannot fully supply these market segments. However, the Union industry provided evidence that they are indeed able to fully supply these market segments.

- (31) Regarding precision strips, the same parties further argued that Directorate-General for Competition of the European Commission had decided to exclude this product type from the relevant product market in its analysis of the Outokumpu/Inoxum merger case⁽¹⁾. However, the market definition in a merger case focuses on demand-side and supply-side substitution. In an anti-dumping case, the market is defined by the physical characteristics of the product under investigation. Therefore, in an anti-dumping case product types can be different in respect of some parameters (width, tolerances, mechanical properties). In addition, this product type formed from the very beginning part of the investigation as Union producers of precision strips were contacted in the standing exercise.
- (32) The Commission therefore rejected the claim and maintained the product scope of the investigation unchanged.

3. DUMPING

3.1. The PRC

3.1.1. Normal value

3.1.1.1. Market economy treatment ('MET')

- (33) Pursuant to Article 2(7)(b) of the basic Regulation the Commission determines normal value in accordance with Article 2(1) to (6) of that Regulation for the exporting producers in the PRC which claimed and showed that they comply with the criteria in Article 2(7)(c) of that Regulation and could therefore be granted MET.
- (34) For the determination whether the criteria in Article 2(7)(c) of the basic Regulation are met, the Commission sought the necessary information by asking the exporting producers concerned to fill in the MET claim form. None of them claimed MET.

3.1.1.2. Analogue country

- (35) According to Article 2(7)(a) of the basic Regulation normal value was determined on the basis of the price or constructed value in a market economy third country for the exporting producers not granted MET. For this purpose, an analogue country had to be selected.
- (36) In the Notice of Initiation, the Commission informed interested parties that it envisaged the USA as an appropriate analogue country and invited interested parties to comment.
- (37) The Commission contacted a number of potential analogue countries (India, South Africa, South Korea, Taiwan and the USA) and on the basis of the information received asked 32 known producers of the like product in South Africa, South Korea and the USA to provide information. No information about producers in India was received and, therefore, India could not be considered as potential analogue country. Taiwan is subject to the same investigation and, therefore, information provided by the investigated producers was considered for this purpose.
- (38) Only two producers in the USA replied to the analogue country producers' questionnaire. The Commission had thus to choose between the USA and Taiwan.
- (39) In the USA, there are at least four big producers of the like product (three are vertically integrated and one is not), and the total production and consumption are comparable to those of the PRC. In Taiwan, there is one big vertically integrated group of producers which is driving the market, irrespective of the existence of a couple of small not integrated producers. The production process in the USA is similar to that in Taiwan and at least to that of some exporting producers in the PRC. The raw materials used in the USA and Taiwan are mainly the same. There are anti-dumping duties against Japan, South Korea and Taiwan in the USA and against the PRC and South Korea in Taiwan. However, imports of the like product into the USA and Taiwan are substantial, representing about 17 % and 37 % respectively of their total consumptions during the investigation period. Major countries exporting into the USA include: Mexico, the PRC, Taiwan, France, Finland, Japan and Germany and into Taiwan: the PRC, South Korea, Japan, Finland and Vietnam.

⁽¹⁾ COMP/M.6471.

- (40) In the light of these circumstances, the USA is considered more suitable as analogue country for two main reasons:
- (i) whilst the market in the USA is very competitive, the market and SSCR prices in Taiwan are driven, to a large extent, by one group of companies;
 - (ii) the domestic market in Taiwan is much smaller than that of the PRC and the USA.
- (41) Interested parties opposed the use of the USA as analogue country mainly because of the alleged different production process and different type of raw materials used in the production. They claimed that in this respect Taiwan, which is also subject to this investigation, will be a more appropriate analogue country than the USA.
- (42) The Commission concluded at this stage that the USA is an appropriate analogue country under Article 2(7)(a) of the basic Regulation.

3.1.1.3. Normal value (analogue country)

- (43) The information received from the cooperating producers in the analogue country was used as a basis for the determination of the normal value for the exporting producers not granted MET, pursuant to Article 2(7)(a) of the basic Regulation.
- (44) The Commission first examined whether the total volume of domestic sales of the two cooperating producers in the analogue country were representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales are representative if the total domestic sales volume of the like product to independent customers on the domestic market represented at least 5 % of total export sales volume of the product concerned to the Union of each sampled Chinese exporting producer during the investigation period. On this basis, the total sales of the two cooperating producers of the like product on the domestic market of the analogue country were representative.
- (45) The Commission subsequently identified the product types sold domestically that were identical or comparable with the product types sold for export to the Union for the sampled exporting producers.
- (46) The Commission next defined the proportion of profitable sales to independent customers on the domestic market for each product type during the investigation period in order to decide whether to use actual domestic sales for the calculation of the normal value, in accordance with Article 2(4) of the basic Regulation.
- (47) The normal value is based on the actual domestic price per product type, irrespective of whether those sales are profitable or not, if:
- (i) the sales volume of the product type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of this product type; and
 - (ii) the weighted average sales price of that product type is equal to or higher than the unit cost of production.
- (48) In this case, the normal value is the weighted average of the prices of all domestic sales of that product type during the investigation period. The Commission took into consideration all the transactions reported as domestic sales, as there was no reason to doubt that they were for domestic consumption.
- (49) The normal value is the actual domestic price per product type of only the profitable domestic sales of the product types during the investigation period, if:
- (i) the volume of profitable sales of the product type represents 80 % or less of the total sales volume of this type; or
 - (ii) the weighted average price of this product type is below the unit cost of production.

3.1.2. Export price

- (50) The sampled exporting producers sold for export to the Union either directly to independent customers or, in the case of one exporting producer, through a related company acting as an importer.

- (51) If the exporting producers sold for export the product concerned directly to independent customers in the Union, the export price was established on the basis of prices 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.
- (52) If the exporting producer sold for export the product concerned to the Union through a related company 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. In this case, adjustments to the price were made for all costs incurred between importation and resale, including selling general and administrative ('SG&A') expenses, and for profits accruing.

3.1.3. Comparison

- (53) The Commission compared the normal value and the export price of the sampled exporting producers on an ex-works basis.
- (54) Where justified by the need to ensure a fair comparison, the Commission adjusted the normal value and/or the export price for differences affecting prices and price comparability, in accordance with Article 2(10) of the basic Regulation. Adjustments were made for transport, insurance, handling, loading and ancillary costs, packing, credit, bank charges and commissions.

3.1.4. Dumping margins

- (55) For the sampled exporting producers, the Commission compared the weighted average normal value of each type of the like product in the analogue country (see recitals 43 to 49 above) 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.
- (56) On this basis, the provisional weighted average dumping margins expressed as a percentage of the cost, insurance, freight ('CIF') Union frontier price, duty unpaid, are as follows:

Table 1

Dumping margins, the PRC

Company	Provisional dumping margin (%)
Baosteel Group: Baosteel Stainless Steel Co., Ltd; Ningbo Baoxin Stainless Steel Co., Ltd	34,9
TISCO Group: Shanxi Taigang Stainless Steel Co., Ltd; Tianjin TISCO & TPCO Stainless Steel Co Ltd	29,2

- (57) For the cooperating exporting producers outside the sample, the Commission calculated the weighted average dumping margin, in accordance with Article 9(6) of the basic Regulation. Therefore, that margin was established on the basis of the weighted average of the dumping margins of the sampled exporting producers.
- (58) On this basis, the provisional dumping margin of the cooperating exporting producers outside the sample is 30,0 %.
- (59) For all other exporting producers in the country concerned, the Commission established the dumping margin on the basis of the facts available in accordance with Article 18 of the basic Regulation. To this end, the Commission determined the level of cooperation of the exporting producers. The level of cooperation is the volume of exports of the cooperating exporting producers to the Union expressed as a proportion of the total export volume — as reported in Eurostat import statistics — from the country concerned to the Union.
- (60) The level of cooperation was considered high and on this basis, the Commission decided to base the residual dumping margin at the level of the sampled company with the highest dumping margin.

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

Table 2

Dumping margins, the PRC

Company	Provisional dumping margin (%)
Baosteel Group: Baosteel Stainless Steel Co., Ltd; Ningbo Baoxin Stainless Steel Co., Ltd	34,9
TISCO Group: Shanxi Taigang Stainless Steel Co., Ltd; Tianjin TISCO & TPCO Stainless Steel Co Ltd	29,2
Other cooperating companies	30,0
All other companies	34,9

3.2. Taiwan**3.2.1. Normal value**

- (62) The Commission first examined whether the total volume of domestic sales for each investigated exporting producer was representative, in accordance with Article 2(2) of the basic Regulation. By investigated exporting producers the Commission considered the exporting producers selected in the sample, together with one exporting producer that was granted individual examination. The domestic sales are representative if the total domestic sales volume of the like product to independent customers on the domestic market per exporting producer represented at least 5 % of its total export sales volume of the product concerned to the Union during the investigation period.
- (63) The Commission found that domestic sales reported by the investigated exporting producers included significant amounts of the like product sold to distributors, who further exported it. A calculation based on production data available from the cooperating companies and statistics on imports and exports of the like product in Taiwan confirmed that the domestic sales reported by the cooperating exporting producers included around 50 % indirect export sales which were not for domestic consumption.
- (64) In addition, the Commission found that a system of discounts existed on the domestic market in Taiwan. One of the sampled exporting producers explained that this system was invented in order to give incentive to local services centres (distributors) that further exported their steel products. As prices set on the domestic market by the two main producers, including discounts, are widely communicated on a monthly basis to all distributors, even in the absence of discounts granted by other producers to their customers, the price fixing for goods that end on the domestic market and those further exported was highly influenced by the pricing system that existed in Taiwan.
- (65) In the light of the findings of the on-spot verifications, three of the exporting producers were requested to re-examine the sales they had reported for the domestic market in Taiwan and remove all sales which were not for domestic consumption. However, they only confirmed that they were not aware of the final destination of the like product they sell to their customers.
- (66) As explained in recital 63 above and in order to ensure that the normal value was based on prices set for domestic consumption only, the Commission took a conservative approach for the provisional dumping calculations by using the reported sales to end users in Taiwan. The Commission considered as end user any operator that further transformed the like product into another product that was not the like product anymore. Sales to distributors or traders have been excluded from the domestic sales because the Commission found in the course of the investigation that one of the main distributors in Taiwan that acquired a large volume of the like product reported as domestic sales by its suppliers, exported most of these purchased volumes.
- (67) On this basis, the total sales by each investigated exporting producer of the like product on the domestic market were representative.

- (68) The Commission subsequently identified the product types sold domestically that were identical or comparable with the product types sold for export to the Union for the investigated exporting producers with representative domestic sales.
- (69) The Commission then examined whether the product types sold by the investigated exporting producers on their domestic market compared with product types sold for export to the Union were representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales of a product type are representative if the total volume of domestic sales of that product type to independent customers during the investigation period represents at least 5 % of the total volume of export sales of the identical or comparable product type to the Union.
- (70) The Commission next defined the proportion of profitable sales to independent customers on the domestic market for each product type during the investigation period in order to decide whether to use actual domestic sales for the calculation of the normal value, in accordance with Article 2(4) of the basic Regulation.
- (71) The normal value is based on the actual domestic price per product type, irrespective of whether those sales are profitable or not, if:
- (i) the sales volume of the product type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of this product type; and
 - (ii) the weighted average sales price of that product type is equal to or higher than the unit cost of production.
- (72) In this case, the normal value is the weighted average of the prices of all domestic sales of that product type during the investigation period.
- (73) The normal value is the actual domestic price per product type of only the profitable domestic sales of the product types during the investigation period, if:
- (i) the volume of profitable sales of the product type represents 80 % or less of the total sales volume of this type; or
 - (ii) the weighted average price of this product type is below the unit cost of production.
- (74) The analysis of domestic sales showed that for some product types, some domestic sales were profitable and that the weighted average sales price was higher than the cost of production. Accordingly, the normal value was calculated as a weighted average of prices of all domestic sales during the investigation period where conditions set under recital 71 above were met, or as a weighted average of the profitable sales only, where those conditions were not met. As there were no or insufficient sales of certain product types of the like product or where no sales were found in the ordinary course of trade, the Commission constructed the normal value in accordance with Article 2(3) and (6) of the basic Regulation.
- (75) Normal value was constructed by adding the following to the average cost of production of the like product of the investigated exporting producers during the investigation period:
- (i) the weighted average selling, general and administrative ('SG&A') expenses incurred by the investigated exporting producers on domestic sales of the like product, in the ordinary course of trade, during the investigation period; and
 - (ii) the weighted average profit realised by the investigated exporting producers on domestic sales of the like product, in the ordinary course of trade, during the investigation period.
- (76) For one of the investigated exporting producers, the cost of production was adjusted. As a significant volume of the inputs being used for the production of the like product was also procured by a related supplier, the Commission replaced the cost of purchases of these inputs with the cost of production of the inputs by the investigated exporting producer.
- (77) For the same exporting producer, the Commission also found that an adjustment for scrap value has been double counted because the volume of inputs converted into finished products has been accounted net of scrap. The Commission therefore rejected the deduction of the scrap value from the cost of production of the finished product.

- (78) For the product types not sold in representative quantities on the domestic market, the average SG&A expenses and profit of transactions made in the ordinary course of trade on the domestic market for those types were added. For the product types not sold at all on the domestic market, or where no sales were found in the ordinary course of trade, the weighted average SG&A expenses and profit of all transactions made in the ordinary course of trade on the domestic market were added.

3.2.2. *Export price*

- (79) The investigated exporting producers sold the product concerned for export either directly to independent customers in the Union or via independent distributors in Taiwan. The export price was, thus, established on the basis of prices actually paid or payable, in accordance with Article 2(8) of the basic Regulation.

3.2.3. *Comparison*

- (80) The Commission compared the normal value and the export price of the investigated exporting producers on an ex-works basis.
- (81) Where justified by the need to ensure a fair comparison, the Commission adjusted the normal value and/or the export price for differences affecting prices and price comparability, in accordance with Article 2(10) of the basic Regulation. Adjustments were made for transport, insurance, handling, loading and ancillary costs, packing, credit, bank charges and commissions.
- (82) Sampled exporting producers failed to use the foreign exchange rates provided to them in the anti-dumping questionnaires sent prior to the verification visits. The Commission therefore recalculated the transaction values using the rates given in the questionnaires.

3.2.4. *Dumping margins*

- (83) For the investigated exporting producers, including two related sampled companies and one which was granted individual examination, 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.
- (84) On this basis, the provisional weighted average dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Table 3

Dumping margins, Taiwan

Company	Provisional dumping margin (%)
Chia Far Industrial Factory Co., Ltd (individual examination)	12,0
Tang Eng Iron Works Co., Ltd and Yieh United Steel Corporation	10,9

- (85) For the cooperating exporting producers outside the sample, the Commission calculated the weighted average dumping margin, in accordance with Article 9(6) of the basic Regulation. Therefore, that margin was established on the basis of the margins of the sampled exporting producers.
- (86) On this basis, the provisional dumping margin of the cooperating exporting producers outside the sample is 10,9 %.

- (87) For all other companies in the country concerned, 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. The level of cooperation is the volume of exports of the cooperating companies to the Union expressed as proportion of the total export volume — as reported in Eurostat import statistics — from the country concerned to the Union.
- (88) The level of cooperation in this case was considered high and on this basis, the Commission decided to base the residual dumping margin at the level of the company with the highest dumping margin.
- (89) The provisional dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Table 4

Dumping margins, Taiwan

Company	Provisional dumping margin (%)
Chia Far Industrial Factory Co., Ltd	12,0
Tang Eng Iron Works Co., Ltd and Yieh United Steel Corporation	10,9
Other cooperating companies	10,9
All other companies	12,0

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

- (90) The like product was manufactured by nine known producers in the Union during the investigation period. They constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.
- (91) The total Union production during the investigation period was established at over 3 million tonnes. The Commission established the figure on the basis of all the available information concerning the Union industry, such as information collected from the sampled producers and the data from the complaint for the other Union producers. The largest Union producer neither cooperated, nor opposed to the complaint. Six Union producers accounting for approximately 55 % of sales and production in the Union cooperated with the investigation. As indicated in recital 8 above, four Union producers were selected in the sample representing around 50 % of the total Union production of the like product.
- (92) Interested parties argued that one sampled Union producer should be excluded from the definition of the Union industry, as it imported significant quantities of the product concerned. However, the Union producer's imports from the countries concerned accounted for less than 5 % of the total imports of the product concerned, and less than 2 % of their sales volume in the Union. On this basis it is maintained at this stage that this Union producer formed part of the Union industry.
- (93) Interested parties argued that not including the largest Union producer in the sample makes the sample non-representative. As already indicated, the sampled four Union producers represent around 50 % of the total Union production of the like product. The Commission therefore concluded that the sample was representative. In any event, this largest producer did not come forward.

4.2. Union consumption

- (94) The Commission established the Union consumption on the basis of the sales volumes of the Union industry's own production collected from the sampled producers, the data from the complaint for the other Union producers and the import volumes data on the Union market obtained from Eurostat statistics.

- (95) Union consumption developed as follows:

Table 5

Union consumption

	2010	2011	2012	Investigation period
Union consumption (tonnes)	3 161 737	3 250 977	3 256 438	3 300 127
<i>Index</i>	100	103	103	104

Source: Sampled Union producers, complaint, Eurostat

- (96) Union consumption has continuously grown by 4 % throughout the period considered.

4.3. Imports from the countries concerned

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

- (97) The Commission examined whether imports of the product concerned originating in the countries concerned should be assessed cumulatively, in accordance with Article 3(4) of the basic Regulation.
- (98) The margin of dumping established in relation to the imports from the PRC and Taiwan was above the *de minimis* threshold laid down in Article 9(3) of the basic Regulation. The volume of imports from each of the countries concerned was not negligible within the meaning of Article 5(7) of the basic Regulation. Market shares in the investigation period were 5,1 % for Taiwan and 4,3 % for the PRC.
- (99) The conditions of competition between the dumped imports from the PRC and Taiwan and the like product were similar. More specifically, the imported products competed with each other and with the like product produced in the Union because all products comply with the same global standards and are therefore interchangeable. Also, they are sold through the same sales channels and to similar categories of customers.
- (100) The Taiwan Steel & Iron Industries Association ("TSIIA") argued that the Commission should not cumulatively assess the effects of the dumped imports from the PRC and Taiwan. It claimed that although SSCR may be considered as alike in the sense of the basic Regulation, Taiwanese sales on the Union market do not share the same conditions of competition with those of Chinese imports. They would differ mainly with regard to grades and quality, with Taiwanese products being of a higher quality.
- (101) The claim regarding different grades only refers to speciality products accounting for less than 1 % of imports. Moreover, all products (EU, Chinese and Taiwanese) comply with the same worldwide standards and no claims quantifying differences in physical properties between the like product produced in the Union and imports were brought forward, leaving this argument unsubstantiated. Consequently, the claim was rejected.
- (102) Therefore, all the criteria set out in Article 3(4) of the basic Regulation were met and imports from the PRC and Taiwan were examined cumulatively for the purposes of the injury determination.

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

- (103) The Commission established the volume of imports on the basis of volume of imports obtained from Eurostat statistics. The market share of the imports was established on the same basis.
- (104) Imports into the Union from the countries concerned developed as follows:

Table 6

Import volume and market share

	2010	2011	2012	Investigation period
Volume of imports from the PRC (tonnes)	56 477	95 876	87 759	143 420
<i>Index</i>	100	170	155	254
Market share (%)	1,8	2,9	2,7	4,3
<i>Index</i>	100	165	151	243
Volume of imports from Taiwan (tonnes)	127 664	173 968	132 392	169 097
<i>Index</i>	100	136	104	132
Market share (%)	4,0	5,4	4,1	5,1
<i>Index</i>	100	133	101	127
Volume of imports from the countries concerned (tonnes)	184 140	269 845	220 151	312 517
<i>Index</i>	100	147	120	170
Market share (%)	5,8	8,3	6,8	9,5
<i>Index</i>	100	143	116	163

Source: Eurostat

- (105) Cumulated imports from the countries concerned have risen by 70 % from 184 140 tonnes to 312 517 tonnes between 2010 and the investigation period. Imports steadily increased throughout the period considered, with the exception of 2012 where import volumes were higher than in 2010 but below the level of 2011.
- (106) The cumulative market share has risen by 63 % from 5,8 % to 9,5 % during the period considered. Similar to the import volume, the market share steadily increased throughout the period considered, with the exception of 2012.

4.3.3. Prices of the imports from the countries concerned and price undercutting

- (107) The Commission established the prices of imports on the basis of value and volume of imports obtained from Eurostat statistics. Price undercutting of the imports was established on the basis questionnaire replies submitted by the sampled Union producers, the sampled exporting producers and the exporting producer granted individual examination referred to in recital 17 above.

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

Table 7

Import prices

	2010	2011	2012	Investigation period
PRC (EUR/tonne)	2 175	2 280	2 253	2 008
<i>Index</i>	100	105	104	92
Taiwan (EUR/tonne)	2 268	2 414	2 143	1 897
<i>Index</i>	100	106	94	84
The countries concerned (EUR/tonne)	2 239	2 366	2 187	1 948
<i>Index</i>	100	106	98	87

Source: Eurostat

- (109) Import prices of the PRC and Taiwan initially increased by 6 percentage points between 2010 and 2011. Subsequently, they have decreased by 19 percentage points for an overall decrease of 13 %. Import prices from the PRC and Taiwan followed a similar trend, with the exception of 2012 which still showed comparably high prices for the PRC, but already comparably low prices for Taiwan. For both countries, prices further decreased between 2012 and the investigation period.
- (110) The Commission determined the price undercutting during the investigation period by comparing:
- (i) 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
 - (ii) the corresponding weighted average prices per product type of the imports from the investigated Chinese and Taiwanese producers to the first independent customer on the Union market, established on a 'CIF' basis, with appropriate adjustments for post-importation costs.
- (111) The price comparison was made on a type-by-type basis for transactions duly adjusted where necessary, and after deduction of discounts, commissions and delivery costs. The result of the comparison was expressed as a percentage of the sampled Union producers' turnover during the investigation period. It showed a weighted average undercutting margin of between 9,6 % and 11,3 % for the imports from the countries concerned on the Union market.
- (112) The investigation has shown that exporting producers almost exclusively sell to independent distributors or steel service centres, while the Union industry sold to distributors, steel service centres and end users. The investigation has however not shown that this difference of level of trade had an impact on prices. On the contrary, independent distributors and steel service centres claimed that they do not obtain more favourable sales terms from the Union producers than users.

4.4. Economic situation of the Union industry

4.4.1. General remarks

- (113) 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.

- (114) As mentioned in recital 8 above, sampling was used for the determination of possible injury suffered by the Union industry. Four producers have been sampled.
- (115) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators on the basis of data collected from the sampled producers and the data from the complaint for the other Union producers. The 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.
- (116) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity and magnitude of the dumping margin.
- (117) The microeconomic indicators are: average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital.
- (118) Interested parties argued that the data of the sampled Union producers should be consistently used for the injury assessment instead of dividing the indicators into macroeconomic indicators and microeconomic indicators. They argued that the separate analysis of macroeconomic and microeconomic indicators was subject to manipulation by the complainant, as the complainant could steer the data collection at the macroeconomic level, as the decision whether a specific indicator was a macroeconomic or a microeconomic indicator was based on the availability of information.
- (119) The Commission established and analysed macroeconomic indicators as they were found at Union level and not only at the level of the sampled Union producers. It is considered that as far as macroeconomic indicators are concerned, complete data of the whole Union industry, which also includes the data from the sampled companies, reflect better the situation during the period considered than data for only part of the industry.
- (120) The data provided by the complainant for the evaluation of the macroeconomic indicators was considered accurate and reliable. The validity of the data was checked against the information submitted by the sampled Union producers. For the sake of the argument, an injury analysis consistently using only the data provided by the sampled Union producers would show a more negative picture for the macroeconomic indicators. There were no grounds to establish that the complainant deliberately withheld information to manipulate the injury analysis. There is therefore no reason to disregard the information provided by the complainant concerning the macroeconomic indicators. Therefore, the argument that the analysis of all injury indicators should be limited to the information submitted by the sampled Union producers only cannot be accepted.

4.4.2. Macroeconomic indicators

4.4.2.1. Production, production capacity and capacity utilisation

- (121) The total Union production, production capacity (at cold-rolling level) and capacity utilisation developed over the period considered as follows:

Table 8

Production, production capacity and capacity utilisation

	2010	2011	2012	Investigation period
Production volume (tonnes)	3 195 908	3 159 359	3 222 857	3 036 688
<i>Index</i>	100	99	101	95
Production capacity (tonnes)	4 174 027	4 261 161	4 284 261	4 330 161
<i>Index</i>	100	102	103	104

	2010	2011	2012	Investigation period
Capacity utilisation (%)	77	74	75	70
<i>Index</i>	100	97	98	92

Source: Sampled Union producers, complaint

- (122) The production volume remained stable between 2010 and 2012. Between 2012 and the investigation period, the production volume significantly decreased by 6 percentage points for an overall decrease of 5 % despite stable demand.
- (123) At the same time, the production capacity moderately increased by 4 % in the period considered. The small increase in production capacity could be attributed to better utilisation of machinery due to efficiency programmes carried out by Union industry.
- (124) As a result, the capacity utilisation decreased by 8 % throughout the period considered. It is known that a 100 % capacity utilisation is not achievable and sustainable in the long run in the SSCR industry. However, the capacity utilisation achieved by the Union industry during the period considered is far below the capacity utilisation in excess of 90 % that is considered achievable in a sustainable long run level of production. In addition, since the difference between the production capacity and the sustainable long run level of production is minor, it cannot have had an impact on the decreasing trend shown by the Union industry.

4.4.2.2. Sales volume and market share

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

Table 9

Sales volume and market share

	2010	2011	2012	Investigation period
Sales volume on the Union market (tonnes)	2 641 033	2 637 819	2 732 237	2 631 508
<i>Index</i>	100	100	103	100
Market share (%)	84	81	84	80
<i>Index</i>	100	97	100	95

Source: Sampled Union producers, complaint

- (126) Sales volume of the Union industry was stable throughout the period considered, with slightly higher sales volumes in 2012.
- (127) Since the Union consumption has grown throughout the period considered as stated in recital 96 above the rather stable sales volumes led to a decrease of 5 % in the market share held by the Union industry throughout the period considered. Similar to the sales volume, year 2012 showed a more positive picture.

4.4.2.3. Growth

- (128) As described above, throughout the period considered the sales volume of the Union industry was rather stable in a growing market. At the same time, imports from the countries concerned significantly increased. As a result, the market growth of around 140 000 tonnes throughout the period considered almost exclusively benefitted the imports from the countries concerned, which increased their volumes by around 128 000 tonnes throughout the same period. Therefore, the Union industry could not benefit from the market growth at all.

4.4.2.4. Employment and productivity

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

Table 10

Employment and productivity

	2010	2011	2012	Investigation period
Number of employees	13 223	12 978	12 471	11 820
<i>Index</i>	100	98	94	89
Productivity (tonne/employee)	242	235	258	257
<i>Index</i>	100	97	107	106

Source: Sampled Union producers, complaint

- (130) The number of employees of the Union industry decreased by 2 percentage points in 2011, by further 4 percentage points in 2012 and yet by another 5 percentage points in the investigation period, which clearly showed a falling tendency. Rationalising the number of employees could be attributed to implementation of diverse 'effectiveness' plans by the Union producers and the decrease in production volume.
- (131) The SSCR industry is generally considered a capital intensive industry. Nevertheless, the amount of employment provided by the Union industry is significant. Also, labour costs are the second most important cost factor after raw materials, on average accounting for around 10 % — 15 % of total costs. Employment is therefore a relevant injury indicator for this industry.
- (132) Productivity of the Union industry slightly decreased in 2011 by 3 percentage points, then in 2012 increased by 10 percentage points to further decrease by 1 percentage point in the investigation period. Overall, it raised by 6 percentage points from 242 tonnes per employee to 257 tonnes per employee in the period concerned, despite the diminishing number of employees, which showed higher effectiveness.

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

- (133) 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 volume and prices of imports from the countries concerned.
- (134) This is the second anti-dumping investigation regarding the product concerned. Imports of the same product originating in the PRC, South Korea and Taiwan were already subject to an investigation in 2008-2009 ⁽¹⁾. Even though this investigation did not result in the imposition of anti-dumping measures, the investigation provisionally established the existence of dumping already at that time ⁽²⁾.

4.4.3. Microeconomic indicators

4.4.3.1. Prices and factors affecting prices

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

⁽¹⁾ Notice of initiation of an anti-dumping proceeding concerning imports of stainless steel cold rolled flat products originating in the People's Republic of China, the Republic of Korea and Taiwan (OJ C 29, 1.2.2008, p. 13).

⁽²⁾ Commission Decision 2009/327/EC of 16 April 2009 terminating the anti-dumping proceeding concerning imports of stainless steel cold-rolled flat products originating in the People's Republic of China, the Republic of Korea and Taiwan (OJ L 98, 17.4.2009, p. 39).

Table 11

Sales prices in the Union

	2010	2011	2012	Investigation period
Average unit sales price in the Union (EUR/tonne)	2 428	2 572	2 358	2 159
<i>Index</i>	100	106	97	89
Unit cost of production (EUR/tonne)	2 247	2 345	2 149	1 939
<i>Index</i>	100	104	96	86

Source: Sampled Union producers

- (136) The sales prices of the sampled Union producers to unrelated customers decreased by 11 % over the period considered. While in 2011 prices increased by 6 %, they subsequently fell by 17 percentage points until the end of the period considered.
- (137) Unit cost of production for the total production of SSCR (including goods eventually exported) largely followed the trend of sales prices, decreasing by 14 % throughout the period considered. However, as the sales prices and unit cost of production are not directly comparable as there is a certain time difference between production and sale. As the average level of inventories of the Union industry accounted for around 15 % of turnover, on average there is a time lag of almost two months between production and sale.
- (138) Generally, both production costs and sales prices are driven by the development of raw material costs, mainly chromium and nickel. Indeed, the prices charged by the Union industry are following a so-called 'alloy-surcharge' mechanism. Under this mechanism, prices consist of a fixed 'base price' and an 'alloy surcharge' which fluctuates depending on the chemical composition of the steel grade and the quotations of the alloys on the London Metal Exchange ('LME'). Therefore, prices are linked to the steel grade and the corresponding raw material costs.
- (139) Interested parties suggested that sales price trend of the Union industry should be analysed excluding the 'alloy surcharge'. Since the Union industry does not influence the price of nickel, interested parties claimed that the Commission should look only at the 'base price'.
- (140) The total price indeed consists of the base price and the alloy surcharge, and customers are normally aware of this split. However, the investigation has shown that during the investigation period these two price elements were normally not stated separately on the invoice. In such cases, commercial documents predating the invoice such as the order or the order confirmation normally neither indicate these two elements separately.
- (141) Therefore, the development of the base price was analysed on the basis of publicly available information submitted by interested parties. This information shows a detailed break-down of the total price charged for commodity grade 304 ⁽¹⁾ products in Germany ⁽²⁾ into the base price and the alloy surcharge. While the alloy surcharge fluctuated according to the development of raw material costs, the base price continuously decreased throughout the period considered by around 20 % from around 1 200 EUR/tonne in 2010 to around 1 000 EUR/tonne in the investigation period. While the level of the decrease may not necessarily be representative for all products and all Union producers, the magnitude of the decrease supports the conclusion that not only the level of the alloy surcharge, but also the level of the base price followed a downward trend.

⁽¹⁾ The closely related grades 304 and 304L are the most common products accounting for more than 50 % of the sales of the Union industry.

⁽²⁾ Outokumpu Annual Report 2013, p. 11 (graph).

4.4.3.2. Labour costs

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

Table 12

Average labour costs per employee

	2010	2011	2012	Investigation period
Average labour costs per employee (EUR)	57 071	58 068	59 684	61 826
<i>Index</i>	100	102	105	108

Source: Sampled Union producers

- (143) Average labour costs per employee were increasing throughout the period considered and overall increased by 8 % between 2010 and the investigation period.

4.4.3.3. Inventories

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

Table 13

Inventories

	2010	2011	2012	Investigation period
Closing stocks (tonnes)	242 166	238 818	208 021	225 418
<i>Index</i>	100	99	86	93
Closing stocks as a percentage of production	15	16	14	15
<i>Index</i>	100	103	90	99

Source: Sampled Union producers

- (145) The volume of stocks remained rather stable between 2010 and 2011, then decreased by 13 percentage points in 2012 and slightly increased by 7 percentage points in the investigation period. Overall, it has decreased by 7 % during the period considered. Since most production is done on order, stocks are not a meaningful indicator in this industry.

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

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

Table 14

Profitability, cash flow, investments and return on investments

	2010	2011	2012	Investigation period
Profitability of sales in the Union to unrelated customers (% of sales turnover)	- 0,6	- 1,3	- 2,1	- 1,6

	2010	2011	2012	Investigation period
<i>Index</i>	- 100	- 214	- 330	- 253
Cash flow (million EUR)	- 199	107	- 10	- 39
<i>Index</i>	- 100	54	- 5	- 20
Investments (million EUR)	1 504	1 375	1 279	1 244
<i>Index</i>	100	91	85	83
Return on investments (%)	- 1,2	- 2,9	- 4,3	- 3,1
<i>Index</i>	- 100	- 246	- 370	- 269

Source: Sampled Union producers

- (147) The Commission established the profitability of the sampled Union producers by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales. The profitability of the sampled producers was negative during the whole period considered — it has decreased by 1,5 percentage points between 2010 and 2012 and slightly recovered in the investigation period by 0,5 percentage points reaching -1,6 %. As explained in recital 141 above, the negative profitability was mainly due to a constantly decreasing base price and not due to fluctuating prices for raw materials such as nickel.
- (148) The net cash flow is the ability of the Union producers to self-finance their activities. Cash flow was negative in three out of the four years considered — it improved in 2011, but then started to decrease again. The temporary improvement in 2011 was largely due to a significant decrease in stocks of semi-finished products.
- (149) Investments have shown a decreasing tendency — in 2011 they have decreased by 9 %, in 2012 by further 6 % and further 2 % in the investigation period. Overall, they decreased by 17 percentage points during the period considered.
- (150) The return on investments is the profit in percentage of the net book value of investments. It was negative in all four years considered. In 2011 it has decreased by 146 %, in 2012 by further 124 % and reached -3,1 % in the investigation period.
- (151) The ability to raise capital of all four sampled producers was negatively affected, as due to their negative profitability figures they were not in a position to obtain financing from banks. The producers had to use funds provided by other group companies.

4.4.4. Conclusion on injury

- (152) Most of the injury indicators of the Union industry showed a negative trend during the period considered. Production volume decreased by 5 %, leading to a decrease in capacity utilisation of 8 %. Stable sales volumes in a growing market led to a decrease of market share of 5 %. Employment decreased by 11 % while labour cost increased by 8 %. Investments decreased by 17 % while return on investments remained negative throughout the period considered and showed a worsening trend.
- (153) The only injury factors which have clearly shown a slightly positive trend are production capacity and productivity. In any event, this increase in production capacity is in line with the increase of consumption during the period considered. The rising productivity was a consequence of the reduction of number of employees.
- (154) Certain injury factors had a temporarily more positive development in 2011 or 2012 in comparison to the previous year and then decreased again — as market share, sales prices, cost of production. Profitability was negative in all four years, cash flow in three out of four years.

- (155) 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.

5. CAUSATION

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

5.1. Effects of the dumped imports

- (157) Union consumption increased by 4 % during the period considered, but at the same time the volume of imports from the countries concerned increased by 70 % while the market share of the Union industry revealed a decreasing trend. The pattern in which the imports gained market share and the Union industry lost market share was found corresponding. The increasing market share of imports slowed down in 2012 and picked up in the investigation period, whilst the decreasing market of the Union industry also slowed down in 2012 and dropped again in the investigation period. It is therefore clear that the lost market share of the Union industry was in correlation with the increase of the dumped imports.
- (158) Import prices from the countries concerned decreased by 13 % during the period considered. The Union industry prices decreased by 11 % during the same period. During the investigation period the dumped imports from the countries concerned undercut the Union industry prices by 9,6 % — 11,3 %, thereby exerting price pressure on the Union industry. The price behaviour of the increasing dumped imports from the countries concerned has not allowed the Union industry either to maintain its market share or to become profitable.
- (159) Interested parties claimed that the imported products from the countries concerned are not competing with the products sold by the Union industry. Allegedly, imports from the countries concerned are predominantly thin products with a thickness of less than 2 mm, while products above this thickness are mainly supplied by the Union industry. This allegation has not been confirmed by the facts established by the investigation. Indeed, the exporting producers and the Union industry sell thick products with a thickness exceeding 2 mm as well as thin products with a lower thickness. Also, on average the ratio of thick products v thin products is similar at around 30 % — 35 % for both the Union industry and the sampled exporting producers from the countries concerned.
- (160) Interested parties claimed that there was no correlation between the level and prices of imports from the PRC and the profitability of the Union industry. In particular, they referred to the decrease of imports and stable prices from the PRC in 2011-2012 which allegedly cannot have caused the decrease of average prices on the Union market. At the same time, Union industry's losses increased and the sales volume was rather stable.
- (161) However, this analysis selectively focusses on only two years in isolation instead of on the whole period considered. When analysing the whole period, it was clear that the strong increase of dumped imports led not only to deteriorating profitability but also to lost market share by the Union industry and drop in production, capacity utilisation, employment, investments and return on investments. While the year 2012 did not strictly follow the overall trend, the trend remained negative. The purpose of assessing the injury indicators over a longer period of four years is namely to avoid reaching conclusions on the basis of isolated developments, if any. In any event, the effects of the dumped imports from both countries concerned were assessed cumulatively for the reasons explained in recitals 97 to 102 above. Therefore, it was not warranted to assess the independent effects of the dumped imports from the PRC alone.
- (162) Interested parties claimed that the market share that the Union industry lost to imports from Taiwan was insignificant. Taiwanese imports according to the information provided in the complaint accounted for a market share of 4,98 % in the investigation period, and increased by 1,09 % between 2010 and the investigation period. Interested parties claimed that it was therefore impossible that Taiwanese exports caused the injury that the complainants claimed to have suffered.

- (163) According to the findings of the investigation, the Taiwanese imports' market share increased overall during the period considered and reached 5,1 % during the investigation period. The investigation also clearly established that these dumped imports substantially undercut the sale prices of the Union industry. Therefore, contrary to the claim of the interested party, the dumped imports from Taiwan exercised price pressure and together with the Chinese dumped imports caused injury to the Union industry as discussed above. It is recalled that the effects of the imports from both countries concerned were assessed cumulatively for the reasons explained in recitals 97 to 102 above. Therefore, the effects of the dumped imports only from Taiwan were not assessed independently.
- (164) Interested parties claimed that the quantity of Taiwanese imports was overstated, as it allegedly included significant quantities of Chinese or Korean origin SSCR wrongfully declared as Taiwanese. However, this allegation was not supported by evidence.
- (165) However, cooperating Taiwanese companies (producers and other cooperating parties) reported exports accounting for the vast majority of total Taiwanese imports. Therefore, the issue of allegedly wrongly declared non-Taiwanese products could have a very limited impact, if any.
- (166) Interested parties claimed that the prices of Chinese and Taiwanese exporting producers, just like those of the Union industry followed the price of nickel. While it may indeed be the case that over time the price trend of the exporting producers followed the trend of raw material prices, this does not address the question of the absolute level of the price. In this respect, the investigation found that both Chinese and Taiwanese prices undercut the Union industry's price by 9,6 % — 11,3 %. If valid, the argument that Chinese, Taiwanese and Union industry prices developed in a similar trend throughout the period considered would merely lead to the conclusion that Chinese and Taiwanese exports were undercutting Union industry's prices by a similar margin throughout the whole period considered.
- (167) Interested parties claimed that allegedly increasing investments do not demonstrate that the Union industry was suffering material injury. However, this allegation was not confirmed by the investigation. Indeed, investments steadily decreased by 17 % throughout the period considered, as indicated in recital 149 above.
- (168) The Commission concluded at this stage that the increased low priced dumped imports from the countries concerned caused the material injury suffered by the Union industry.

5.2. Effects of other factors

5.2.1. Imports from third countries

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

Table 15

Imports from third countries

Country		2010	2011	2012	Investigation period
India	Volume (tonnes)	17 568	29 437	33 763	61 855
	<i>Index</i>	100	168	192	352
	Market share (%)	0,6	0,9	1,0	1,9
	Average price (EUR/tonne)	1 912	2 421	2 218	2 098
	<i>Index</i>	100	127	116	110

Country		2010	2011	2012	Investigation period
South Korea	Volume (tonnes)	72 256	70 297	62 047	92 189
	<i>Index</i>	100	97	86	128
	Market share (%)	2,3	2,2	1,9	2,8
	Average price (EUR/tonne)	1 932	2 112	1 891	1 839
	<i>Index</i>	100	109	98	95
South Africa	Volume (tonnes)	66 142	51 788	50 718	51 907
	<i>Index</i>	100	78	77	78
	Market share (%)	2,1	1,6	1,6	1,6
	Average price (EUR/tonne)	2 302	2 355	2 102	1 943
	<i>Index</i>	100	102	91	84
USA	Volume (tonnes)	94 923	82 387	82 624	90 947
	<i>Index</i>	100	87	87	96
	Market share (%)	3,0	2,5	2,5	2,8
	Average price (EUR/tonne)	2 695	2 943	2 646	2 304
	<i>Index</i>	100	109	98	85
Other third countries	Volume (tonnes)	85 674	109 406	74 897	59 204
	<i>Index</i>	100	128	87	69
	Market share (%)	2,7	3,4	2,3	1,8
	Average price (EUR/tonne)	2 450	2 659	2 715	2 669
	<i>Index</i>	100	109	111	109
Total of all third countries except the countries concerned	Volume (tonnes)	336 564	343 313	304 049	356 102
	<i>Index</i>	100	102	90	106
	Market share (%)	10,6	10,6	9,3	10,8
	Average price (EUR/tonne)	2 351	2 549	2 371	2 156
	<i>Index</i>	100	108	101	92

Source: Eurostat

- (170) The third countries with the highest import volumes were India, South Korea, South Africa and the USA with market shares ranging between 1,6 % and 2,8 % during the investigation period. The market share of all other third countries was 10,8 %.
- (171) Imports from India were negligible at 1 % or less throughout most of the period considered. They only exceeded the 1 % threshold once, during the investigation period where they held a market share of 1,9 %.
- (172) The market share of South Korea was rather stable during the period considered, decreasing from 2,3 % to 1,9 % from 2010-2012 and finally increasing to only 2,8 % during the investigation period.
- (173) Imports from South Africa and the USA show a decreasing trend throughout the period considered. The market share of South African imports decreased from 2,1 % to 1,6 % while the market share of USA imports decreased from 3,0 % to 2,8 %.
- (174) Concerning prices based on Eurostat, it can be observed that only the South Korean import price was lower than the import price of the PRC and Taiwan, while imports from South Africa had similar prices and imports from India and the USA higher prices. It should be noted nevertheless that the product concerned/like product consists of various steel grades leading to significant price differences that could not be taken into account in the average price from Eurostat.
- (175) Interested parties referred to imports from other third countries, including the USA, South Korea, India and South Africa. They claimed that those imports must have influenced the situation of the Union industry and since there are substantial imports from other third countries, not subject to the Commission's investigation, imports from the PRC and Taiwan should not be found responsible for any injury caused by imports from other countries.
- (176) As described above, in the investigation period, among other countries being sources of SSCR imports to the Union, Taiwan and the PRC have the highest market shares (5,1 % and 4,3 %, respectively). No other country's imports exceeded a 3 % market share during the period considered. Also, while the market share from the countries concerned increased by 3,7 percentage points during the period considered, altogether the market share of imports from third countries other than the countries concerned remained stable increasing by only 0,2 percentage points during the period considered.
- (177) Due to the stable trend in import volumes, the Commission thus provisionally concluded that imports from other third countries did not contribute to the injury suffered by the Union industry to any significant degree.

5.2.2. *Export performance of the Union industry*

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

Table 16

Export performance of the sampled Union producers

	2010	2011	2012	Investigation period
Export volume (tonnes)	185 377	188 431	182 370	178 010
<i>Index</i>	100	102	98	96
Average price (EUR/tonne)	2 148	2 353	2 082	1 915
<i>Index</i>	100	110	97	89

Source: Sampled Union producers

- (179) The export volumes of the sampled Union producers are decreasing after single increase in 2011 in both volumes and sales prices. Overall the export volumes of the sampled producers represented around 12 % of their combined production. Although the decreased exports may have contributed to the drop in production, given the low level of exports in relation to sales in the Union, any contribution of exports to the injury suffered by the Union industry would be very limited.

5.2.3. Energy cost, overcapacity

- (180) Interested parties claimed that the injury suffered by the Union industry was due to high energy costs, which are said to be 20 % higher than in the PRC. However, energy is only a minor cost factor for the production of SSCR, typically accounting for less than 10 % of total costs. Leaving aside the issue whether energy costs in the PRC reflect market values or not, the price difference for energy cannot have caused the injury suffered by the Union industry.
- (181) Interested parties claimed that contrary to the information provided in the complaint, the Union industry suffered from significant overcapacity. The Commission observed capacity utilisation of the Union Industry decreasing from 77 % in 2010 to 70 % in the period considered. However, the production capacity of the Union industry and the consumption on the Union market developed in parallel, both increasing by 4 % during the period considered. The loss in capacity utilisation is therefore caused by the inability of the Union industry to take advantage of the growing market, as this growth was absorbed by dumped imports from the countries concerned. The resulting alleged overcapacity is therefore more a result of the dumped imports than a cause of the injury suffered by the Union industry.
- (182) The Commission concluded that both the Union industry's energy cost and the alleged overcapacity could not have caused the injury it suffered.

5.3. Competition concerns

- (183) Interested parties claimed that imports of SSCR from the PRC have risen in response to the concentration of capacities in the Union down to a small number of suppliers, where the users in the Union were left with a limited number of Union producers. However, in the last 10 years there have always been four medium-sized and a number of smaller suppliers on the Union market. While the ownership of some of these companies has changed during that period, the number of suppliers has remained stable. Therefore, the increase in dumped Chinese imports cannot have been caused by a reduction in the number of suppliers in the Union.
- (184) Interested parties claimed that the Union market was highly concentrated and imports from the countries concerned could not have caused any injury suffered by the Union industry. They claimed that the volume of imports from Asia was insufficient to constrain competition and could not prevent Union industry from increasing its prices. In this regard, the same parties made reference to the Commission's merger decision to approve the merger (subject to commitments) between Outokumpu and Inoxum ⁽¹⁾ in November 2012 (the 'Outokumpu Merger Decision').
- (185) However, the analysis in a merger procedure and an anti-dumping investigation concern different legal frameworks which have different objectives. While a merger procedure analyses whether a proposed merger would raise competition concerns, an anti-dumping investigation analyses whether the Union industry is exposed to injurious dumping.
- (186) In any event, in the framework of the Outokumpu Merger Decision, it was examined whether the acquisition of Inoxum by Outokumpu would lead to a dominant player on the Union market. The combined entity of Outokumpu and Inoxum would have held a combined market share of over 50 % and reduced the number of main producers from four to three. This merger decision obliged Outokumpu to divest part of Inoxum including the production company Acciai Speciali Terni ('AST'). The aim of this divestiture was precisely to maintain competition on the SSCR market in the Union, and the planned merged entity (Outokumpu and all assets of Inoxum including AST) holding a market share of above 50 % on the Union market never materialised. Instead, there are still four medium-sized players and a number of smaller players competing with each other without any of these parties holding the level of market power that the proposed merged entity analysed in the merger case would have held.

⁽¹⁾ Commission Decision of 7 November 2012 addressed to: Outokumpu OYJ declaring a concentration to be compatible with the internal market and the EEA agreement (Case COMP/M.6471 — Outokumpu/INOXUM).

- (187) Interested parties also referred to the discussion in the Outokumpu Merger Decision of the fact that Union producers were not restricted by Asian imports during those periods of time when fluctuations in nickel prices, currency exchange rate and low LME nickel prices made Asian imports less competitive. It was noted in the Outokumpu Merger Decision that 'even if the constraint posed by imports may not be strong at present, it would be possible that it will increase in the future' ⁽¹⁾, which then led to an assessment of the likely developments of the market. The current investigation has shown the following: dumped imports from the countries concerned reached in the investigation period a market share of 9,5 % and increased by 70 % compared to 2010. It was also established that these dumped imports undercut the Union industry prices by 9,6 % — 11,3 %.
- (188) In addition, the fact that the demand on the Union market is comparably stable even in case of significant price fluctuations does not mean that buyers are not price sensitive. While lower prices offered by exporters do not lead to increased consumption on the Union market, the investigation has clearly shown that buyers are willing to purchase increasing quantities of low-priced imports. As these low-priced imports do not generate any additional demand, these sales are at the expense of the sales of other market players, mainly at the expense of the Union industry.
- (189) The investigation has confirmed that the Union industry sells a wider product range than the cooperating exporting producers. However, during the investigation period around 75 % of the Union industry's sales related to the four most common steel grades (304, 304L, 316L and 430). All these grades are sold by the exporters from the countries concerned in a large variety of widths, thicknesses and finishes. Also products beyond these commodity grades are in direct competition as they were also sold by the exporters from the countries concerned.
- (190) None of the interested parties has raised any issues concerning product quality in the present investigation. The Outokumpu Merger Decision has established that while on average the quality produced by the non-European producers can be considered comparable with that of European producers ⁽²⁾, it also has identified that customers with specific requirements cannot purchase in Asia ⁽³⁾. However, as described above, the vast majority of the Union industry's sales are commodity products where quality is comparable.
- (191) Other issues preventing some customers from buying imported SSCR are the longer lead times due to the long transport from the countries concerned and the less favourable payment terms offered by producers in the countries concerned. However, these issues are mainly relevant for the customers buying directly from the mill, which accounts only for around one third of the Union market.
- (192) At the same time, the majority of sales were made via steel service centres, which account for around two thirds of the Union market. Indeed, almost all sales from the countries concerned are made via independent service centres, which also buy from the Union industry. In this case, the payment term offered by the distributor is relevant for the user. As these sales are typically made from the stock of the distributor, the relevant lead time is also the time needed to ship the goods from the distributor to the user. Therefore, the majority of the sales is not affected by these issues.
- (193) Therefore, the majority of sales of the Union industry are directly affected by the dumped imports from the countries concerned.
- (194) The Commission therefore concluded that the competition conditions in the Union could not have prevented the dumped imports for the countries concerned to cause injury to the Union industry.

5.4. Effect of raw material prices

- (195) Interested parties claimed that the decision whether to buy the product concerned originating in the countries concerned or the like product produced by the Union industry is driven by the development of raw material prices, in particular nickel. This is because the exporters charge a single price and the Union industry charges a base price plus alloy surcharge.

⁽¹⁾ Outokumpu Merger Decision, paragraph (587).

⁽²⁾ Outokumpu Merger Decision, paragraph (546).

⁽³⁾ Outokumpu Merger Decision, paragraph (550).

- (196) Therefore, it would allegedly more beneficial for importers to buy from the countries concerned when raw material prices increase (as the Union industry's prices will be revised upwards while the exporters' prices will remain stable). On the other hand, if raw material prices decrease, it would allegedly be less beneficial for importers to buy from the countries concerned (as the Union industry's prices will decrease while the exporters' prices will remain stable).
- (197) In the Outokumpu Merger Decision, the impact of the expected development of the nickel price on the purchasing decisions of importers was analysed ⁽¹⁾. In the present investigation, it was analysed whether the development of imports did indeed follow the development of actual nickel prices and follow the pattern described above. Nickel prices ⁽²⁾ dropped by 31 % from 16 453 EUR/tonne 2010 to 11 327 EUR/tonne during the investigation period. According to the claim put forward by interested parties described in recital 196 above, this decrease in nickel prices should have led to a decrease of imports from the countries concerned. The investigation has however shown that despite the significant decrease in nickel prices, exports from the countries concerned have increased by 70 % during the same period, as described in recital 104 above.
- (198) While the development of raw material prices may have had some effect on the development of import volumes, other factors such as the low price level of the exporting producers have clearly outweighed this effect. The development of nickel prices is therefore considered to not have a lasting impact on the overall increasing trend of dumped imports from the countries concerned during the period considered.

5.5. Changes in the patterns of consumption

- (199) In the Outokumpu Merger Decision, it was established that both the absolute nickel price level and the volatility of the nickel prices is likely to decrease the attractiveness of stainless steel as a material and drive the demand to non-nickel stainless steel ⁽³⁾.
- (200) As regards the attractiveness of stainless steel as a material, it was also argued that a number of trends might have a possible impact on substitution to/from stainless steel, including the need for using lighter materials, e.g. in cars (negative impact on stainless; move from steel to composites), shorter product life cycles in consumer goods (negative impact on stainless; cheaper materials are used), increased need for water treatment and green energy production (positive impact on stainless; hard to replace in many applications) and the development of the prices of possibly competing materials (iron ore, aluminium, copper) ⁽⁴⁾.
- (201) In this respect, the present investigation has confirmed the findings of the Outokumpu Merger Decision ⁽⁵⁾ that the demand for stainless steel in general and SSCR in particular is fairly inelastic. The bulk of the growth of consumption took place between 2010 and 2011 when prices were increasing. During the period of decreasing prices from 2011 until the investigation period, the consumption remained stable and grew by only 1 %. The substitution to/from stainless steel, including the factors mentioned above, did therefore not have a measurable impact on the total consumption of SSCR.
- (202) As regards the shift of demand towards non-nickel grades of stainless steel which are also the like product, a detailed analysis of the sales transactions reported by the sampled Union producers confirms the findings of the Outokumpu Merger Decision.
- (203) However, as described in recital 138 above, the prices charged by the Union industry are directly linked to the steel grade and the corresponding raw material costs. A shift of demand from one steel grade to the other therefore has a neutral impact on the performance of the Union industry.
- (204) It is therefore concluded at this stage that the changes of the patterns of consumption did not have a negative impact on the performance of the Union industry.

5.6. Conclusion on causation

- (205) The low-priced dumped imports from the countries concerned increased both in absolute and relative to the consumption in the Union terms at the time when the most of the injury factors of the Union industry (production, capacity utilisation, market share, employment, sales prices, labour cost, profitability, investments, return on investments) deteriorated. The dumped imports from the countries concerned undercut the Union industry prices by 9,6 % — 11,3 % during the investigation period.

⁽¹⁾ Outokumpu Merger Decision, paragraph (567).

⁽²⁾ Nickel, melting grade, LME spot price, CIF European ports, Euro per Metric Ton. Source: World Bank

⁽³⁾ Outokumpu Merger Decision, paragraph (96).

⁽⁴⁾ Outokumpu Merger Decision, paragraph (97).

⁽⁵⁾ Outokumpu Merger Decision, paragraph (98).

- (206) Other factors such as energy cost, capacity and competition conditions in the Union market did not contribute to the injury suffered by the Union industry. Factors like imports from other third countries and exports of the Union industry may have contributed to the injury but to a very limited extent.
- (207) On the basis of the above, the Commission provisionally concluded that the material injury to the Union industry was caused by the dumped imports from the countries concerned and the other factors considered individually did not break the causal link. The injury consists mainly of the fragile financial situation of the Union industry and the drop in production, capacity utilisation, employment and market share.
- (208) 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 other imports, exports of the Union industry, energy cost, capacity and the competition conditions on the Union industry's negative developments in terms of its financial situation, production and market share was either very limited or non-existent.

6. UNION INTEREST

- (209) In accordance with Article 21 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. 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.

6.1. Interest of the Union industry

- (210) The majority of the Union industry supports the imposition of measures. The largest Union producer did not cooperate with the investigation, but it did not oppose to the complaint. Six Union producers accounting for approximately 55 % of sales and production in the Union cooperated with the investigation and supported the complaint.
- (211) The Union industry suffered material injury. All financial indicators (profitability, cash-flow, return on investment) were mostly negative throughout the period considered. Other indicators such as production, capacity utilisation, employment and market share developed negatively throughout the period considered. The Union industry just managed to maintain the low post-crisis sales volume and could not benefit from the market growth.
- (212) In the absence of measures, the dumped imports from the countries concerned will continue to force Union industry to sell at loss-making prices. This accumulation of additional losses will lead to a further deterioration of the situation of the Union industry. It is therefore in the interest of the Union industry to impose the measures.

6.2. Interest of unrelated importers and distributors

- (213) Importers and distributors (including steel service centres) were very active in this investigation. Thirty-one importers and distributors came forward and expressed opposition to the imposition of measures.
- (214) Importers and distributors claimed that their possible sources of supply will be limited by the imposition of measures. They argued that if measures were imposed, they would no longer be able to source SSCR from the PRC and Taiwan.
- (215) However, the investigation has shown that all importers and distributors buy from multiple sources including the Union industry, the countries concerned and other third countries. They therefore only depend to a certain extent on supplies from the countries concerned.
- (216) These parties can continue to buy SSCR from the Union industry and from other countries not subject to this investigation (e.g. India, South Africa, South Korea or the USA), which cumulatively hold a market share of 11 %. Both the Union industry and the imports from other third countries are therefore credible alternatives to Chinese and Taiwanese imports.

- (217) It is therefore concluded at this stage that the imposition of measures can only have a minor negative impact on the situation of unrelated importers and distributors.

6.3. Interest of users

- (218) A number of interested parties, including exporting producers and distributors raised concerns regarding possible negative effects of measures on users. Users themselves did not share these concerns. Indeed, the degree of participation of users in this case was very low. Six users (including one group of four companies) expressed an opinion, of which only one opposed the imposition of measures. Other users and their associations either did not participate or explicitly refrained from taking a position.
- (219) It is therefore provisionally concluded that the imposition of measures is not against the interest of users.

6.4. Competition concerns

- (220) In the Outokumpu Merger Decision, the Commission established that the proposed Merger of Outokumpu and Inoxum would likely result in a significant impediment to effective competition through non-coordinated effects, by means of the creation of a dominant position in the European Economic Area (EEA) market for SSCR ⁽¹⁾. To avoid such an impediment, the Commission accepted that a divestiture package including AST is sufficient to remedy the competition concerns ⁽²⁾. Indeed, the remedy accepted by the Commission maintained the number of four medium-sized Union producers.
- (221) This remedy has already been implemented and is now fully effective. Also, the imposition of anti-dumping measures does not reduce the number of medium-sized Union producers. It is therefore concluded at this stage that the imposition of measures is not reducing or eliminating the effect of the commitment accepted by the Commission in the Outokumpu Merger Decision.

6.5. Conclusion on Union interest

- (222) 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 the product concerned originating in the PRC and Taiwan at this stage of the investigation.

7. PROVISIONAL ANTI-DUMPING MEASURES

- (223) On the basis of the conclusions reached by the Commission on dumping, injury, causation and Union interest, provisional measures should be imposed to prevent further injury being caused to the Union industry by the dumped imports.

7.1. Injury elimination level (injury margin)

- (224) To determine the level of the measures, the Commission first established the amount of duty necessary to eliminate the injury suffered by the Union industry.
- (225) The injury would be eliminated if the Union industry was able to cover its costs of production and to obtain a profit before tax on sales of the like product in the Union market that could be reasonably achieved under normal conditions of competition by an industry of this type in the sector, namely in the absence of dumped imports.
- (226) The profitability of the Union industry was negative during the whole period considered, that is to say for years 2010 to 2013. The preceding years 2008 and 2009 were affected by a collapse in demand during the global economic crisis, and the profit achieved in these years can therefore not be considered to be achieved in normal conditions of competition. While the previous investigation as described in 134 above provisionally established existence of dumping for the year 2007, no material link between these imports and the situation of the Union industry could be established. To that end, the target profit was set at 8,1 % which was the profit achieved by the

⁽¹⁾ Outokumpu Merger Decision, paragraph (883).

⁽²⁾ Outokumpu Merger Decision, paragraph (1 296).

Union industry in 2007. This was the last representative year marked by normal conditions of competition before the collapse in demand in 2008 and 2009. Indeed, the market size in 2013 almost reached the level of consumption in 2007.

- (227) On this basis, the Commission calculated a non-injurious price of the like product for the Union industry by removing from the Union sales prices the actual loss incurred during the investigation period and adding the above-mentioned profit margin of 8,1 %.
- (228) The Commission then determined the injury elimination level on the basis of a comparison of the weighted average import price of the sampled cooperating exporting producers in the countries concerned, 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.
- (229) The injury elimination level for 'other cooperating companies' and for 'all other companies' is defined in the same manner as the dumping margin for these companies (see recitals 57, 60, 85 and 88 above).

7.2. Provisional measures

- (230) Provisional anti-dumping measures should be imposed on imports of stainless steel cold-rolled flat products originating in the PRC and Taiwan, in accordance with the lesser duty rule under Article 7(2) of the basic Regulation. The Commission compared the injury margins and the dumping margins. The amount of the duty rates should be set at the level of the lower of the dumping and the injury margins.
- (231) As mentioned in recital 4 above the Commission made imports of the product concerned originating in the PRC and Taiwan subject to registration by Regulation (EU) No 1331/2014 in view of the possible retroactive application of any anti-dumping and countervailing measures under Article 10(4) of the basic Regulation and Article 16(4) of Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community ⁽¹⁾ ('basic anti-subsidy Regulation').
- (232) As far as the current anti-dumping investigation is concerned and in view of the above findings, the registration of imports for the purpose of the anti-dumping investigation in accordance with Article 14(5) of the basic Regulation should be discontinued.
- (233) As far as the parallel anti-subsidy investigation is concerned (see recital 3 above), the registration of imports from the PRC pursuant to Article 24(5) of the basic anti-subsidy Regulation should continue.
- (234) No decision on a possible retro-active application of anti-dumping measures can be taken at this stage of the proceeding.
- (235) 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:

Country	Company	Dumping margin (%)	Injury margin (%)	Provisional anti-dumping duty (%)
PRC	Baosteel Stainless Steel Co., Ltd	34,9	25,2	25,2
	Ningbo Baoxin Stainless Steel Co., Ltd	34,9	25,2	25,2
	Shanxi Taigang Stainless Steel Co., Ltd	29,2	24,3	24,3

⁽¹⁾ OJ L 188, 18.7.2009, p. 93.

Country	Company	Dumping margin (%)	Injury margin (%)	Provisional anti-dumping duty (%)
	Tianjin TISCO & TPCO Stainless Steel Co Ltd	29,2	24,3	24,3
	Other cooperating companies	30,0	24,5	24,5
	All other companies	34,9	25,2	25,2
Taiwan	Chia Far Industrial Factory Co., Ltd	12,0	23,9	12,0
	Tang Eng Iron Works Co., Ltd	10,9	22,9	10,9
	Yieh United Steel Corporation	10,9	22,9	10,9
	Other cooperating companies	10,9	22,9	10,9
	All other companies	12,0	23,9	12,0

- (236) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of this investigation. Therefore, they reflected 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 countries concerned and produced by the named legal entities. Imports of product concerned produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other companies'. They should not be subject to any of the individual anti-dumping duty rates.
- (237) A company may request the application of these individual anti-dumping duty rates if it changes subsequently the name of its entity. The request must be addressed to the Commission⁽¹⁾. The request must contain all the relevant information enabling to demonstrate that the change does not affect the right of the company to benefit from the duty rate which applies to it. If the change of name of the company does not affect its right to benefit from the duty rate which applies to it, a notice informing about the change of name will be published in the *Official Journal of the European Union*.
- (238) To ensure a proper enforcement of the anti-dumping duties, the anti-dumping duty rate for 'all other companies' should apply not only to the non-cooperating exporting producers in this investigation, but to the producers which did not have exports to the Union during the investigation period.
- (239) As of 26 March 2015, a provisional antidumping duty provides for the protection against dumped imports. It is therefore no longer necessary to register imports for the purpose of protection against dumped imports. Article 1(1) of Regulation (EU) No 1331/2014 needs therefore to be amended accordingly.

8. FINAL PROVISIONS

- (240) 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.
- (241) The findings concerning the imposition of a provisional duty are provisional and may be amended at the definitive stage of the investigation,

⁽¹⁾ European Commission, Directorate-General for Trade, Directorate H, Rue de la Loi 170, 1040 Brussels, Belgium.

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is imposed on imports of flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced), currently falling within CN codes 7219 31 00, 7219 32 10, 7219 32 90, 7219 33 10, 7219 33 90, 7219 34 10, 7219 34 90, 7219 35 10, 7219 35 90, 7220 20 21, 7220 20 29, 7220 20 41, 7220 20 49, 7220 20 81 and 7220 20 89 and originating in the People's Republic of China and Taiwan.

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:

Country	Company	Provisional anti-dumping duty (%)	TARIC additional code
People's Republic of China	Baosteel Stainless Steel Co., Ltd, Shanghai	25,2	C022
	Ningbo Baoxin Stainless Steel Co., Ltd, Ningbo	25,2	C023
	Shanxi Taigang Stainless Steel Co., Ltd, Taiyuan City	24,3	C024
	Tianjin TISCO & TPCO Stainless Steel Co Ltd, Tianjin City	24,3	C025
	Other cooperating companies listed in Annex I	24,5	
	All other companies	25,2	C999
Taiwan	Chia Far Industrial Factory Co., Ltd, Taipei City	12,0	C030
	Tang Eng Iron Works Co., Ltd, Kaohsiung City	10,9	C031
	Yieh United Steel Corporation, Kaohsiung City	10,9	C032
	Other cooperating companies listed in Annex II	10,9	
	All other companies	12,0	C999

3. 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.

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

Article 2

1. Within 25 calendar days of the date of entry into force of this Regulation, interested parties may:

- (a) request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted;
- (b) submit their written comments to the Commission; and
- (c) request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

2. Within 25 calendar days of the date of entry into force of this Regulation, the parties referred to in Article 21(4) of Regulation (EC) No 1225/2009 may comment on the application of the provisional measures.

Article 3

Article 1(1) of Implementing Regulation (EU) No 1331/2014 is replaced by the following:

'1. The Customs authorities are hereby directed, pursuant to Article 24(5) Regulation (EC) No 597/2009 to take the appropriate steps to register the imports into the Union of flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced), currently falling within CN codes 7219 31 00, 7219 32 10, 7219 32 90, 7219 33 10, 7219 33 90, 7219 34 10, 7219 34 90, 7219 35 10, 7219 35 90, 7220 20 21, 7220 20 29, 7220 20 41, 7220 20 49, 7220 20 81 and 7220 20 89, and originating in the People's Republic of China.'

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, 24 March 2015.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX I

Chinese cooperating exporting producers not sampled

Country	Name	TARIC additional code
People's Republic of China	Lianzhong Stainless Steel Corporation, Guangzhou	C026
	Ningbo Qi Yi Precision Metals Co., Ltd, Ningbo	C027
	Tianjin Lianfa Precision Steel Corporation, Tianjin	C028
	Zhangjiagang Pohang Stainless Steel Co., Ltd, Zhangjiagang City	C029

ANNEX II

Taiwanese cooperating exporting producers not sampled

Country	Name	TARIC additional code
Taiwan	Jie Jin Material Science Technology Co., Ltd, Tainan City	C033
	Yuan Long Stainless Steel Corporation, Kaohsiung City	C034