

**COMMISSION IMPLEMENTING REGULATION (EU) 2023/1450****of 13 July 2023**

**imposing a definitive anti-dumping duty on imports of certain seamless pipes and tubes of iron (other than cast iron) or steel (other than stainless steel), of circular cross-section, of an external diameter exceeding 406,4 mm, originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union <sup>(1)</sup> ('the basic Regulation'), and in particular Article 11(2) thereof,

Whereas:

**1. PROCEDURE****1.1. Previous investigations and measures in force**

- (1) By Commission Implementing Regulation (EU) 2017/804 <sup>(2)</sup>, the European Commission imposed anti-dumping duties on imports of certain seamless pipes and tubes of iron (other than cast iron) or steel (other than stainless steel), of circular cross-section, of an external diameter exceeding 406,4 mm, originating in the People's Republic of China ('the original measures'). The investigation that led to the imposition of the original measures will hereinafter be referred to as 'the original investigation'.
- (2) The anti-dumping duties currently in force are at rates ranging between 29,2 % and 41,4 % on imports from the sampled exporting producers, 45,6 % on the non-sampled cooperating companies and a duty rate of 54,9 % on all other companies from the People's Republic of China ('PRC' or 'China').

**1.2. Request for an expiry review**

- (3) Following the publication of a notice of impending expiry the European Commission ('the Commission') received a request for a review pursuant to Article 11(2) of the basic Regulation.
- (4) The request for review was submitted on 10 February 2022 by the European Steel Tube Association ('the applicant' or 'ESTA') on behalf of the Union industry of certain seamless pipes and tubes of iron (other than cast iron) or steel (other than stainless steel), of circular cross-section, of an external diameter exceeding 406,4 mm in the sense of Article 11(2) of the basic Regulation. The request for review was based on the grounds that the expiry of the measures would be likely to result in continuation or recurrence of dumping and continuation or recurrence of injury to the Union industry.

<sup>(1)</sup> OJ L 176, 30.6.2016, p. 21.

<sup>(2)</sup> Commission Implementing Regulation (EU) 2017/804 of 11 May 2017 imposing a definitive anti-dumping duty on imports of certain seamless pipes and tubes of iron (other than cast iron) or steel (other than stainless steel), of circular cross-section, of an external diameter exceeding 406,4 mm, originating in the People's Republic of China, OJ L 121, 12.5.2017, p. 3.

### 1.3. Initiation of an expiry review

- (5) Having determined, after consulting the Committee established by Article 15(1) of the basic Regulation, that sufficient evidence existed for the initiation of an expiry review, on 12 May 2022 the Commission initiated an expiry review with regard to imports into the Union of certain seamless pipes and tubes of iron (other than cast iron) or steel (other than stainless steel), of circular cross-section, of an external diameter exceeding 406,4 mm, originating in the People's Republic of China ('the country concerned') on the basis of Article 11(2) of the basic Regulation. It published a Notice of Initiation in the *Official Journal of the European Union* <sup>(9)</sup> ('the Notice of Initiation').

### 1.4. Comments on initiation

- (6) Following the publication of the Notice of Initiation, the Chinese cooperating exporting producers questioned whether the fact that none of the sampled Union producers in the original investigation participated in the request for this review implied a full recovery from the dumped and injurious imports for the companies in question.
- (7) The Commission first observed that the exporting producers did not put into question the fact that the request met the conditions contained in Article 5(4) of the basic Regulation. Indeed, it was launched by the European Steel Tube Association representing more than 25 % of the total Union production and was supported by Union producers representing more than 50 % of the total EU production. Second, the Union producer Huta Batory, was sampled in both investigations, the original one and the expiry review. Third, Valcovni Trub Chomutov AS, the second sampled producer in the original investigation, supported the expiry review request but was not sampled by the Commission. Finally, the other two companies that had been sampled in the original investigation, Arcelor Mittal Tubular Products Roman and Vallourec Deutschland GmbH, have exited or are in the process of exiting the Union market. Consequently, the claim was rejected.
- (8) Moreover, the exporting producers argued that an expiry review shall be initiated when the request contains sufficient evidence that the expiry of the measures would be likely to result in a continuation or recurrence of dumping and injury and that a positive determination shall be supported by factual evidence. To support their argument they stressed that the Chinese exporting producers will never know what the normal value is because of the different methods used by resorting to prices in a representative country.
- (9) The Commission noted that it examined the accuracy and adequacy of the evidence provided and determined that there was sufficient evidence to justify the initiation of the present investigation, in accordance with Article 11(2) of the basic Regulation. In any case, the exporting producers have not provided an example of insufficient evidence, thus, this claim was not supported by any proper reasoning. Regarding the normal value, the exporting producers had ample opportunity to verify the method(s) used and the normal value calculated in the request. Consequently, their claim was rejected.
- (10) Furthermore, exporting producers stated that the Union producers' business operations of the product concerned are much more dependent on the conditions of overseas markets than on the conditions in the Union and that the deterioration of the applicants' export performance since 2019 cannot be ascribed to imports originating in China. They also claimed that, besides the poor export performance, part of the negative development trends in the Union was also attributed to the outbreak of the COVID-19 pandemic, particularly in 2020. In addition, they argued that the cost of production per tonne that was reported in the request, that is between € 1 245 and € 1 291, was considerably lower than what was reported in the initial investigation.

<sup>(9)</sup> OJ C 193, 12.5.2022, p. 5.

- (11) The Commission noted that at the stage of the request, it is sufficient, on the basis of the information reasonably available to the applicant, to provide evidence showing that there is likelihood of either continuation or recurrence of injury should the measures be allowed to lapse. In this respect, even if the claims by the exporting producers were correct that the economic situation of the Union industry deteriorated due to factors other than the imports from China, the arguments presented did not put into question the fact that the imports from China remained significant in absolute terms and in market share. Furthermore, the evidence provided in the request indicated that injury is likely to recur should the measures be allowed to lapse. Consequently, the claim was rejected.
- (12) The exporting producers also claimed that Tenaris' economic performance, before and after the impact of the pandemic, was in a strong and normal condition. In the case of Tubos Reunidos SA, sales value remained at the same level for 3 consecutive years, starting in 2018 and then from 2020 onwards sales values have picked-up. Only export sales to third countries have declined, except for the US market. To support their arguments about the situation of the EU producers, they provided evidence of the two companies' ambitious planning to either invest and expand or upgrade their production facilities in the Union.
- (13) The Commission noted that injury indicators are not analysed at the level of individual producers, but at the level of the entire Union industry. As indicated in recital 11 above, the request contained sufficient evidence with regard to the entire Union industry, about the continuation or recurrence of injury should the measures be allowed to lapse. Consequently, the argument was rejected.
- (14) The exporting producers also argued that the Union market faces rapid increases in imports from Thailand, that have a great influence on the effect of the measures implemented and the market position of the applicants. In addition, the safeguard measures also cover the product concerned and will remain in place until 30 June 2024.
- (15) The Commission noted that, concerning the imports from Thailand, the parties failed to show how their argument would put into question the evidence contained in the request regarding continuation/recurrence of injury. Regarding the safeguard measures, anti-dumping measures address a different situation than safeguard measures. In addition, the steel safeguard measures do not prevent the imposition of anti-dumping measures within the free-of-safeguard duty quotas. The claim was therefore rejected.

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

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

#### **1.6. Interested parties**

- (17) In the Notice of Initiation, interested parties were invited to contact the Commission in order to participate in the investigation. In addition, the Commission specifically informed the applicant, the Union producers, trade unions, the known producers in the People's Republic of China and the authorities of the People's Republic of China, known importers, users, traders, as well as associations known to be concerned about the initiation of the expiry review and invited them to participate.
- (18) Interested parties had an opportunity to comment on the initiation of the expiry review and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

##### **(a) Sampling**

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

(b) Sampling of Union producers

- (20) In the 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 the largest representative volumes of production and sales of the like product in the Union that can reasonably be investigated within the time available, in accordance with Article 17 of the basic Regulation; and on the basis of the geographical spread of the sample. This sample consisted of three Union producers. The sampled Union producers accounted for almost 76 % and 67 % of the total production and sales volumes, respectively, of the known Union producers of the like product. In accordance with Article 17(2) of the basic Regulation, the Commission invited interested parties to comment on the provisional sample but no comments were received. Consequently, the sample was confirmed. The sample is representative of the Union industry.

(c) Sampling of importers

- (21) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation.
- (22) Only one unrelated importer provided the requested information and agreed to be included in the sample. In view of the minimal number, the Commission decided that sampling was not necessary.

(d) Sampling of exporting producers in the PRC

- (23) To decide whether sampling was 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 Mission of the People's Republic of China to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.
- (24) Two exporting producers/group of exporting producers in the PRC provided the requested information and agreed to be included in the sample. In view of the low number, the Commission decided that sampling was not necessary, and to investigate all the exporting producers that came forward.

(e) Questionnaires and verification visits

- (25) The Commission sent a questionnaire concerning the existence of significant distortions in the PRC within the meaning of Article 2(6a) (b) of the basic Regulation to the Government of the People's Republic of China ('GOC').
- (26) The Commission also sent questionnaires to the sampled Union producers, unrelated importers, users, Union producers' association and exporting producers. The same questionnaires had also been made available online <sup>(4)</sup>.
- (27) The Commission received questionnaire replies from the three sampled Union producers, one unrelated importer, the Union producers' association and the two exporting producers/group of exporting producers.
- (28) The Commission sought and verified all the information deemed necessary for the determination of likelihood of continuation or recurrence of dumping and injury and of the Union interest. Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:

*Union producers*

- Dalmine S.p.A. in Bergamo, Italy.
- Tubos Reunidos Group S.L.U. in Trápaga, Vizcaya, Spain
- Alchemia S.A. in Chorzow, Poland

*Unions' association*

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<sup>(4)</sup> <https://tron.trade.ec.europa.eu/investigations/case-view?caseId=2603>

(29) The Commission also held a verification visit with the following association:

— European Steel Tube Association, in Paris, France.

*Exporting producers in the PRC*

(30) Due to the outbreak of the COVID-19 pandemic and the consequent measures taken to deal with the outbreak ('the COVID-19 Notice') <sup>(7)</sup>, the Commission was unable to carry out verification visits at the premises of the exporting producers. Instead, the Commission cross-checked remotely all the information deemed necessary for its determinations in line with the COVID-19 Notice. The Commission held videoconferences with the following exporting producers/group of exporting producers:

— CITIC Pacific Group;

— Daye Special Steel Co., Ltd;

— Zhejiang Pacific Seamless Steel Tube Co., Ltd;

— Yangzhou Chengde Steel Pipe Co., Ltd.

#### **1.7. Comments following final disclosure**

(31) In their comments following final disclosure the cooperating exporting producers, Daye Special Steel Co. Ltd., Zhejiang Pacific Seamless Steel Tube Co. and Yangzhou Chengde Steel Pipe, Co. Ltd, questioned the alleged absence of the Union producers, which were sampled in the original investigation, from this expiry review investigation and the reasons for them not being included in the sample this time. In addition, they noted that Huta Batory was not listed as one of the sampled Union producers in this expiry review. Furthermore, they indicated that they could not assess if the determination of recurrence of injury was linked to changes in the sample between the two investigations.

(32) The Commission noted that the argument brought by the cooperating exporting producers has been addressed in recital 7. In particular, the Union producer Huta Batory, was sampled in both investigations, the original one and the expiry review investigation. This company is now known as Alchemia S.A..

(33) As far as the other companies are concerned, as explained in recital 20, the Union producers were sampled on the basis of the largest representative volumes of production and sales of the like product in the Union, that can reasonably be investigated within the time available. In the absence of comments on the sample, the sample was confirmed and found to be representative of the Union industry. Furthermore, even though the sample changed between the original investigation and this expiry review, the exporting producers did not submit any evidence that the sample was not representative. In addition, when assessing the situation of the Union industry and the recurrence of injury, the Commission also bases its analysis on macroeconomic indicators relating to all Union producers including those that were sampled in the original investigation. On this basis, this claim was rejected.

## **2. SUBSEQUENT PROCEDURE**

(34) On 21 April 2023, the Commission disclosed the essential facts and considerations on the basis of which it intended to maintain the anti-dumping duties in force. All parties were granted a period within which they could make comments on the disclosure.

(35) The comments made by interested parties were considered by the Commission and taken into account, where appropriate. The parties who so requested were granted a hearing.

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<sup>(7)</sup> Notice on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations (2020/C 86/06) (OJ C 86, 16.3.2020, p. 6).

### 3. PRODUCT UNDER REVIEW, PRODUCT CONCERNED AND LIKE PRODUCT

#### 3.1. Product under review

- (36) The product under review is the same as in the original investigation, namely certain seamless pipes and tubes of iron (other than cast iron) or steel (other than stainless steel), of circular cross section, of an external diameter exceeding 406,4 mm, currently falling under CN codes 7304 19 90, ex 7304 29 90, 7304 39 88 and 7304 59 89 (TARIC code 7304 29 90 90) ('the product under review').
- (37) Certain seamless pipes and tubes of iron (other than cast iron) or steel (other than stainless steel), of circular cross section, of an external diameter exceeding 406,4 mm are used in a wide range of applications, for example transportation of oil, gas, liquids and fluids, in the construction business for piling, for mechanical uses, boiler tubes and oil and country tubular goods ('OCTG') for casing in the oil industry.

#### 3.2. Product concerned

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

#### 3.3. Like product

- (39) As established in the original investigation, this expiry review investigation confirmed that the following products have the same basic physical, chemical and technical characteristics as well as the same basic uses:
- the product concerned;
  - the product under review produced and sold on the domestic market of the PRC and;
  - the product under review produced and sold in the Union by the Union industry.
- (40) These products are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

### 4. DUMPING

#### 4.1. Evolution of the imports after the imposition of the measures

- (41) In the original investigation period <sup>(6)</sup>, the Chinese exporting producers exported to the Union more than 42 thousand tonnes of the product concerned, representing a market share of around 26 % of the Union market at the time.
- (42) In the current investigation, for the period considered and the review investigation period, the statistical data on imports of the product concerned reported in Comext and the 14(6) Database showed a considerably lower volume of imports than the volume of exports declared by the cooperating exporting producers. Therefore, the Commission considered that, in this particular case, the statistical information was not reliable and could not be used to determine the volume of imports from the PRC and the market share of the Chinese exporting producers. It thus based its findings related to the volume of imports into the Union of the product concerned and the market share of the Chinese exporting producers on the verified data of the cooperating exporting producers and the information in the review request.
- (43) During the review investigation period, the cooperating exporting producers exported to the Union around 2,9 thousand tonnes of the product concerned, which represented a market share of between [2,5-3,5 %] of the Union market (see Table 3).

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<sup>(6)</sup> 1 January 2015 to 31 December 2015.

- (44) The cooperating exporting producers' production during the review investigation period accounted only for around 12 % of the total estimated production of the product under review in the PRC <sup>(7)</sup>. Therefore, the Commission considered it likely that during the review investigation period, the total import volume into the EU of all the Chinese exporting producers (not sampled and verified within the investigation) exceeded the volume of 2,9 thousand tonnes declared by the cooperating Chinese exporting producers, and the market share of the Chinese exporting producers exceeded in all likelihood the [2,5-3,5 %] indicated in Table 3 below.
- (45) On this basis the Commission concluded that during the review investigation period the Chinese exporting producers continued to export, although in lower quantities, the product under review to the Union.

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

- (46) Given the sufficient evidence available at the initiation of the investigation tending to show, with regard to the PRC, the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation, the Commission initiated the investigation on the basis of Article 2(6a) of the basic Regulation.
- (47) In order to obtain information it deemed necessary for its investigation with regard to the alleged significant distortions, the Commission sent a questionnaire to the GOC. In addition, in point 5.3.2 of the Notice of Initiation, the Commission invited all interested parties to make their views known, submit information and provide supporting evidence regarding the application of Article 2(6a) of the basic Regulation within 37 days of the date of publication of the Notice of Initiation in the *Official Journal of the European Union*. No questionnaire reply was received from the GOC and no submission on the application of Article 2(6a) of the basic Regulation was received within the deadline. Subsequently, the Commission informed the GOC that it would use facts available within the meaning of Article 18 of the basic Regulation for the determination of the existence of the significant distortions in the PRC.
- (48) In point 5.3.2 of the Notice of Initiation, the Commission also specified that, in view of the evidence available, it had provisionally selected Mexico as an appropriate representative country pursuant to Article 2(6a)(a) of the basic Regulation, for the purpose of determining the normal value based on undistorted prices or benchmarks. The Commission further stated that it would examine other possibly appropriate countries in accordance with the criteria set out in first indent of Article 2(6a) of the basic Regulation.
- (49) On 14 July 2022, the Commission informed by a Note to the file ('Note on factors of production and the representative country' or the 'Note') the interested parties on the relevant sources it intended to use for the determination of the normal value. In that Note, the Commission provided a list of all factors of production such as raw materials, labour and energy used in the production of the product under review. In addition, based on the criteria guiding the choice of undistorted prices or benchmarks, the Commission identified the possible representative country, namely Mexico. It also informed interested parties that it would establish selling, general and administrative costs ('SG&A') and profits based on available information for the company Tubos de Acero de México S.A. ('Tamsa'), a producer in Mexico.

#### 4.3. Normal value

- (50) According to Article 2(1) of the basic Regulation, *'the normal value shall normally be based on the prices paid or payable, in the ordinary course of trade, by independent customers in the exporting country'*.
- (51) However, according to Article 2(6a)(a) of the basic Regulation, *'in case it is determined [...] that it is not appropriate to use domestic prices and costs in the exporting country due to the existence in that country of significant distortions within the meaning of point (b), the normal value shall be constructed exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks'*, and *'shall include an undistorted and reasonable amount of administrative, selling and general costs and for profits'* ('administrative, selling and general costs' is referred hereinafter as 'SG&A').

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<sup>(7)</sup> According to the applicant, the estimated production volume in the PRC in 2021 of the product under review was 2,3 million tonnes. The verified production volume of the cooperating Chinese exporting producers was almost 260 thousand tonnes.

- (52) As further explained below, the Commission concluded in the present investigation that, based on the evidence available, and in view of the lack of cooperation of the GOC, the application of Article 2(6a) of the basic Regulation was appropriate.

#### 4.3.1. Existence of significant distortions

- (53) In recent investigations concerning the steel sector in the PRC <sup>(8)</sup>, the Commission found that significant distortions in the sense of Article 2(6a) (b) of the basic Regulation were present.
- (54) In those investigations, the Commission found that there is substantial government intervention in the PRC resulting in a distortion of the effective allocation of resources in line with market principles <sup>(9)</sup>. In particular, the Commission concluded that in the steel sector, which is the main raw material to produce the product under review, not only does a substantial degree of ownership by the GOC persist in the sense of Article 2(6a) (b), first indent of the basic Regulation <sup>(10)</sup>, but the GOC is also in a position to interfere with prices and costs through State presence in firms in the sense of Article 2(6a) (b), second indent of the basic Regulation <sup>(11)</sup>. The Commission further found that the State's presence and intervention in the financial markets, as well as in the provision of raw materials and inputs have an additional distorting effect on the market. Indeed, overall, the system of planning in the PRC results in resources being concentrated in sectors designated as strategic or otherwise politically important by the GOC, rather than being allocated in line with market forces <sup>(12)</sup>. Moreover, the Commission concluded that the Chinese

<sup>(8)</sup> Commission Implementing Regulation (EU) 2022/2068 of 26 October 2022 imposing a definitive anti-dumping duty on imports of certain cold-rolled flat steel products originating in the People's Republic of China and the Russian Federation following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council (OJ L 277, 27.10.2022, p. 149); Commission Implementing Regulation (EU) 2022/191 of 16 February 2022 imposing a definitive anti-dumping duty on imports of certain iron or steel fasteners originating in the People's Republic of China (OJ L 36, 17.2.2022, p. 1); Commission Implementing Regulation (EU) 2022/95 of 24 January 2022 imposing a definitive anti-dumping duty on imports of certain tube and pipe fittings, of iron or steel, originating in the People's Republic of China, as extended to imports of certain tube and pipe fittings, of iron or steel consigned from Taiwan, Indonesia, Sri Lanka and the Philippines, whether declared as originating in these countries or not, following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council (OJ L 16, 25.1.2022, p. 36); Commission Implementing Regulation (EU) 2021/2239 of 15 December 2021 imposing a definitive anti-dumping duty on imports of certain utility scale steel wind towers originating in the People's Republic of China (OJ L 450, 16.12.2021, p. 59); Commission Implementing Regulation (EU) 2021/635 of 16 April 2021 imposing a definitive anti-dumping duty on imports of certain welded pipes and tubes of iron or non-alloyed steel originating in Belarus, the People's Republic of China and Russia following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council (OJ L 132, 19.4.2021, p. 145).

<sup>(9)</sup> See Implementing Regulation (EU) 2022/2068 recital 80; Implementing Regulation (EU) 2022/191 recital 208, Implementing Regulation (EU) 2022/95 recital 59, Implementing Regulation (EU) 2021/2239 recitals 67-74, Implementing Regulation (EU) 2021/635 recitals 149-150.

<sup>(10)</sup> See Implementing Regulation (EU) 2022/2068 recital 64; Implementing Regulation (EU) 2022/191 recital 192, Implementing Regulation (EU) 2022/95 recital 46, Implementing Regulation (EU) 2021/2239 recitals 67-74, Implementing Regulation (EU) 2021/635 recitals 115-118.

<sup>(11)</sup> See Implementing Regulation (EU) 2022/2068 recital 66; Implementing Regulation (EU) 2022/191 recitals 193-4, Implementing Regulation (EU) 2022/95 recital 47, Implementing Regulation (EU) 2021/2239 recitals 67-74, Implementing Regulation (EU) 2021/635 recitals 119-122. While the right to appoint and to remove key management personnel in SOEs by the relevant State authorities, as provided for in the Chinese legislation, can be considered to reflect the corresponding ownership rights, CCP cells in enterprises, state owned and private alike, represent another important channel through which the State can interfere with business decisions. According to the PRC's company law, a CCP organisation is to be established in every company (with at least three CCP members as specified in the CCP Constitution) and the company shall provide the necessary conditions for the activities of the party organisation. In the past, this requirement appears not to have always been followed or strictly enforced. However, since at least 2016 the CCP has reinforced its claims to control business decisions in SOEs as a matter of political principle. The CCP is also reported to exercise pressure on private companies to put 'patriotism' first and to follow party discipline. In 2017, it was reported that party cells existed in 70 % of some 1,86 million privately owned companies, with growing pressure for the CCP organisations to have a final say over the business decisions within their respective companies. These rules are of general application throughout the Chinese economy, across all sectors, including to the producers of the product under review and the suppliers of their inputs.

<sup>(12)</sup> See Implementing Regulation (EU) 2022/2068 recital 68; Implementing Regulation (EU) 2022/191 recitals 195-201, Implementing Regulation (EU) 2022/95 recitals 48-52, Implementing Regulation (EU) 2021/2239 recitals 67-74, Implementing Regulation (EU) 2021/635 recitals 123-129.

bankruptcy and property laws do not work properly in the sense of Article 2(6a)(b), fourth indent of the basic Regulation, thus generating distortions in particular when maintaining insolvent firms afloat and when allocating land use rights in the PRC <sup>(13)</sup>. In the same vein, the Commission found distortions of wage costs in the steel sector in the sense of Article 2(6a) (b), fifth indent of the basic Regulation <sup>(14)</sup>, as well as distortions in the financial markets in the sense of Article 2(6a) (b), sixth indent of the basic Regulation, in particular concerning access to capital for corporate actors in the PRC <sup>(15)</sup>.

- (55) Like in previous investigations concerning the steel sector in the PRC, the Commission examined in the present investigation whether it was appropriate or not to use domestic prices and costs in the PRC, due to the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation. The Commission did so on the basis of the evidence available on the file, including the evidence contained in the request, as well as in the Commission Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the Purposes of Trade Defence Investigations <sup>(16)</sup> ('Report'), which relies on publicly available sources. That analysis covered the examination of the substantial government interventions in the PRC's economy in general, but also the specific market situation in the relevant sector including the product under review. The Commission further supplemented these evidentiary elements with its own research on the various criteria relevant to confirm the existence of significant distortions in the PRC as also found by its previous investigations in this respect.
- (56) The request alleged that the Chinese economy as a whole is widely influenced and affected by various all-encompassing interventions by the GOC or other public authorities on various levels of government, in view of which domestic prices and costs of the Chinese steel industry cannot be used in the present investigation. To support its position, the request referred to the Commission's recent investigations of the Chinese steel sector. <sup>(17)</sup>
- (57) More specifically, the request pointed out that against the background of the 'socialist market economy' doctrine enshrined in the PRC Constitution, the omnipresence of the Chinese Communist Party ('CCP') and its influence over the economy by means of strategic planning initiatives – such as the 13th and 14th Five-Years Plans ('FYP') – the GOC's interventionism takes various forms, namely administrative, financial and regulatory.
- (58) The request provided examples of elements pointing to existence of distortions, as listed in the first to sixth dash of Article 2(6a)(b) of the basic Regulation. In particular, referring to previous Commission investigations in the steel sector and to the Report the applicant submitted that:

— The overall setup of the Chinese economy not only allows for substantial government interventions into the economy, but such interventions are expressly mandated. The notion of supremacy of public ownership over the private one permeates the entire legal system and is emphasized as a general principle in all central pieces of

<sup>(13)</sup> See Implementing Regulation (EU) 2022/2068 recital 74; Implementing Regulation (EU) 2022/191 recital 202, Implementing Regulation (EU) 2022/95 recital 53, Implementing Regulation (EU) 2021/2239 recitals 67-74, Implementing Regulation (EU) 2021/635 recitals 130-133.

<sup>(14)</sup> See Implementing Regulation (EU) 2022/2068 recital 75; Implementing Regulation (EU) 2022/191 recital 203, Implementing Regulation (EU) 2022/95 recital 54, Implementing Regulation (EU) 2021/2239 recitals 67-74, Implementing Regulation (EU) 2021/635 recitals 134-135.

<sup>(15)</sup> See Implementing Regulation (EU) 2022/2068 recital 76; Implementing Regulation (EU) 2022/191 recital 204, Implementing Regulation (EU) 2022/95 recital 55, Implementing Regulation (EU) 2021/2239 recitals 67-74, Implementing Regulation (EU) 2021/635 recitals 136-145.

<sup>(16)</sup> Commission staff working document SWD (2017) 483 final/2, 20.12.2017, available at: [https://ec.europa.eu/transparency/documents-register/detail?ref=SWD\(2017\)483&lang=en](https://ec.europa.eu/transparency/documents-register/detail?ref=SWD(2017)483&lang=en)

<sup>(17)</sup> Commission Implementing Regulation (EU) 2017/649 of 5 April 2017 imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China (OJ L 92, 6.4.2017, p. 68); Commission Implementing Regulation (EU) 2017/969 of 8 June 2017 imposing definitive countervailing duties on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China and amending Commission Implementing Regulation (EU) 2017/649 imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China (OJ L 146, 9.6.2017, p. 17); Commission Implementing Regulation (EU) 2019/688 of 2 May 2019 imposing a definitive countervailing duty on imports of certain organic coated steel products originating in the People's Republic of China following an expiry review pursuant to Article 18 of the Regulation (EU) 2016/1037 of the European Parliament and of the Council (OJ L 116, 3.5.2019, p. 39).

legislation. The Chinese property law is a prime example; it refers to the primary stage of socialism and entrusts the State with upholding the basic economic system under which the public ownership plays a dominant role. Other forms of ownership are tolerated, with the law permitting them to develop side by side with the State ownership;

- The Chinese State does not only actively formulate and oversee the implementation of general economic policies by individual State-owned enterprises ('SOEs'), but it also claims its rights to participate in operational decision-making in SOEs. This is typically done through the rotation of cadres between government authorities and SOEs, through presence of party members in SOEs executive bodies and of party cells in companies, as well as by shaping the corporate structure of the SOE sector. In exchange, SOEs enjoy a particular status within the Chinese economy. This status entails a number of economic benefits, in particular the shielding from competition and the preferential access to relevant inputs, including financing. Higher leverage and labour productivity conduct to a surge in SOE debt, triggered by falling interest costs. This illustrates how easy monetary conditions can lead to a rapid SOE debt accumulation <sup>(18)</sup>;
- On the level of allocation of financial resources, the financial system in the PRC is dominated by the State-owned commercial banks. Those banks, when setting up and implementing their lending policy need to align themselves with the government's industrial policy objectives rather than primarily assessing the economic merits of a given project. The same applies to the other components of the Chinese financial system, such as the stock markets, bond markets, private equity markets etc. Furthermore, borrowing costs have been kept artificially low to stimulate investment growth, which has led to the excessive use of capital investment with ever-lower returns on investment;
- The steel industry is regarded as an important, fundamental sector of the Chinese economy, a national cornerstone <sup>(19)</sup> by the GOC, and as such is a particularly supported industry <sup>(20)</sup>. Moreover, from the five Chinese steel producers ranked in the top 10 of the world's largest steel producers, four are SOEs. With the high level of government intervention in the steel industry and a high share of SOEs in the sector, even privately-owned steel producers are prevented from operating under market conditions;
- The Chinese bankruptcy system appears to be inadequate to deliver on its own main objectives such as to settle claims and debts fairly and to safeguard the lawful rights and interests of creditors and debtors;
- The shortcomings of the system of property rights are particularly obvious in relation to ownership of land and land-use rights in China. All land is owned by the Chinese State (collectively owned rural land and State-owned urban land). Its allocation remains solely dependent on the State <sup>(21)</sup>;
- Workers and employers are impeded in their rights to collective organisation and mobility is restricted by the household registration system, which limits access to the full range of social security and other benefits. This leads to wage costs being distorted since they do not result from normal market forces or negotiation between companies and the work force.

- (59) The GOC did not comment or provide evidence supporting or rebutting the existing evidence on the case file, including the Report and the additional evidence provided by the applicant, on the existence of significant distortions and/or appropriateness of the application of Article 2(6a) of the basic Regulation in the case at hand.

<sup>(18)</sup> OECD, State-owned Firms behind China's Corporate Debt, Economics Department Working Papers no. 1536, February 2019. [https://www.oecd-ilibrary.org/economics/state-owned-firms-behind-china-s-corporate-debt\\_7c66570e-en](https://www.oecd-ilibrary.org/economics/state-owned-firms-behind-china-s-corporate-debt_7c66570e-en)

<sup>(19)</sup> Introduction to the Plan for Adjusting and Upgrading the Steel Industry.

<sup>(20)</sup> Catalogue for Guiding Industry Restructuring (2011 Version) (2013 Amendment) issued by Order No 9 of the National Development and Reform Commission on 27 March 2011, and amended in accordance with the Decision of the National Development and Reform Commission on Amending the Relevant Clauses of the Catalogue for Guiding Industry Restructuring (2011 Version) issued by Order No 21 of the National Development and Reform Commission on 16 February 2013.

<sup>(21)</sup> Marketplace, 'Industrial Policy: If China does it, why can't we?', 1 March 2021. <https://www.marketplace.org/2021/03/01/industrial-policy-if-china-does-it-why-cant-we/>

- (60) Specifically in the sector of the product under review, i.e. the steel sector, a substantial degree of ownership by the GOC persists in the sense of Article 2(6a) (b), first indent of the basic Regulation. The investigation confirmed that two main producers of the product under review, namely Daye Special Steel Ltd and Zhejiang Pacific Seamless Tube are state-owned. Daye Special Steel Ltd and Zhejiang Pacific Seamless Tube, are subsidiaries of CITIC Pacific Special Steel. CITIC Pacific Special Steel is one of the largest dedicated manufacturers of special steel in China <sup>(22)</sup> and it belongs to CITIC Limited, which is a SOE and one of China's largest conglomerates <sup>(23)</sup>. In its 2021 Annual report, CITIC states that *'CITIC is committed to carrying out the national strategy, including green and low-carbon transformation, in order to fulfil the 14th Five-Year Plan. We will also strive to become a pioneer among state-owned enterprises in contributing to our dual carbon objectives and to become an ESG role model in the capital market' <sup>(24)</sup>*.
- (61) Both public and privately owned enterprises in the steel sector are subject to policy supervision and guidance. The latest Chinese policy documents concerning the steel sector confirm the continued importance which GOC attributes to the sector, including the intention to intervene in the sector in order to shape it in line with the government policies. This is exemplified by the Ministry of Industry and Information Technology's draft Guiding Opinion on Fostering a High Quality Development of Steel Industry which calls for further consolidation of the industrial foundation and significant improvement in the modernization level of the industrial chain <sup>(25)</sup>, by the 14<sup>th</sup> FYP on Developing the Raw Material Industry according to which the sector will *'adhere to the combination of market leadership and government promotion'* and will *'cultivate a group of leading companies with ecological leadership and core competitiveness'* <sup>(26)</sup> or also by the 14<sup>th</sup> FYP on Developing Scrap Steel Industry whose key objectives is to *'continuously increase the application ratio of scrap steel, and by the end of the 14<sup>th</sup> FYP, the comprehensive scrap ratio of national steel making will reach 30 %.'* <sup>(27)</sup>
- (62) Similar examples of the intention by the Chinese authorities to supervise and guide the developments of the sector can be seen at the provincial level, such as in Hebei which plans to *'steadily implement the group development of organizations, accelerate the reform of mixed ownership of state-owned enterprises, focus on promoting the cross-regional merger and reorganization of private iron and steel enterprises, and strive to establish 1-2 world-class large groups, 3-5 large groups with domestic influence as the support'* and to *'further expand the recycling and circulation channels of scrap steel, strengthen the screening and classification of scrap steel.'* <sup>(28)</sup> Moreover, Hebei's plan in the steel sector states: *'Adhere to structural adjustment and highlight product diversification. Unswervingly promote the structural adjustment and layout optimization of the iron and steel industry, promote the consolidation, reorganization, transformation and upgrading of enterprises, and comprehensively promote the development of the iron and steel industry in the direction of large-scale enterprises, modernization of technical equipment, diversification of production processes, and diversification of downstream products'*.
- (63) Similarly, the Henan Implementation Plan for the Transformation and Upgrade of the Steel Industry during the 14<sup>th</sup> FYP foresees the *'construction of characteristic steel production bases [...], build 6 characteristic steel production bases in Anyang, Jiyuan, Pingdingshan, Xinyang, Shangqiu, Zhouou, etc., and improve the scale, intensification and specialization of the industry. Among them, by 2025, the production capacity of pig iron in Anyang will be controlled within 14 million tons, and the production capacity of crude steel will be controlled within 15 million tons.'* <sup>(29)</sup>

<sup>(22)</sup> See: <https://en.citicsteel.com>

<sup>(23)</sup> See CITIC Limited Annual Report 2021. 20220421630869.pdf (citic.com)

<sup>(24)</sup> See CITIC Annual Report 2021, page 144. 20220421630869.pdf (citic.com)

<sup>(25)</sup> See: [https://www.miit.gov.cn/jgsj/ycls/gzdt/art/2020/art\\_8fc2875eb24744f591bfd946c126561f.html](https://www.miit.gov.cn/jgsj/ycls/gzdt/art/2020/art_8fc2875eb24744f591bfd946c126561f.html) (accessed on 24 February 2023).

<sup>(26)</sup> See Section IV, Subsection 3 of the 14<sup>th</sup> FYP on Developing the Raw Materials Industry.

<sup>(27)</sup> See Section II, Subsection 1 of the 14<sup>th</sup> FYP on Developing Scrap Steel Industry.

<sup>(28)</sup> See the Hebei Province's Three Year Action Plan on Cluster Development in the Steel Industry Chain, Chapter I, Section 3; available at: <https://huanbao.bjx.com.cn/news/20200717/1089773.shtml> (accessed on 24 February 2023).

<sup>(29)</sup> See the Henan Implementation Plan for the Transformation and Upgrade of the Steel Industry during the 14<sup>th</sup> FYP, Chapter II, Section 3; available at: <https://huanbao.bjx.com.cn/news/20211210/1192881.shtml> (accessed on 23 February 2023).

- (64) Further industrial policy objectives can also be seen in the planning documents of other provinces, such as Jiangsu <sup>(30)</sup>, Shandong <sup>(31)</sup>, Shanxi <sup>(32)</sup>, Liaoning Dalian <sup>(33)</sup> or Zhejiang <sup>(34)</sup>.
- (65) As to the GOC being in a position to interfere with prices and costs through State presence in firms in the sense of Article 2(6a) (b), second indent of the basic Regulation, it was not possible to systematically establish the existence of personal connections between producers of the product under review and the CCP. However, there are some specific examples for the product under review.
- (66) For instance, the chairman of the Board of Directors of CITIC Pacific Special Steel is secretary of the Party Committee <sup>(35)</sup>. Moreover, the Chairman of the supervisory board of CITIC Pacific Special Steel is deputy secretary of the Party Committee. <sup>(36)</sup>
- (67) Further, policies discriminating in favour of domestic producers or otherwise influencing the market in the sense of Article 2(6a) (b), third indent of the basic Regulation are in place in the sector of the product under review. The investigation identified other documents showing that the industry benefits from governmental guidance and intervention into the steel sector, given that the product under review represents one of its subsectors.
- (68) The steel industry keeps being regarded as a key industry by the GOC <sup>(37)</sup>. This is confirmed in the numerous plans, directives and other documents focused on steel, which are issued at national, regional and municipal level. Under the 14<sup>th</sup> FYP, the GOC earmarked the steel industry for transformation and upgrade, as well as optimization and structural adjustment <sup>(38)</sup>. Similarly, the 14<sup>th</sup> FYP on Developing the Raw Materials Industry, applicable also to the steel industry, lists the sector as the *'bedrock of the real economy'* and *'a key field that shapes China's international competitive edge'* and sets a number of objectives and working methods which would drive the development of the steel sector in the time period 2021-2025, such a technological upgrade, improving the structure of the sector (not least by means of further corporate concentrations) or digital transformation. <sup>(39)</sup>
- (69) The important raw material used for the production of the product under review is iron ore. Iron ore is also mentioned in the 14<sup>th</sup> FYP on Developing the Raw Materials Industry, in which the State plans to *'rationally develop domestic mineral resources. Strengthen the exploration of iron ore [...], implement preferential tax policies, encourage the adoption of advanced technology and equipment to reduce the generation of mining solid waste.'* <sup>(40)</sup> In provinces, such as Hebei, the authorities foresee the following for the sector: *'new project investment discount subsidy; explore and guide*

<sup>(30)</sup> Jiangsu Province's Work Plan Steel Sector Transformation and Upgrade and Layout Optimisation 2019-2025; available at: [http://www.jiangsu.gov.cn/art/2019/5/5/art\\_46144\\_8322422.html](http://www.jiangsu.gov.cn/art/2019/5/5/art_46144_8322422.html) (accessed on 23 February 2023).

<sup>(31)</sup> Shandong Province's 14 FYP on the Steel Industry Development; available at: [http://gxt.shandong.gov.cn/art/2021/11/18/art\\_15681\\_10296246.html](http://gxt.shandong.gov.cn/art/2021/11/18/art_15681_10296246.html) (accessed on 23 February 2023).

<sup>(32)</sup> Shanxi Province's 2020 Steel Industry Transformation and Upgrade Action Plan; available at: [http://gxt.shanxi.gov.cn/zfxgk/zfxgkml/cl/202110/t20211018\\_2708031.shtml](http://gxt.shanxi.gov.cn/zfxgk/zfxgkml/cl/202110/t20211018_2708031.shtml) (accessed on 23 February 2023).

<sup>(33)</sup> Liaoning Dalian Municipality's 14 FYP on Developing Manufacturing Industry: *'By 2025, the industrial output value of new materials will reach 15 million yuan, and the level of equipment and key materials guarantee ability is obviously improved.'*; available at: [https://www.dl.gov.cn/art/2021/12/20/art\\_854\\_1995411.html](https://www.dl.gov.cn/art/2021/12/20/art_854_1995411.html) (accessed on 23 February 2023).

<sup>(34)</sup> Zhejiang Province's Action Plan to Foster a High Quality Development of the Steel Industry: *'Foster enterprise mergers and reorganisation, accelerate the concentration process, reduce the number of steel smelting enterprises to approximately 10 enterprises'*; available at: [https://www.dl.gov.cn/art/2021/12/20/art\\_854\\_1995411.html](https://www.dl.gov.cn/art/2021/12/20/art_854_1995411.html) (accessed on 23 February 2023).

<sup>(35)</sup> Page 38 of the 2021 Annual Report of CITIC Pacific special steel; available at: [file:finance.sina.com.cn/211.154.219.97:9494/MRGG/CNSESZ\\_STOCK/2022-3/2022-03-11/7877748.PDF](file:finance.sina.com.cn/211.154.219.97:9494/MRGG/CNSESZ_STOCK/2022-3/2022-03-11/7877748.PDF) (accessed on 23 February 2023).

<sup>(36)</sup> Ibid, p. 39.

<sup>(37)</sup> Report, Part III, Chapter 14, p. 346 ff.

<sup>(38)</sup> See People's Republic of China 14<sup>th</sup> Five-Year Plan for National Economic and Social Development and Long-Range Objectives for 2035, Part III, Article VIII, available at: <https://cset.georgetown.edu/publication/china-14th-five-year-plan/> (accessed on 23 February 2023).

<sup>(39)</sup> See in particular Sections I and II of the 14<sup>th</sup> FYP on Developing the Raw Materials Industry.

<sup>(40)</sup> See the 14<sup>th</sup> FYP on Developing the Raw Materials Industry, p. 22.

*financial institutions to provide low-interest loans for iron and steel enterprises to switch to new industries, and at the same time, the government will provide discount subsidies.’* <sup>(41)</sup> In sum, the GOC has measures in place to induce operators to comply with the public policy objectives of supporting encouraged industries, including the production of the main raw materials used in the manufacturing of the product under review. Such measures impede market forces from operating freely.

- (70) The product under review is also affected by the distortions of wage costs in the sense of Article 2(6a) (b), fifth indent of the basic Regulation, as also referred to above in recital 58. Those distortions affect the sector both directly (when producing the product under review or the main inputs), as well as indirectly (when having access to inputs from companies subject to the same labour system in the PRC) <sup>(42)</sup>.
- (71) Moreover, no evidence was submitted in the present investigation demonstrating that the sector of the product under review is not affected by the government intervention in the financial system in the sense of Article 2(6a)(b), sixth indent of the basic Regulation, as also referred to above in recital 58. Therefore, the substantial government intervention in the financial system leads to the market conditions being severely affected at all levels.
- (72) Finally, the Commission recalls that, in order to produce the product under review, a number of inputs is needed. When the producers of the product under review purchase/contract these inputs, the prices they pay (and which are recorded as their costs) are clearly exposed to the same systemic distortions mentioned before. For instance, suppliers of inputs employ labour that is subject to the distortions. They may borrow money that is subject to the distortions on the financial sector/capital allocation. In addition, they are subject to the planning system that applies across all levels of government and sectors.
- (73) As a consequence, not only the domestic sales prices of the product under review are not appropriate for use within the meaning of Article 2(6a) (a) of the basic Regulation, but all the input costs (including raw materials, energy, land, financing, labour, etc.) are also affected because their price formation is affected by substantial government intervention, as described in Parts I and II of the Report. Indeed, the government interventions described in relation to the allocation of capital, land, labour, energy and raw materials are present throughout the PRC. This means, for instance, that an input that in itself was produced in the PRC by combining a range of factors of production, is exposed to significant distortions. The same applies for the input to the input and so forth.
- (74) In sum, the evidence available showed that prices or costs of the product under review, including the costs of raw materials, energy and labour, are not the result of free market forces because they are affected by substantial government intervention within the meaning of Article 2(6a) (b) of the basic Regulation, as shown by the actual or potential impact of one or more of the relevant elements listed therein. On that basis, and in the absence of any cooperation from the GOC, the Commission concluded that it is not appropriate to use domestic prices and costs to establish normal value in this case. Consequently, the Commission proceeded to construct the normal value exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks, that is, in this case, on the basis of corresponding costs of production and sale in an appropriate representative country, in accordance with Article 2(6a) (a) of the basic Regulation, as described in the following section.

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

<sup>(41)</sup> See the Hebei Tangshan Municipality Iron and Steel 1+3 Action Plan 2022, Chapter 4, Section 2; available at: <http://www.chinaisa.org.cn/gxportal/xfgl/portal/content.html?articleId=e2bb5519aa49b566863081d57aea9dfdd59e1a4f482bb7acd243e3ae7657c70b&columnId=3683d857cc4577e4cb75f76522b7b82cda039ef70be46ee37f9385ed3198f68a> (accessed at 23 February 2023).

<sup>(42)</sup> See Implementing Regulation (EU) 2021/635, recitals 134-135 and Implementing Regulation (EU) 2020/508, recitals 143-144.

#### 4.4. Representative country

##### 4.4.1. General remarks

- (76) The choice of the representative country was based on the following criteria pursuant to Article 2(6a) of the basic Regulation:
- A level of economic development similar to the PRC. For this purpose, the Commission used countries with a gross national income per capita similar to the PRC, on the basis of the database of the World Bank <sup>(43)</sup>;
  - Production of the product under review in that country <sup>(44)</sup>;
  - Availability of relevant public data in the representative country.
  - Where there is more than one possible representative country, preference should be given, where appropriate, to the country with an adequate level of social and environmental protection.
- (77) As explained in recital 49, the Commission issued a Note on the sources for the determination of the normal value. This Note describes the facts and evidence underlying the relevant criteria. The Note also informed interested parties of the Commission's intention to consider Mexico as an appropriate representative country in the present case if the existence of significant distortions pursuant to Article 2(6a) of the basic Regulation would be confirmed.

##### 4.4.2. A level of economic development similar to the PRC and production of the product under review

- (78) In the Note, the Commission identified 55 countries with a similar level of economic development as the PRC according to the World Bank, i.e. they are all classified by the World Bank as 'upper-middle income' countries on a gross national income basis <sup>(45)</sup>.
- (79) According to the information available to the Commission, the product under review is produced in seven countries: Canada, Japan, Mexico, Russian Federation, Saudi Arabia, South Korea and USA. Only two out of the seven countries are amongst 55 countries identified by the World Bank as having a gross national income similar to the People's Republic of China – the 'upper middle income' group. These countries are Mexico and the Russian Federation.
- (80) The Commission further assessed the existence of market distortions by export and/or import restrictions on the product under review, as well as on the raw materials, namely those representing the most important items of cost of manufacturing used for producing the product under review. It found that in the Russian Federation, trade restrictions exist on steel scrap, electricity and gas, which are all important production factors used for the production of the product under review. In view of these trade restrictions in the Russian Federation, the Commission considered that the Russian Federation could not be considered an appropriate representative country.
- (81) No such restrictions were found for Mexico. Mexico has the same level of economic development as the People's Republic of China and no restrictions on factors of production nor on the product under review were found.

<sup>(43)</sup> World Bank Open Data – Upper Middle Income, <https://data.worldbank.org/income-level/upper-middle-income>

<sup>(44)</sup> If there is no production of the product under review in any country with a similar level of development, production of a product in the same general category and/or sector of the product under review may be considered.

<sup>(45)</sup> After disregarding Bulgaria, which is a member of the EU, the following 'upper middle income' countries could be considered for the process of identifying the possible representative country: Albania, American Samoa, Argentina, Armenia, Azerbaijan, Belarus, Belize, Bosnia and Herzegovina, Botswana, Brazil, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, Equatorial Guinea, Fiji, Gabon, Georgia, Grenada, Guatemala, Guyana, Indonesia, Iran, Iraq, Jamaica, Jordan, Kazakhstan, Kosovo, Lebanon, Libya, Malaysia, Maldives, Marshall Islands, Mexico, Montenegro, Namibia, North Macedonia, Paraguay, Peru, Russian Federation, Samoa, Serbia, South Africa, St. Lucia, St. Vincent and the Grenadines, Suriname, Thailand, Tonga, Türkiye, Turkmenistan, Tuvalu and Venezuela.

- (82) After initiation, exporting producers Daye Special Steel Co., Ltd and Zhejiang Pacific Seamless Steel Tube Co., Ltd argued that Mexico may not fully satisfy the criteria for being an appropriate third country because: first, the production process appears to be different than the one Chinese exporting producers have; and second, the range of products produced by the Mexican producers seems much narrower (or less diversified) than the ones produced and exported by the Chinese exporting producers.
- (83) Apart from this general claim, the submission of the exporting producers did not contain any concrete evidence on why the production process and the product scope of producers of the product under review in Mexico was different compared to the PRC and what would be the impact on the factors of production. The Commission thus rejected the claim. No further comments were received.

#### *4.4.3. Availability of relevant public data in the representative country*

- (84) The Commission analysed imports of the main factors of production into Mexico. The analysis of import data showed that factors of production used for the production of the product under review are imported into Mexico in sufficient quantities to constitute an appropriate benchmark and that these imports were not affected by imports from the PRC or any of the countries listed in Annex I to Regulation (EU) 2015/755 of the European Parliament and of the Council <sup>(46)</sup>.
- (85) The Commission also identified a company – Tamsa – whose recent financial data for the determination of manufacturing overhead, SG&A and profit, are available based on the financial data of the Tenaris Group (see Section 4.7.5).
- (86) In light of the above considerations, the Commission informed the interested parties that it intended to use Mexico as an appropriate representative country and the company Tamsa, in accordance with Article 2(6a)(a), first indent of the basic Regulation, in order to source undistorted prices or benchmarks for the calculation of normal value.
- (87) Interested parties were invited to comment on the appropriateness of Mexico as a representative country and of Tamsa as a producer of the product under review in the representative country.
- (88) Apart from the comments detailed in recital 82, no comments were received.

#### **4.5. Level of social and environmental protection**

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

#### **4.6. Conclusion**

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

#### **4.7. Sources used to establish undistorted costs**

- (91) In the Note on the sources for the determination of the normal value, the Commission listed the factors of production such as materials, energy and labour used in the production of the product under review by the exporting producers and invited the interested parties to comment and propose publicly available information on undistorted values for each of the factors of production mentioned in that note.

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<sup>(46)</sup> Regulation (EU) 2015/755 of the European Parliament and of the Council of 29 April 2015 on common rules for imports from certain third countries (OJ L 123, 19.5.2015, p. 33) as amended by Commission Delegated Regulation (EU) 2017/749 of 24 February 2017 (OJ L 113, 29.4.2017, p. 11).

- (92) The Commission also stated that, in order to construct the normal value in accordance with Article 2(6a) (a) of the basic Regulation, it would use the database Global Trade Atlas ('GTA') <sup>(47)</sup> to establish the undistorted cost of most of the factors of production, notably the raw materials.
- (93) Considering all the information based on the request and subsequent information submitted by the applicant/interested parties and collected during the verification visits, the following factors of production and their sources have been identified in order to determine the normal value in accordance with Article 2(6a)(a) of the basic Regulation:

Table 1

**Factors of production and source of information**

Raw materials	Commodity codes in Mexico	Value	Units	Source of information
Billets (semi-finished product of iron or non-alloy steel containing by weight 0,25 % of carbon)	720720	4,72	CNY/KG	GTA
Water	22019001 22019090	2,01	CNY/L	GTA
Nitrogen	280430	1,14	CNY/KG	GTA

**Labour**

Labour	N/A	17,21	CNY/hour	International Labour Organisation (ILO)
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**Energy**

Electricity	N/A	1,09	CNY/Kwh	GlobalPetrolPrices.com
Gas	[N/A]	0,12	CNY/m <sup>3</sup>	CRE ('Comisión Reguladora de Energía')

**By product/waste**

Steel scrap	720410 720441 720449	3,31	CNY/KG	GTA
Recycling cutters – scrap steel	72041001	3,47	CNY/KG	GTA

**4.7.1. Raw materials**

- (94) In order to establish the undistorted price of raw materials as delivered at the gate of a representative country producer, the Commission used as a basis the weighted average import price to the representative country, as reported in the GTA, to which import duties were added. An import price in the representative country was determined as a weighted average of unit prices of imports from all third countries, excluding the PRC and countries which are not members of the WTO, listed in Annex I of Regulation (EU) 2015/755. The Commission decided to exclude imports from the PRC into the representative country as it concluded that it is not appropriate to

<sup>(47)</sup> <https://www.gtis.com/gta/>

use domestic prices and costs in the PRC due to the existence of significant distortions, in accordance with Article 2(6a)(b) of the basic Regulation. Given that there is no evidence showing that the same distortions do not equally affect products intended for export, the Commission considered that the same distortions affected export prices. After excluding imports from the PRC into the representative country, the volume of imports from other third countries remained representative. The weighted average import price was adjusted for import duties, where appropriate.

- (95) For a number of factors of production, the actual costs incurred by the cooperating exporting producers represented a negligible share of total raw material costs in the review investigation period. As the value used for these had no appreciable impact on the dumping margin calculations, regardless of the source used, the Commission decided to include those costs into consumables.
- (96) In their comments following final disclosure, the cooperating exporting producers questioned the method used by the Commission to calculate undistorted values for consumables. Instead of establishing the total amount of consumables as a percentage of the total direct raw material costs and applying this percentage to the total undistorted raw material costs (the benchmark), it was argued that the Commission should have used an undistorted value for each individual item.
- (97) The Commission noted that it is its standard practice not to calculate an individual benchmark for consumables but to express them as a percentage of the total raw material cost on the basis of the cost data reported by the exporting producers and then to apply this percentage to the recalculated cost of materials when using the established undistorted prices. In addition, as explained in recital 95, these costs represented a negligible value and regardless of the method used, they would have had no appreciable impact on the dumping margin calculations. The Commission considered that its methodology for calculating an undistorted value for consumables was appropriate, in that it preserved the cost structure of the relevant exporting producers. Moreover, no better information was available at time of the investigation and as the exporting producers did not substantiate their comments by quantifying the impact of using their proposed method. Therefore the claim regarding consumables was rejected.
- (98) The Commission expressed the transport cost incurred by the cooperating exporting producers for the supply of raw materials as a percentage of the actual cost of such raw materials and then applied the same percentage to the undistorted cost of the same raw materials, in order to obtain the undistorted transport cost. The Commission considered that, in the context of this investigation, the ratio between the exporting producer's raw material and the reported transport costs could be reasonably used as an indication to estimate the undistorted transport costs of raw materials when delivered to the company's factory.

#### 4.7.2. *Labour*

- (99) International Labour Organization ('ILO') provides information on average monthly earnings of employees and average weekly hours actually worked per employed person in Mexico every year in different sectors.
- (100) The Commission used that information of 2021 to determine the average hourly wage in the manufacturing sector <sup>(48)</sup>. To arrive at the total labour cost, the Commission relied on the data published by OECD in *Taxing Wages 2021*, which covered the period of 2021 <sup>(49)</sup>. To the hourly wage in manufacturing, the Commission added social security contributions.

<sup>(48)</sup> Available at: [https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.ilo.org%2Filo-stat-files%2FDocuments%2FExcel%2FIndicator%2FEAR\\_4MTH\\_SEX\\_ECO\\_CUR\\_NB\\_A\\_EN.xlsx&wdOrigin=BROWSELINK](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.ilo.org%2Filo-stat-files%2FDocuments%2FExcel%2FIndicator%2FEAR_4MTH_SEX_ECO_CUR_NB_A_EN.xlsx&wdOrigin=BROWSELINK) (last viewed on 11 February 2023).

<sup>(49)</sup> [https://www.oecd-ilibrary.org/sites/83a87978-en/1/3/2/24/index.html?itemId=/content/publication/83a87978-en&csp\\_ =3445743d6909dcc02824b5f0a2e07895&itemIGO=oecd&itemContentType=book](https://www.oecd-ilibrary.org/sites/83a87978-en/1/3/2/24/index.html?itemId=/content/publication/83a87978-en&csp_ =3445743d6909dcc02824b5f0a2e07895&itemIGO=oecd&itemContentType=book) (last viewed on 14 February 2023).

#### 4.7.3. Electricity

- (101) The average electricity prices for businesses per kWh in Mexico in 2021 is published by GlobalPetrolPrices.com, i.e., the source identified in the review request. Based on this price, the Commission determined the average electricity price in the review investigation period (2021) <sup>(50)</sup>.

#### 4.7.4. Natural gas

- (102) The price of natural gas for companies (industrial users) in Mexico is published by the energy regulator 'Comisión Reguladora de Energía' (CRE) on a monthly basis. The Commission used an average price for businesses reported by the CRE in the review investigation period <sup>(51)</sup>.

#### 4.7.5. Manufacturing overhead costs, SG&A, profits

- (103) According to Article 2(6a) (a) of the basic Regulation, *'the constructed normal value shall include an undistorted and reasonable amount for administrative, selling and general costs and for profits'*. In addition, a value for manufacturing overhead costs needs to be established to cover costs not included in the factors of production referred to above.
- (104) To establish an undistorted and reasonable amount for SG&A and profits, the Commission used financial data relating to the activities of Tamsa, available within the consolidated financial accounts of the mother company, Tenaris S.A. <sup>(52)</sup>
- (105) The manufacturing overheads incurred by the cooperating exporting producers were expressed as a share of the costs of manufacturing actually incurred by the exporting producers. This percentage was applied to the undistorted costs of manufacturing.
- (106) In their comments following final disclosure, the cooperating exporting producers questioned the method used by the Commission to calculate overheads for the same reasons as they questioned the method used to calculate consumables, see recital 96, arguing that the Commission instead of having used a ratio for overheads and applying this to the undistorted direct cost, should have established all the factors separately and have replaced theses with surrogate values.
- (107) With regard to this claim, the Commission noted that the overheads data separately for each factor was not readily available in the financial statements of the producer in the representative country. Therefore, the Commission considered that its methodology for calculating an undistorted value for overheads was appropriate, in that it preserved the cost structure of the relevant exporting producers. Moreover, no better information was available as the exporting producers did not suggest an alternative undistorted benchmark for overheads. Therefore, the claim regarding overheads was rejected.

#### 4.7.6. Calculation of the normal value

- (108) On the basis of the above, the Commission constructed the normal value per product type on an ex-works basis, in accordance with Article 2(6a) (a) of the basic Regulation.
- (109) First, the Commission established the undistorted manufacturing costs. The Commission applied the undistorted unit costs to the actual consumption of the individual factors of production of the cooperating exporting producers. The Commission reduced the costs of manufacturing by the undistorted costs of by-products re-used in the production process. These consumption ratios were verified during the verification. The Commission multiplied the consumption ratios by the undistorted costs per unit observed in the representative country (Mexico), as described in Table 1.

<sup>(50)</sup> <https://www.globalpetrolprices.com/Mexico/>, (last viewed on 14 February 2023).

<sup>(51)</sup> <https://www.cre.gob.mx/IPGN/index.html>, (last viewed on 14 February 2023).

<sup>(52)</sup> <https://ir.tenaris.com/static-files/ddffd7cb-994e-493a-b85a-2586f03046c6>, (last viewed on 14 February 2023).

- (110) Once the undistorted manufacturing cost were established, the Commission added the manufacturing overheads, SG&A and profit as noted in Section 4.7.5. Manufacturing overheads were determined based on the data of the exporting producers. SG&A and profit were determined based on the financial statements of 2021 of Tenaris Group <sup>(53)</sup>, incorporating the Mexican subsidiary Tamsa. The Commission added the following items to the undistorted costs of manufacturing:
- Manufacturing overheads, which accounted in total for 7,8 % of the direct costs of manufacturing,
  - SG&A, which accounted for 26,16 % of the Costs of Goods Sold ('COGS') of the Tenaris Group incorporating the Mexican subsidiary Tamsa and,
  - Profits, which amounted to 15,34 % of the COGS as achieved by the Tenaris Group.
- (111) On that basis, the Commission constructed the normal value per product type on an ex-works basis in accordance with Article 2(6a) (a) of the basic Regulation.
- (112) The exporting producers questioned the way SG&A and profits were determined by the Commission by asking why SG&A and profit were expressed as a percentage of COGS instead of turnover, whether direct selling expenses were included in SG&A and why the Commission had used the SG&A and profit of the Tenaris Group instead of the product concerned of the Mexican subsidiary Tamsa.
- (113) The Commission noted that it is its standard practice to express SG&A and profit as a percentage of COGS to construct the normal value and to include direct selling expenses in the SG&A. Article 2(6a)(a) of the basic Regulation requires that the normal value is constructed on the basis of costs of production and that it includes an undistorted and reasonable amount for SG&A costs and for profits. It follows that to construct the normal value based on costs, the SG&A and profit which are to be added to these costs need to be expressed in function of these costs. The Commission used the SG&A and profit of the Tenaris group as the SG&A and profit of Tamsa was not available, and because the data of the Tenaris group was the best readily available alternative. Therefore, the Commission considered that its methodology for calculating SG&A and profit was appropriate, not least as no better information was available and rejected the claim.

#### 4.7.7. *Export price*

- (114) The cooperating exporting producers exported to the Union either directly to independent customers or through a related trader located in the PRC.
- (115) The Commission determined the export price as the price actually paid or payable for the product under review when sold for export to the Union, in accordance with Article 2(8) of the basic Regulation.

#### 4.7.8. *Comparison*

- (116) The Commission compared, per product type, the constructed normal value established in accordance with Article 2(6a) (a) of the basic Regulation and the export price of the cooperating exporting producers on an ex-works basis as established above.
- (117) 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 bank charges, commissions, credit costs, freight, handling, other discounts, packing and insurance.

#### 4.7.9. *Dumping margins*

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

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<sup>(53)</sup> <https://ir.tenaris.com/static-files/ddffd7cb-994e-493a-b85a-2586f03046c6>, (last viewed on 14 February 2023).

- (119) On this basis, the weighted average dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, was in the range of 10 % to 44 % for the cooperating exporting producers. It was therefore concluded that dumping continued during the review investigation period.

## 5. LIKELIHOOD OF CONTINUATION OF DUMPING

- (120) Further to the finding of the existence of dumping during the review investigation period, the Commission investigated, in accordance with Article 11(2) of the basic Regulation, the likelihood of continuation of dumping, should the measures be repealed. The following additional elements were analysed: the production capacity and spare capacity in the PRC and the attractiveness of the Union market.

### 5.1. Production capacity and spare capacity in the PRC

- (121) According to the applicants, the PRC is the biggest producer of the product under review in the world with 23 producers, with a total of 33 production lines.
- (122) In the review investigation period, according to the applicants' estimates, the total production in the PRC of the product under review represented around 2,3 million tonnes. According to the same source, the total estimated production capacity was 5 million tonnes. Hence the spare capacity to produce the product under review in the PRC during the review investigation period represented around 2,7 million tonnes. Since the Union consumption in the review investigation period was estimated at around 100 thousand tonnes (see Table 2), the spare capacity of the Chinese exporting producers exceeded the consumption of the product under review in the Union market around 27 times. In comparison, the applicants estimated that during the same period, the production capacities of the 12 existing companies in the rest of the world were around 2,9 million tonnes <sup>(54)</sup>. Due to the non-cooperation by the Government of China and the low cooperation of Chinese exporting producers, the Commission did not receive further information in respect of the production in the PRC and imports into the Union.
- (123) However, in light of the (high) production levels and spare capacity in the PRC in comparison to the Union, the Commission considered it likely that Chinese exporting producers would redirect their spare capacities increasingly towards the Union market in large quantities at dumped prices should the measures lapse.

### 5.2. Attractiveness of the Union market and the prices on the Union market.

- (124) During the review investigation period, the Chinese exporting producers continued to export the product under review to the Union. The exports of the cooperating Chinese exporting producers amounted in the review investigation period to 2,9 thousand tonnes which represented between [2,5-3,5 %] of the market share in the Union market. As detailed in recital 43, since the imports into the EU only relate to the cooperating exporting producers' data, while overall production in the PRC in the review investigation period was considerably higher, the total Chinese exporting producers' market share of the product under review in the Union was likely higher. Therefore, the Union market remains an attractive export market for the Chinese exporting producers, despite the measures in force.
- (125) In the applicants' view, the attractiveness of the Union market lies as well in the relatively high average price level, customers' solvability and sound logistical infrastructure with well-equipped harbours, storage and distribution facilities, and a high level of industrial consumption. Furthermore, the Union is at present the largest steel market in the world in terms of volumes.
- (126) Furthermore, in the review investigation period, based on the comparison between the prices of the sampled Union producers and the cooperating Chinese exporting producers, the Chinese export prices undercut the Union prices, when the anti-dumping duty is excluded (see recital 152), demonstrating that the Union market is attractive in terms of prices.

<sup>(54)</sup> Excluding the Union market.

- (127) The implementation of the US section 232 measures and in particular their import duties on the product concerned from the Chinese exporting producers further limit the possibilities for exporting producers to export the product concerned to other important destinations than the Union.
- (128) Therefore, in terms of the size and the prices, the Union market remained an attractive market for the Chinese exporting producers.

### 5.3. Conclusion on likelihood of continuation of dumping

- (129) The investigation showed that the Chinese exports continued to enter the Union market at dumped prices during the review investigation period.
- (130) The spare capacity in the PRC was significant in comparison with the Union consumption during the review investigation period. Moreover, the attractiveness of the Union market in terms of size and prices supported the likelihood that Chinese exports and spare capacity would be directed towards the Union market, should the measures lapse.
- (131) Consequently, the Commission concluded that there is a likelihood that the expiry of the anti-dumping measures would result in a significant increase of dumped imports of the product under review from China to the Union.
- (132) In light of the above, the Commission concluded that the expiry of the anti-dumping measures would likely lead to a continuation of dumping.

## 6. INJURY

### 6.1. Definition of the Union industry and Union production

- (133) The like product was manufactured by six producers that are located in different Member States, during the period considered. They constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.
- (134) The total Union production during the review investigation period was established at around 196 050 tonnes. The Commission established the figure on the basis of all the available information concerning the Union industry, such as European Steel Tube Association for the non-sampled EU producers and the questionnaire responses submitted by the sampled Union producers. As indicated in recital 20, three Union producers were selected in the sample, representing almost 76 % and 67 % of the total production and sales volumes, respectively, of the known Union producers of the like product.

### 6.2. Union consumption

- (135) The Commission established the Union consumption on the basis of Eurostat import statistics and sales volumes of the Union industry in the Union, as submitted by the applicant for the non-sampled EU producers and the questionnaire responses submitted by the sampled Union producers. The Commission used data ranges for free and captive market, as well as for market shares, in order to ensure that sensitive data is not revealed for one Union producer.
- (136) Union consumption developed as follows:

Table 2

#### Union consumption tonnes

	2018	2019	2020	Review Investigation period
Total Union consumption	111 875	108 571	95 285	102 189
Index	100	97	85	91

Captive market	[4 500–5 500]	[9 000–10 000]	[5 500–6 500]	[6 000–7 000]
<i>Index</i>	100	188	119	126
Free market	[100 000– 110 000]	[90 000 – 100 000]	[80 000 –90 000]	[86 000–96 000]
<i>Index</i>	100	93	84	90

Source: Comext, cooperating exporting producers, ESTA and the sampled Union producers.

- (137) The Union consumption decreased by 3 % in the period between 2018 and 2019, decreased by more than 12 % in the period between 2019 and 2020 and then improved by more than 5 % in the period between 2020 and the review investigation period. Overall, it decreased 9 % from 2018 to the review investigation period.
- (138) The Union industry reported captive use of the product under review which represented less than 5 % of the total Union consumption in 2018. During the period considered, it increased by 26 %.
- (139) Free market consumption decreased by 10 % during the period considered. It decreased by 7 % between 2018 and 2019, by 9,6 % between 2019 and 2020 and then improved by 7 % in the period 2020 and the review investigation period.

### 6.3. Imports into the Union from the country concerned

#### 6.3.1. Volume and market share of the imports from the country concerned

- (140) Based on the cooperating exporting producers data, the volume of imports and market share of imports of the product under review, developed as set out below. As the data came from only two exporting producers, it was provided in ranges for reasons of confidentiality.
- (141) Imports into the Union from the country concerned developed as follows:

Table 3

#### Import volume (tonnes) and market share

	2018	2019	2020	Review Investigation period
Volume of imports from the country concerned (tonnes)	[1 300 – 1 400]	[1 500 – 1 600]	[1 250 – 1 350]	[2 800 – 2 900]
<i>Index</i>	100	111	95	204
Market share	[1 – 3] %	[1,2 – 3,2] %	[1,1 – 3,1] %	[2,5 – 3,5] %
<i>Index</i>	100	120	113	227

Source: cooperating exporting producers.

- (142) In the original investigation, the market share of imports from China in the Union was 26,8 %. By contrast, the market share was [2,5 – 3,5] % during the review investigation period. Consequently, the market share of imports from China was drastically reduced as a result of the anti-dumping measures in force. However, in a context of decreasing consumption, Chinese imports increased over the period considered to the detriment of the Union industry. The volume of total imports from the PRC increased by 104 % for the period considered and amounted to [2 800 – 2 900] tonnes during the review investigation period. Although the market share of Chinese imports increased, it remained relatively limited by [2,5 – 3,5] % in the same period.

- (143) In particular, the market share of imports from the PRC has increased by 20 % in the period between 2018 and 2019, increased by 13 % in the period between 2018 and 2020 in spite of the decrease in Union consumption of free market by 16 % and increased by 127 % over the period considered. The increase in market share of the imports from the PRC in the period considered took place despite the existing anti-dumping measures and the COVID crisis.
- (144) As it is mentioned in recital 42, the volume of imports from the PRC into the Union of the product under review and the market share of the Chinese exporting producers, are based upon the verified data of the cooperating exporting producers and the information in the review request, for the period considered and the review investigation period.
- (145) Following final disclosure the cooperating exporting producers, Daye Special Steel Co. Ltd., Zhejiang Pacific Seamless Steel Tube Co. and Yangzhou Chengde Steel Pipe, Co. Ltd, argued that it is unclear why the import volumes used in the investigation were based on the data reported by the cooperating exporting producers rather than Comext database.
- (146) As mentioned in recital 42, the Commission considered that, in this case, the statistical information was not reliable and could not be used to determine the actual volume of imports from the PRC and therefore preferred to base its findings on the verified data of the cooperating exporting producers. Moreover, no evidence was submitted in the present investigation demonstrating that it is inappropriate to use the volume of exports declared by the cooperating exporting producers. On this basis, this claim was rejected.

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

- (147) The Commission established the prices and the undercutting of the imports from the PRC into the Union on the basis of the data of the cooperating exporting producers.
- (148) As the data came from only two exporting producers, the average import price was provided in ranges for reasons of confidentiality.
- (149) The average price of imports into the Union from the country concerned developed as follows:

Table 4

#### Import prices (EUR/tonne)

	2018	2019	2020	Review Investigation period
Average import price (EUR/tonne)	[1 300 – 1 400]	[1 300 – 1 400]	[1 300 – 1 400]	[1 500 – 1 600]
Index	100	99	96	113

Source: cooperating exporting producers.

- (150) The average import price decreased by 1 % between 2018 and 2019, decreased by 4 % between 2018 and 2020 and increased by 13 % between 2018 and the review investigation period.
- (151) The Commission determined the price undercutting during the review investigation period by comparing:
1. the weighted average sales prices per product type of the sampled Union producers charged to unrelated customers on the Union market, adjusted to an ex-works level; and

2. the corresponding weighted average prices per product type of the imports from the cooperating exporting producers to the first independent customer on the Union market, established on a cost, insurance, freight (CIF) basis, without the anti-dumping duty, with appropriate adjustments for customs duties and post-importation costs.

(152) The price comparison was made on a type-by-type basis for transactions and after deduction of rebates and discounts. The result of the comparison was expressed as a percentage of the sampled Union producers' turnover during the review investigation period. It showed a weighted average undercutting margin of between 21,6 % and 27 %, without anti-dumping duties, by the imports from the country concerned on the Union market. However, when the same comparison was carried out including the anti-dumping duties no undercutting was observed.

### 6.3.3. Imports from third countries other than the PRC

- (153) The imports of the product under review from third countries other than the PRC were mainly from Thailand, Ukraine and the United Kingdom.
- (154) The aggregated volume of imports into the Union, as well as the market share and price trends for the product under review from other third countries, developed as follows:

Table 5

### Imports from third countries

Country		2018	2019	2020	Review Investigation period
Thailand	Volume (tonne)	1 657	4 406	4 925	3 579
	Index	100	266	297	216
	Market share	[1,1 – 2,1] %	[4 – 5] %	[5 – 6] %	[3,2 – 4,2] %
	Average price (EUR/tonne)	1 059	1 105	962	1 071
	Index	100	104	91	101
Ukraine	Volume (tonne)	1 275	779	1 323	772
	Index	100	61	104	61
	Market share	[0,7 – 1,7] %	[0,5 – 1,5] %	[1 – 2] %	[0,5 – 1,5] %
	Average price (EUR/tonne)	990	800	672	667
	Index	100	81	68	67
United Kingdom	Volume (tonne)	332	542	525	658
	Index	100	163	158	198
	Market share	[0,1 – 0,5] %	[0,3 – 0,7] %	[0,4 – 0,8] %	[0,5 – 0,9] %

	Average price (EUR/tonne)	3 100	2 850	2 050	2 169
	Index	100	92	66	70
Other third countries	Volume (tonne)	4 979	4 390	2 795	1 502
	Index	100	88	56	30
	Market share	[4,2 – 5,2] %	[4 – 5] %	[2,5 – 3,5] %	[1 – 2] %
	Average price (EUR/tonne)	3 469	1 668	1 832	3 628
	Index	100	48	53	105
Total of all third countries except the country concerned	Volume (tonne)	8 243	10 117	9 568	6 511
	Index	100	123	116	79
	Market share	[7 – 8] %	[9,5 – 10,5] %	[10,5 – 11,5] %	[6,5 – 7,5] %
	Average price (EUR/tonne)	2 586	1 419	1 236	1 724
	Index	100	55	48	67

Source: Comext.

- (155) During the period considered, the import volume from Thailand increased by 116 %. The market share reached up to [5 – 6] % in 2020 and decreased during the review investigation period to [3,2 – 4,2] %. The average import price remained rather stable over the period considered. For the same reasons explained in recital 140 the market share of all other countries were provided in ranges.
- (156) During the period considered, the import volume from Ukraine decreased by 39 %. The market share reached up to [1 – 2] % in 2020 and decreased during the review investigation period to [0,5 – 1,5] %. The average import price decreased by 33 % over the period considered.
- (157) During the period considered, the import volume from United Kingdom increased by 98 %. The market share increased during the review investigation period to [0,5 – 0,9] %. The average import price decreased by 30 % over the period considered.
- (158) During the period considered, the import volume from other third countries decreased by 70 %. The market share reached up to [4 – 5] % in 2019 and decreased during the review investigation period to [1 – 2] %. Overall, the average import price increased by 5 % over the period considered.
- (159) The import volume from all third countries other than the country concerned fell by 21 % over the period considered. Also, the market share of the imports from all third countries other than the country concerned decreased to [6,5–7,5] %, during the review investigation period.

#### 6.4. Economic situation of the Union industry

##### 6.4.1. General remarks

- (160) The assessment of the economic situation of the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.
- (161) As mentioned in recital 20, sampling was used for the assessment of the economic situation of the Union industry. For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators on the basis of data contained in the information provided by the applicant, cross-checked with the verified questionnaire replies of the sampled Union producers and available official statistics. 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 and available official statistics. Both sets of data were found to be representative of the economic situation of the Union industry.
- (162) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity, magnitude of the dumping margin, and recovery from past dumping.
- (163) The microeconomic indicators are: average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital.

##### 6.4.2. Macroeconomic indicators

###### 6.4.2.1. Production, production capacity and capacity utilisation

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

Table 6

#### Production, production capacity and capacity utilisation

	2018	2019	2020	Review Investigation period
Production volume (tonne)	354 212	294 365	237 208	196 050
<i>Index</i>	100	83	67	55
Production capacity (tonne)	462 885	393 154	378 657	365 740
<i>Index</i>	100	85	82	79
Capacity utilisation	76,5 %	74,9 %	62,6 %	53,6 %
<i>Index</i>	100	98	82	70

Source: ESTA, verified questionnaire replies of the sampled Union producers.

- (165) The production volume reached record lows over the review investigation period. It decreased by 45 % during the period considered. More specifically, it decreased by 17 % between 2018 and 2019, then decreased by more than 19 % between 2019 and 2020 and by more than 17 % between 2020 and the review investigation period. This decrease was the result of the decrease in Union consumption as explained in section 6.2 above.

- (166) The production capacity followed similar trends, as it decreased overall by 21 % over the period considered.
- (167) The Commission noted that the decrease in production capacity was partly due to two companies amongst the non-applicants which have stopped the production of the like product in 2020, AMTP Roman in Romania, and Vallourec Deutschland in Germany. The latest closed down its production mill in Reisholz, Germany, in June 2020 and its production mill in Rath in the end of 2021.
- (168) The parallel decrease of the production volume and the production capacity during the period considered resulted in a decrease in the capacity utilisation by 30 % for the period considered.
- (169) Although capacity utilisation is not the main driver in profitability, it has a direct impact on the results, by enhancing the weight of fixed costs. Capacity utilisation performed at very low level, generating a situation of high fragility for the industry.

#### 6.4.2.2. Sales volume and market share

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

Table 7

#### Sales volume and market share (tonnes)

	2018	2019	2020	Review Investigation period
Total Sales volume on the Union market (free market and captive market)	102 246	96 910	84 406	92 851
<i>Index</i>	100	95	83	91
Market share on total consumption	91,4 %	89,3 %	88,6 %	90,9 %
<i>Index</i>	100	98	97	99
Captive market sales	[4 500–5 500]	[9 000–10 000]	[5 500–6 500]	[6 000–7 000]
<i>Index</i>	100	188	119	126
Market share of captive market sales	[3,6 %–5,6 %]	[7,9 %–9,9 %]	[6,0 %–7,0 %]	[6,0 %–7,0 %]
<i>Index</i>	100	193	140	138
Free market sales	[95 000 – 99 000]	[85 000 – 89 000]	[75 000 – 79 000]	[85 000 – 89 000]
<i>Index</i>	100	90	81	89
Market share of free market sales on total consumption	[83 % – 88 %]	[77 % – 82 %]	[79 % – 84 %]	[82 % – 87 %]
<i>Index</i>	100	93	95	97

Source: ESTA, verified questionnaire replies of the sampled Union producers.

- (171) Total sales of the Union industry on the Union market (free market and captive market) decreased considerably, by 9 %, over the period considered. In particular, sales decreased by 5 % from 2018 through 2019 and then declined by more than 12 % between 2019 to 2020 and it increased by more than 9 % from 2020 to the review investigation period. During the review investigation period the market share on total consumption of the Union industry reached up to 90,9 % and decreased 1 % over the period considered.

#### 6.4.2.3. Growth

- (172) While the consumption fell by 9 %, Union industry's production volumes decreased by 45 % and sales volume on the Union market (free market and captive market) fell by 9 % during the period considered.

#### 6.4.2.4. Employment and productivity

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

Table 8

#### Employment and productivity

	2018	2019	2020	Review Investigation period
Number of employees	2 114	1 729	1 568	1 270
<i>Index</i>	100	82	74	60
Productivity (tonne/employee)	168	170	151	154
<i>Index</i>	100	102	90	92

Source: ESTA, verified questionnaire replies of the sampled Union producers.

- (174) The level of the Union industry employment decreased over the period considered, by 40 %, followed the same trend as of the Union production volumes.
- (175) The productivity of Union producers' workforce, measured as output (tonnes) per person employed per year decreased by 8 % over the period concerned due to the drop in the demand market and the subsequent drop in production.

#### 6.4.2.5. Magnitude of the dumping margin and recovery from past dumping

- (176) All dumping margins established during the review investigation period were significantly above the de minimis level. At the same time, the level of imports from the PRC into the Union during the review investigation period was relatively limited, representing only [2,5 – 3,5] % of Union consumption. Therefore, the impact of the magnitude of the actual margins of dumping on the Union industry was rather limited.

#### 6.4.3. Microeconomic indicators

##### 6.4.3.1. Prices and factors affecting prices

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

Table 9

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

	2018	2019	2020	Review Investigation period
Average unit sales price in the Union on the total market	1 328	1 331	1 249	1 312
<i>Index</i>	100	100	94	98
Average unit sales price on the captive market <sup>(55)</sup>	[900-1 100]	[1 100-1 300]	[1 100-1 300]	[1 100-1 300]
<i>Index</i>	100	115	106	116
Average unit sales price on the free market	1 353	1 354	1 265	1 321
<i>Index</i>	100	100	94	98
Unit cost of production	1 227	1 221	1 217	1 416
<i>Index</i>	100	100	99	115

Source: Verified questionnaire replies of the sampled Union producers.

- (178) Over the period considered, the Union industry price on the free market fell by more than 2 % and the unit cost of production increased by 15 %. After the imposition of anti-dumping measures against Chinese imports in November 2016, the Union producers could maintain their sales prices in the Union from 2018 to 2019. However, the unit sales price decreased by more than 6 % between 2019 and 2020. Subsequently, it improved by more than 4 % between 2020 and 2021.
- (179) The unit cost of production remained stable between 2018 and 2019, slightly decreased by 1 % between 2018 and 2020 and increased by 15 % over the period considered. It increased by more than 16 % between 2020 and 2021, reflecting the high increase in costs of energy and raw materials, in the same period.

#### 6.4.3.2. Labour costs

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

Table 10

**Average labour costs per employee**

	2018	2019	2020	Review Investigation period
Average labour costs per employee (EUR)	62 122	64 071	66 134	65 599
<i>Index</i>	100	103	106	106

Source: Verified questionnaire replies of the sampled Union producers.

<sup>(55)</sup> The average price on the captive market was presented in ranges for reasons of confidentiality.

- (181) The average labour costs per employee increased by 3 % between 2018 and 2019. It also increased by 6 % between 2018 and 2020. Overall, it increased 6 % over the period considered.

#### 6.4.3.3. Inventories

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

Table 11

#### Inventories

	2018	2019	2020	Review Investigation period
Closing stocks (tonnes)	22 334	19 256	14 497	13 692
<i>Index</i>	100	86	65	61
Closing stocks as a percentage of production	8,8	8,7	8,1	8,9
<i>Index</i>	100	99	93	102

Source: Verified questionnaire replies of the sampled Union producers.

- (183) The level of the closing stocks of the sampled Union producers remained stable in relation to the production. During the period considered, the level of closing stocks decreased by 39 %. The Union producers usually only keep a low level of stock themselves. Therefore, stocks are not considered to be an important injury indicator for this industry. This is also confirmed by analysing the evolution of the closing stocks as a percentage of production. In the investigation period, some producers produced less and reduced stocks, in an effort to cope with their difficult financial situation in 2020 and 2021 (see Table 6).

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

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

Table 12

#### Profitability, cash flow, investments and return on investments

	2018	2019	2020	Review Investigation period
Profitability of sales in the Union to unrelated customers (% of sales turnover)	9,3	9,9	3,8	- 7,2
<i>Index</i>	100	106	41	- 77
Cash flow (EUR)	54 041 814	65 623 240	56 907 181	6 140 456
<i>Index</i>	100	121	105	11
Investments (EUR)	26 907 236	9 977 233	3 253 779	4 952 232
<i>Index</i>	100	37	12	18

Return on investments	10,6 %	22,3 %	18,1 %	0,3 %
<i>Index</i>	100	211	171	3

*Source:* Verified questionnaire replies of the sampled Union producers.

- (185) 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. Overall, profitability fell from 9,3 % in 2018 to [-7,2] % during the review investigation period. It remained almost at the same levels between 2019 and 2018, while it fell by 59 % between 2018 and 2020. The profitability of the sampled Union producers dropped by [-77] %, over the period considered.
- (186) Following disclosure, the cooperating exporting producers claimed that the Commission did not explain how the deterioration of profitability related to the increase in import prices from the country concerned.
- (187) As explained in recital 200, the Commission concluded that the material injury suffered by the Union industry was not caused by the imports from the PRC. On this basis, this claim was rejected.
- (188) The net cash flow is the ability of the Union producers to self-finance their activities. The net cash flow increased by 21 % in the period between 2018 and 2019 and remained stable between 2018 and 2020. However, the net cash flow had an overall drop of 89 % during the period considered, following the profitability in sales trend.
- (189) The return on investments is the profit in percentage of the net book value of investments which reflects the level of depreciation of assets. Overall, it dropped 97 % during the period considered. In particular, it increased by 111 % between 2018 and 2019, mainly due to the level of profit reached in 2019, increased by 71 % between 2018 and 2020 and decreased by 97 % between 2018 and 2021, as already mentioned, due to low level of profits in 2021.
- (190) The Commission noted that despite low profit margins since 2020, the Union industry has maintained a fair level of productivity and never stopped optimizing its production process, logistics, sales and marketing, by continuing to invest.
- (191) The high level of investments that are to be carried out by the Union Industry shows its strong will to adapt, improve and stay on the market despite difficulties and economic hardship.
- (192) The poor financial performance of the Union industry over the period considered limited its ability to raise capital. The Union industry is capital intensive and requires substantial investments. The net cash flow during the period considered was too low to cover for such substantial investments.

#### 6.5. Conclusion on injury

- (193) The evolution of the micro and macro indicators during the period considered showed that the financial situation of the Union industry deteriorated. Overall, the trends of the main economic indicators worsened over the period considered.
- (194) The investigation indicated that all injury indicators showed a negative pattern during the period considered. In a context of demand decrease by 9 %, both sales volume on the free market and production fell by 9 % and 45 %, respectively. This led to a decrease in capacity of 21 % and employment of 40 %. Since the decrease in production was faster (45 % over the period considered) than the decrease in capacity and employment, the capacity utilisation and the productivity also fell, by 30 % and 8 %, respectively.

- (195) During the same period, the average unit price on the free market also decreased by more than 2 %, while the unit cost of production increased by 15 %. As a consequence, profitability fell by [-77] % over the period considered and the profit dropped from 9,3 % in 2018 to [-7,2] % during the review investigation period.
- (196) Accordingly, the injury indicators show that the Union industry was suffering material injury in the review investigation period, as it decreased its sales prices in spite of rising production costs, resulting in a collapse of its profitability, which negatively affected investments, return on investments and cash flow.
- (197) Consequently, the Commission concluded that the Union industry suffered from material injury within the meaning of Article 3(5) of the basic Regulation.
- (198) In accordance with Article 3(6) of the basic Regulation, the Commission further examined whether the dumped imports from the country concerned caused material injury to the Union industry.
- (199) The investigation revealed that the volumes of imports from China increased by 104 %, from [1 300 – 1 400] tonnes to [2 800 – 2 900] tonnes, during the period considered. Their market share also more than doubled, from [1 – 3] % to [2,5 – 3,5] % but remained significantly below their market share of 26,8 % observed during the investigation period of the original investigation. More importantly, the average sales price of the imports from the PRC [1 500 – 1 600] EUR/tonne was above the average Union industry's sales price (1 321 EUR/tonne) and its average cost of production (1 416 EUR/tonne) during the review investigation period. In addition, at product-by-product type comparison, the Commission did not establish undercutting when the duties were included in the prices of the exporting producers. Consequently, despite the increase in volumes and market share, the imports from the PRC did not cause injury to the Union industry during the review investigation period.
- (200) On the basis of the above, the Commission concluded that the material injury suffered by the Union industry could not have been caused by the imports from China.

## 7. LIKELIHOOD OF RECURRENCE OF INJURY

- (201) The Commission concluded in recital 200 that the Union industry suffered material injury during the review investigation period. Therefore, the Commission assessed, in accordance with Article 11(2) of the basic Regulation, whether there would be a likelihood of recurrence of injury caused by the dumped imports from the PRC if the measures were allowed to lapse.
- (202) In this respect, the following elements were analysed by the Commission: the production capacity and spare capacity in PRC, the relationship between prices in the Union and the Chinese prices, the relationship between export prices to third countries and the price level in the Union, the attractiveness of the Union market and the impact of potential imports from the PRC on the Union industry's situation should the measures lapse.

### 7.1. The production capacity, spare capacity in the PRC

- (203) The production capacity in the PRC for the product concerned is estimated at 5 million tonnes yearly. The spare capacity available in China represented around 2,7 million tonnes yearly, which exceeds almost 27 times the consumption of the product concerned on the Union market, that amounted in the review investigation period to 102 189 tonnes. Thus, there is an important excess of the supply over demand in the Chinese market. Consequently, this would represent further incentive for the Chinese producers to focus increasingly on export markets if new opportunities arise.

## 7.2. Attractiveness of the Union market

- (204) As established in Section 4.2 above, the Union market is attractive in terms of its size and prices. The Union is at present the largest market of the product under review in the world in terms of volumes. It also has a sound logistical infrastructure with well-equipped harbours, storage and distribution facilities and high level of industrial consumption.
- (205) Furthermore, as indicated in recital 152, the Commission established, that absent the measures, imports from the PRC would significantly undercut the prices of the Union industry. In addition, the average import price of the Chinese exporting producers into the main third countries destinations (South Korea, India, Thailand etc.) of 1 135 EUR/tonne <sup>(56)</sup> was lower than the average Union industry sales price of 1 321 EUR/tonne on the free market, in the review investigation period. Consequently, should the measures be allowed to lapse, the exporting producers have strong incentives to increase their sales to the Union at lower prices than the ones charged by the Union industry during the review investigation period.
- (206) The Union market is hence considered very attractive for Chinese producers, and it can be concluded that available spare capacities in the PRC would, at least partially, be used to significantly increase exports to the Union market at dumped and injurious prices should the measures expire. The attractiveness of the Union market, as described above, would lead to a significant increase of dumped imports from the PRC. As the product concerned is a rather homogenous product in terms of quality, the price level is the most important factor when deciding whether to buy from the Union producers or from Chinese exporting producers. The sudden decrease in Chinese exports in response to the anti-dumping measures indicates that customers can easily switch to the supplier with the most competitive price (i.e. from the Chinese exporting producers to the Union producers or vice-versa in case the measure lapse).

## 7.3. Impact of potential imports from China on the Union industry's situation should the measures lapse.

- (207) The sampled Union producers performed at negative profit margins of [-7,2 %], during the review investigation period, thus, they cannot afford to further decrease their sales' price, or to lose market share (if they don't lower the price) as a consequence of new imports, because that would further increase their losses.
- (208) Given the likelihood that the exporting producers would come at lower prices and higher volumes, the Union industry will be forced to either reduce its sales prices at the expense of their profitability or to keep the sales prices level and most likely lose sales volume and market share to the Chinese exporters. A combination of these scenarios seems even more realistic. Ultimately, this would lead to downward price pressure, greater losses and the imports from the PRC likely regaining their pre-measures market share of 26 %. It is worth noting that two existing Union producers have totally stopped the production of the like product in 2020: AMTP Roman in Romania, and Vallourec Deutschland in Germany.
- (209) In view of the above, the Commission concluded that the expiry of the measures would, in all likelihood, result in a significant increase of dumped imports from the PRC at prices undercutting the Union industry prices, and therefore further aggravating the injury suffered by the Union industry as the material injury originally caused by the dumped imports from the PRC would be likely to recur. Consequently, the viability of the Union industry would be at serious risk.

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<sup>(56)</sup> Based on GTA. The statistics concerned imports from China into the third countries concerned. Also the HS codes containing products with a diameter inferior or equal to 406 mm were removed in order to reflect the definition of the product under review.

#### 7.4. Comments following final disclosure

- (210) Following disclosure, the cooperating exporting producers claimed that the Commission did not assess the impact of imports originating in Thailand in its recurrence of injury analysis in the light of the fact that Chinese imports did not cause injury to the Union industry during the 'review period'. It further claimed that the low prices and volume of imports originating in Thailand may worsen the fragile situation of the Union industry.
- (211) Considering that this investigation is limited to imports of the product concerned originating in the PRC, the Commission limited its recurrence of injury analysis to the elements mentioned in recital 202 that could affect the Union industry if measures on imports originating in the PRC were allowed to lapse. Imports from Thailand were not a factor in that assessment. On this basis, this claim was rejected.
- (212) The same exporting producers also claimed that the Commission failed to explain why the Union industry reported losses in the review investigation period.
- (213) As referred to in recital 195, the average unit price decreased by 2 % over the period considered whereas the unit cost of production increased by 15 %. Consequently, as the Union industry could not transfer the increase in costs due to long term agreements, it reported losses in the review investigation period. Furthermore, as referred to in recital 200, the Commission concluded that the imports from the PRC did not cause injury to the Union industry during the review investigation period. Consequently, the Commission focussed its analysis on the recurrence of injury based on the elements mentioned in recital 202. On this basis and as mentioned in recital 209, it concluded that material injury originally caused by the dumped imports from the PRC would be likely to recur should measures be allowed to lapse. On this basis, this claim was rejected.
- (214) The cooperating exporting producers also referred to two Appellate Body reports <sup>(57)</sup> and claimed that 'a reasoned conclusion must be made by carefully considering evidence on record, and any projections into future or inferences drawn must also be processed on positive evidence'. In particular, they claimed that spare capacity was overestimated and that Chinese exporting producers were focusing on the domestic market and did not export their spare capacity to the Union. In addition, they claimed that the attractiveness of the Union market and the 'Prices from China to other countries' should not be considered in a likelihood analysis and that the analysis should be based on a 'counter-factual analysis of what would happen in future, primarily based on projected dumped imports, prices, and impact on the Union industry'.
- (215) As far as capacity and spare capacity are concerned, the cooperating exporting producers did not provide any new evidence to support their claim. In the absence of new elements, the claim was rejected.
- (216) As far as the elements to be taken into account for a likelihood analysis are concerned, the Commission considered that by analysing elements such as the attractiveness of the Union market and prices to third countries, it performed such 'counter-factual analysis' in line with its standard practice using all available elements that allowed a forward-looking exercise into the likelihood of recurrence of injury. In the absence of elements that would overturn the Commission's conclusions in this regard, this claim was rejected.

#### 8. UNION INTEREST

- (217) In accordance with Article 21 of the basic Regulation, the Commission examined whether maintaining the existing anti-dumping measures would be against the interest of the Union as a whole. The determination of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, unrelated importers and users.

<sup>(57)</sup> Appellate Body Report, *US – Corrosion Resistant Steel Sunset Review*, para. 111 and Appellate Body Report, *US – Oil Country Tubular Goods Sunset Reviews*, para. 7.166.

### 8.1. Interest of the Union industry

- (218) The Union industry is composed of 6 producers that are located in different Member States. Among them, Dalmine S.p.A, Tubos Reunidos Group SA and Valcovni Trub Chomutov AS are the applicants, whereas the others cooperated, Huta Batory Sp. Z o.o., Vallourec Deutschland GmbH, in Germany and France (non-applicants) and AMTP Roman.
- (219) The investigation showed that should the measures expire, this would likely have a significant negative effect on the Union industry. The Union industry's situation would quickly deteriorate in terms of lower sales volumes and sales prices resulting in a strong decrease in profitability. On the other hand, the continuation of measures would allow the Union industry to further recover from past injury caused by dumped imports, and to exploit its potential on a Union market that is not affected by unfair trading practices from the PRC.
- (220) Based on the above it was concluded that maintaining the anti-dumping measures in force is in the interest of the Union industry.

### 8.2. Interest of unrelated importers, traders and users

- (221) The Commission contacted all known unrelated importers, traders and users. None of the traders and users replied to the Commission's questionnaire.
- (222) Similar to the initial investigation, no users came forward in this review. In addition, there are 79 known unrelated importers, of which only Siderpighi spa Con Socio Unico, known as unrelated importer, came forward. It replied that it is not in favour of the imposition of anti-dumping measures. It claimed that the Union needs Chinese imports because demand is beyond offer. The Commission observed that the turnover of the product under review represents less than 1 % of the unrelated importer's turnover. Thus, the continuation of the measures will not change the company's overall performance outlook, in any case.
- (223) Furthermore, regarding the interests of both users and importers, in the initial investigation the Commission concluded that there were sufficient alternative sources of supply of the product under review. This conclusion remains valid given that around 10 % of the market is still served by imports from all origins. In addition, the Union industry had a spare capacity of more than 46 % during the review investigation period, which is far beyond the current Union consumption.
- (224) Consequently, the Commission concluded that the extension of the measures would not negatively impact the existing supply on the market or the economic situation of the importer in question or any of the users on the market.
- (225) Consequently, the Commission concluded that the continuation of the measures would not be against the interests of users and importers.

### 8.3. Conclusion on Union interest

- (226) On the basis of the above, the Commission concluded that there were no compelling reasons of Union interest against the maintenance of the existing measures on imports of the product under review originating in the PRC.

## 9. ANTI-DUMPING MEASURES

- (227) On the basis of the conclusions reached by the Commission on continuation of dumping, recurrence of injury and Union interest, the anti-dumping measures on certain seamless pipes and tubes of iron (other than cast iron) or steel (other than stainless steel), of circular cross-section, of an external diameter exceeding 406,4 mm from the PRC should be maintained.

- (228) To minimize the risks of circumvention due to the difference in duty rates, special measures are needed to ensure the application of the individual anti-dumping duties. The companies with individual anti-dumping duties must present a valid commercial invoice to the customs authorities of the Member States. The invoice must conform to the requirements set out in Article 1(3) of this regulation. Imports not accompanied by that invoice should be subject to the anti-dumping duty applicable to 'all other companies'.
- (229) While presentation of this invoice is necessary for the customs authorities of the Member States to apply the individual rates of anti-dumping duty to imports, it is not the only element to be taken into account by the customs authorities. Indeed, even if presented with an invoice meeting all the requirements set out in Article 1(3) of this regulation, the customs authorities of Member States must carry out their usual checks and may, like in all other cases, require additional documents (shipping documents, etc.) for the purpose of verifying the accuracy of the particulars contained in the declaration and ensure that the subsequent application of the lower rate of duty is justified, in compliance with customs law.
- (230) Should the exports by one of the companies benefiting from lower individual duty rates increase significantly in volume after the imposition of the measures concerned, such an increase in volume could be considered as constituting in itself a change in the pattern of trade due to the imposition of measures within the meaning of Article 13(1) of the basic Regulation. In such circumstances and provided the conditions are met, an anti-circumvention investigation may be initiated. This investigation may, inter alia, examine the need for the removal of individual duty rate(s) and the consequent imposition of a country-wide duty.
- (231) The individual company anti-dumping duty rates specified in this Regulation are exclusively applicable to imports of the product under review originating in the PRC and produced by the named legal entities. Imports of the product under review produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other companies'. They should not be subject to any of the individual anti-dumping duty rates.
- (232) 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 <sup>(58)</sup>. The request must contain all the relevant information enabling to demonstrate that the change does not affect the right of the company to benefit from the duty rate which applies to it. If the change of name of the company does not affect its right to benefit from the duty rate which applies to it, a regulation about the change of name will be published in the *Official Journal of the European Union*.
- (233) An exporter or producer that did not export the product concerned to the Union during the period that was used to set the level of the duty currently applicable to its exports may request the Commission to be made subject to the anti-dumping duty rate for cooperating exporting producers not included in the sample. The Commission should grant such request, provided that three conditions are met. The new exporting producer would have to demonstrate that: (i) it did not export the product concerned to the Union during the period that was used to set the level of the duty applicable to its exports; (ii) it is not related to a company that did so and thus is subject to the anti-dumping duties; and (iii) has exported the product concerned thereafter or has entered into an irrevocable contractual obligation to do so in substantial quantities.
- (234) In view of Article 109 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council <sup>(59)</sup> when an amount is to be reimbursed following a judgment of the Court of Justice of the European Union, the interest to be paid should be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union* on the first calendar day of each month.

<sup>(58)</sup> European Commission, Directorate-General for Trade, Directorate G, Rue de la Loi 170, 1040 Brussels, Belgium.

<sup>(59)</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

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

HAS ADOPTED THIS REGULATION:

#### Article 1

1. A definitive anti-dumping duty is imposed on imports of certain seamless pipes and tubes of iron (other than cast iron) or steel (other than stainless steel), of circular cross section, of an external diameter exceeding 406,4 mm, currently falling under CN codes 7304 19 90, ex 7304 29 90 (TARIC code 7304 29 90 90), 7304 39 88 and 7304 59 89 and originating in the People's Republic of China.

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

Company	Definitive anti-dumping duty rate (%)	TARIC additional code
Yangzhou Chengde Steel Pipe Co., Ltd	29,2	C171
CITIC Pacific Group: — Daye Special Steel Co., Ltd — Zhejiang Pacific Seamless Steel Tube Co., Ltd	51,8	899H
Yangzhou Lontrin Steel Tube Co., Ltd	39,9	C173
Hengyang Valin MPM Co., Ltd	48,2	C174
Other cooperating companies listed in the Annex	45,6	C998
All other companies	54,9	C999

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

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

- (a) it did not export the goods described in Article 1(1) originating in the PRC during the period between 1 January 2015 to 31 December 2015 ('original investigation period');
- (b) it is not related to an exporter or producer subject to the measures imposed by this Regulation; and
- (c) it has either actually exported the product under review originating in the PRC or has entered into an irrevocable contractual obligation to export a significant quantity to the Union after the end of the original investigation period.

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

*Article 2*

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

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

Done at Brussels, 13 July 2023.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN

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## ANNEX

The People's Republic of China cooperating exporting producers not sampled:

Company	TARIC additional code
Tianjin Pipe Manufacturing Co., Ltd	C998
Shandong Luxing Steel Pipe Co., Ltd	C998
Inner Mongolia Baotou Steel Union Co., Ltd	C998
Wuxi SP. Steel Tube Manufacturing Co., Ltd	C998
Zhangjiagang Tubes China Co., Ltd	C998
TianJin TianGang Special Petroleum Pipe Manufacture Co., Ltd	C998
Shandong Zhongzheng Steel Pipe Manufacturing Co., Ltd	C998