COMMISSION IMPLEMENTING REGULATION (EU) 2016/1246

of 28 July 2016

imposing a definitive anti-dumping duty on imports of high fatigue performance steel concrete reinforcement bars originating in the People's Republic of China

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community ([1]) ('the basic Regulation'), and in particular Article 9(4) thereof,

Whereas:

A. **PROCEDURE**

1. **Provisional Measures**

(1) The European Commission ('the Commission') imposed on 29 January 2016 a provisional anti-dumping duty on imports of high fatigue performance steel concrete reinforcement bars ('HFP rebars') originating in the People's Republic of China ('PRC' or 'the country concerned') by Implementing Regulation (EU) 2016/113 ('the provisional Regulation') ([2]).

(2) The investigation was initiated on 30 April 2015 ([3]) following a complaint lodged on 17 March 2015 by the European Steel Association ('Eurofer' or 'the complainant') on behalf of producers representing more than 25 % of the total Union production of HFP rebars. The complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of an investigation.

2. **Registration of imports**

(3) By Regulation (EU) 2015/2386 ([4]), the Commission made imports of HFP rebars originating in the PRC subject to registration as of 19 December 2015 following a request by the complainant which contained sufficient evidence that the relevant conditions set out in Article 10 of the basic Regulation were met.

3. **Subsequent procedure**

(4) Subsequent to the disclosure of the essential facts and considerations on the basis of which a provisional anti-dumping duty was imposed ('the provisional disclosure'), Union producers, Chinese exporting producers, importers, users, and an association of importers made written submissions making known their views on the provisional findings. The parties who so requested were granted an opportunity to be heard.

(5) Hearings took place with Chinese exporting producers and with unrelated importers and users in the Union.

(6) The Commission considered the oral and written comments submitted by the interested parties and, where appropriate, modified the provisional findings accordingly.

([1]) OJ L 343, 22.12.2009, p. 51.
([2]) Commission Implementing Regulation (EU) 2016/113 of 28 January 2016 imposing a provisional anti-dumping duty on imports of high fatigue performance steel concrete reinforcement bars originating in the People's Republic of China (OJ L 23, 29.1.2016, p. 16).
([3]) OJ C 143, 30.4.2015, p. 12.
([4]) Commission Regulation (EU) 2015/2386 of 17 December 2015 making imports of high fatigue performance steel concrete reinforcement bars originating in the People's Republic of China subject to registration (OJ L 332, 18.12.2015, p. 111).

(7) One interested party requested the intervention of the Hearing Officer to verify the correctness of the data from the analogue country, since the data was not disclosed in the provisional disclosure due to its confidential nature. The Hearing Officer has verified the data and has found no errors. The same interested party also requested a hearing with the Hearing Officer in order to express its doubts on the calculation method of the duties. In conclusion of the hearing, the Hearing Officer found that the Commission services have conducted the investigation in accordance with accepted and regular practice.

(8) The complainant considered that the target profit in the provisional Regulation was not correctly established and not appropriate for the HFP rebars industry. It questioned the method used to establish that profit and asked the Commission to deepen its investigation into that issue. Specific questionnaires were thus sent to the Union producers concerning their historical levels of profitability before the period considered, namely from 2005 up to 2010. Replies were received from all four sampled Union producers, which, at the same time, submitted revised cost and profitability calculations for the period considered.

(9) Subsequent to the registration of imports, the interested parties had a period of 20 days to submit their comments. Comments were received from Union producers, Chinese exporting producers, importers, users, and an association of importers.

(10) In order to examine whether the retroactive application of the definitive duties was warranted, questionnaires were sent to unrelated importers concerning their import volumes, import prices and inventories in the period after the investigation period, i.e. from 1 April 2015 to 31 January 2016. Replies were received from three unrelated importers. Questionnaires were also sent to Union producers concerning their sales prices in the period after the investigation period, i.e. from 1 April 2015 to 31 January 2016. Replies were received from all four sampled Union producers.

(11) In order to verify the questionnaires replies mentioned in recitals (8) and (10) above, verification visits were carried out at the premises of the following parties:

(a) Union producers

— Megasa Siderur, Spain

— Riva Acier, France

— SN Maia, Portugal

(b) Unrelated importers in the Union

— CMC Ltd, United Kingdom

— Eurosteel Ltd, United Kingdom

— Ronly Ltd, United Kingdom.

(12) The Commission informed all parties of the essential facts and considerations on the basis of which it intends to impose a definitive anti-dumping duty on imports of HFP rebars ('the definitive disclosure'). All parties were granted a period within which they could make comments on the definitive disclosure. The comments submitted by the interested parties were considered and taken into account where appropriate.

4. **Sampling**

(13) In the absence of comments concerning the method of sampling, the provisional findings set out in recitals (6) to (11) of the provisional Regulation are confirmed.

5. **Investigation period and period considered**

(14) As set out in recital (16) of the provisional Regulation the investigation of dumping and injury covered the period from 1 April 2014 to 31 March 2015 ('the investigation period'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2011 to the end of the investigation period ('the period considered'). Due to the specific circumstances in the market in the year 2011 explained in recital (148) of

the provisional Regulation, the weight of the year 2011 in the injury analysis was reduced, and the developments since 1 January 2012 were given accordingly more emphasis. The indexes are thus based on the year 2012, whenever applicable.

B. **PRODUCT CONCERNED AND LIKE PRODUCT**

(15) As set out in recitals (17) to (19) of the provisional Regulation, the product subject to investigation are high fatigue performance iron or steel concrete reinforcing bars and rods made of iron, non-alloy steel or alloy steel (but excluding stainless steel, high-speed steel and silico-manganese steel), not further worked than hot-rolled, but including those twisted after rolling; these bars and rods contain indentations, ribs, grooves or other deformations produced during the rolling process or are twisted after rolling. The key characteristic of high fatigue performance is the ability to endure repeated stress without breaking and, specifically, the ability to resist in excess of 4,5 million fatigue cycles using a stress ratio (min/max) of 0,2 and a stress range exceeding 150 MPa.

(16) The product concerned is the product described in recital (15) above, originating in the PRC, currently falling within CN codes ex 7214 20 00, ex 7228 30 20, ex 7228 30 41, ex 7228 30 49, ex 7228 30 61, ex 7228 30 69, ex 7228 30 70 and ex 7228 30 89.

(17) Following the provisional disclosure, an importer claimed that it would be difficult in practice to separate the product concerned from other types of rebars, falling under the same CN codes. It alleged that the Union customs authorities could thus mistakenly impose anti-dumping duties on other products not concerned by the investigation and not impose duties on the product concerned.

(18) As explained in recital (18) of the provisional Regulation, the product definition exclusively corresponds to the requirements of the British Standard BS4449 and is typically distinguishable by CARES certification and markings embossed on the rebars themselves.

(19) The importer could not specify in what way the product definition would overlap or be confused with the definition of other types of rebars. Therefore, the Commission considered that there is no problem of practical implementation of the measures and rejected the claim. The Commission observes that the certification has not been included in the product description in order to prevent the possibility of circumvention through imports of non-certified goods that would only be certified once inside the Union.

(20) Following definitive disclosure, two interested parties claimed that the product concerned is in fact being sold also in Spain and in Portugal, and that as a consequence the Commission's consumption figures do not include all Union consumption. The interested parties based the claim on a statement on the website of a Union producer, which listed Spain and Portugal as countries that use high-ductility rebars.

(21) The Commission reaffirms that rebars corresponding to Spanish and Portuguese standards are not included in the scope of the product concerned, because the technical requirements of the rebars in Spain and in Portugal do not correspond with the product definition of the present investigation, as set out in recital (15). The claim must therefore be rejected.

(22) In the absence of any other comments regarding the product concerned and the like product, the conclusions reached in recitals (17) to (19) of the provisional Regulation are confirmed.

C. **DUMPING**

(23) The details of the dumping calculation are set out in recitals (21) to (45) of the provisional Regulation.

(24) Following the provisional disclosure, two interested parties repeated their concerns, described in the recital (22) of the provisional Regulation, as to the fact that both groups of companies were considered to be related for the purpose of the dumping and injury margins calculations. These parties repeated previous arguments concerning the lack of any operational links between the two groups and the absence of involvement in each other decision making process. Additionally the interested parties pointed out that in anti-dumping procedures conducted by third countries (namely Malaysia, Thailand and United States) they were treated as separate entities. The interested parties in question reiterated the same arguments in this regard after the definitive disclosure.

(25) Nevertheless, the Commission is still of the opinion that the nature and strength of the relations between the groups, namely their capital links and the right, which is clearly set up in the articles of association, to nominate the officials of one of the groups in the statutory bodies of the other, do not allow to treat these interested parties as separate entities, in particular because that interconnection makes it possible to establish a closer structural and commercial relationship between them without difficulty. The mere fact that both interested parties raise the claim of separate treatment, while this decision would actually lead to the higher anti-dumping measures for one of them, could also lead to the above conclusion. Furthermore, it should be stressed that the Commission has no obligation to follow the decisions taken by the authorities of third countries in their anti-dumping procedures on the basis of their domestically applicable legislation. Therefore, the preliminary conclusion reached in recital (23) of the provisional Regulation as to the common treatment of the two exporters' Groups is hereby confirmed.

(26) Following the provisional disclosure, one interested party raised again its concerns as to the choice of South Africa as an analogue country and subsequent construction of the normal value on the basis of this country. The interested party underlined the fact that none of the eight product types produced and sold by Chinese exporters passed the 5 % representativity test on domestic sales in South Africa and three of them were not even produced by the South African producer. Therefore no cost of production was available for these three types. The interested party contested also the high level of profit (in a range of 10-20 % ([1])) used for the construction of the normal value. Finally, the interested party indicated that the cost of production in South Africa was high, and even substantially higher than sales prices in the Union, and alleged that this contradicted the Commission's provisional conclusion that South Africa is an open market with internal and external competition.

(27) In response to the above claims, it should first be explained that even if a producer in the analogue country does not have sufficient volumes of domestic sales of certain product types to meet the 5 % representativity test, this does not prevent the normal value to be established for these product types. Given that these types were produced and sold by the South African producer, normal value was constructed based on actual costs of production. With regard to the three product types not produced in South Africa, the construction of their normal value was based on the costs of production of the closest product types produced in South Africa. In this case, the closest product types were identified by changing only one parameter of the product, namely its length. Cost of production (per kg) of the medium lengths was used instead of short or long ones. With regard to the profit used for the construction of the normal values, the standard method was applied. For the product types where there were no domestic sales or no profitable domestic transactions, the average company profit on all domestic sales of the product concerned was used. The investigation showed that this domestic profit ranged between 10-20 %. Furthermore, the Commission also applied the ruling of WTO panel in the Norwegian Salmon case ([2]) for the construction of normal values for those product types for which there were not sufficient profitable domestic transaction. In that case, the actual profit of the profitable domestic transactions per product type was applied. In that case the rate of profit was normally lower than 10-20 %.

(28) Finally, the investigation indeed showed that costs of production in South Africa are higher than Union Industry costs and prices. These are actual costs verified on the premises of the producer and found to have been correctly reported by the South African producer. The Commission fails to see how this can be contradicting its preliminary conclusion regarding the openness and the competitive nature of the South African market. It should be underlined that whilst the Union Industry's prices are depressed with the presence of low-priced dumped imports from China, the South African producer can operate under normal conditions of competition. The situation in the Union Industry is not a benchmark for the choice of an analogue country which after all is a substitute for China.

(29) After the definitive disclosure the interested party in question developed further its arguments with regard to the allegedly very high domestic prices and costs of production in the analogue country indicating that the normal value based on these figures is higher by almost 40 % than the Union target price used in the underselling margin determination. The interested party linked these allegedly high domestic prices and costs of production in the analogue country with several trade defence measures protecting that market which would also undermine another conclusion of the Commission with regard to the openness of the South African market for competition.

(30) Following the above mentioned submission the data concerning prices and costs in the analogue country were re-assessed. Firstly, the claim is exaggerated as the ex-works prices of the South African producer verified on spot by the Commission and used to determine the normal value for the Chinese exporting producers are substantially lower than those alleged by the interested party in question. Secondly, the re-assessment led to the identification

([1]) As the normal value calculation is based on data of only one company in South Africa the exact figure cannot be revealed.
([2]) Panel Report of 16 November 2007, DS337 European Communities — Anti-Dumping Measure on Farmed Salmon from Norway (WT/DS337/R).

of certain product types that were only made according to South-African standards and thus were not in competition with the Chinese exported product types. Given that the Commission ensured a full match of all Chinese export transactions by comparing them with product types from South Africa which were in direct competition with the exported product types and which thus required a lesser extent of adjustments which led to a more precise comparison, the Commission decided not to take these not competing products into account. As a consequence, normal values and the dumping margins have been revised downwards for all the sampled exporting producers. It has to be stressed however that the claim itself as to the limited openness of the analogue country market due to existence of trade defence measures is rejected. The defensive measures referred to in the submission either do not have the product concerned in their scope (anti-dumping measures) or were imposed after the investigation period (safeguard measures). In any case, the trade defence measures that a country might have applied for restoring equitable trade conditions do not annul the market economy nature of this country and its appropriateness as a market economy third country selected to determine the normal value for China ([1]).

(31) Taking into account the above the Commission confirms its preliminary conclusion of recital (30) of the provisional Regulation that South Africa is an appropriate analogue country under Article 2(7)(a) of the basic Regulation. In that context, the Commission also notes that it has not been possible to obtain cooperation in another market economy country, and that the case-law of the Union Courts requires the Commission to use in such a situation the data of the country for which such cooperation has been obtained.

(32) Following the provisional disclosure two interested parties claimed that because steel prices, and in parallel production costs, had fallen throughout the IP, the Commission should have calculated the dumping and injury margins on monthly or, at the very least, on a quarterly basis. In particular, they point out that otherwise those producers would be punished that had a lot of sales in the early months. This claim was also reiterated after the definitive disclosure.

(33) However, the investigation showed that HFP rebar prices fell throughout the IP and in particular when demand was increasing due to dumped imports. This situation does not seem to require or to justify the use of any special methodology. The interested parties themselves admit that the drop in costs was a global phenomenon and not specific to the Union. Thus, the drop in costs should have affected all parties equally. Also, even though there were fluctuations in the prices of raw materials and in the prices of the final product, the variations in the course of the IP were not of a level to justify the application of a special methodology. The data submitted by the interested parties referring to the global steel market shows a decline of prices by around 12 %. With regard to the rapid decline of iron ore prices on the Chinese market (more than 50 %), the Commission notes that the impact of the decline on the prices of HFP rebars was limited to 20 % in the IP. Furthermore, the increase in prices was only of a temporary character in the sense that the world market prices are volatile, which is a normal phenomenon for this type of raw material. Such changes in raw material prices must be considered as a normal part of the business operations. The observed raw material price evolution over the investigation period does not thus indicate the necessity of monthly analysis, nor does it seem to be of an extent that would have substantially influenced the dumping and injury margin calculations. In any event, the determination of the normal value on a monthly basis is not feasible because the profitability tests of analogue country domestic sales and the cost of production of the analogue country producer were, in line with the basic regulation, determined on a yearly basis for all product types that were exported into Union by the Chinese exporting producers. Such lack of data renders it impossible to precisely determine the normal value for such short time periods.

(34) In the absence of any further comment, the provisional findings as set out in recitals (21) to (45) of the provisional Regulation are confirmed with the adjustment described in recital (30) above. The definitive dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are adjusted as follows:

Company	Definitive dumping margin (%)
Jiangyin Xicheng Steel Co., Ltd	62,1
Jiangyin Ruihe Metal Products Co., Ltd	62,1
Jiangsu Yonggang Group Co., Ltd	48,1

([1]) Case C-26/96, Rotexchemie, judgment of 29 May 1997, EU:C:1997:261, para. 16.

Company	Definitive dumping margin (%)
Jiangsu Lianfeng Industrial Co., Ltd	48,1
Zhangjiagang Hongchang High Wires Co., Ltd	48,1
Zhangjiagang Shatai Steel Co., Ltd	48,1
All other companies	62,1

D. **INJURY**

1. **Definition of the Union industry and Union production**

(35) In the absence of any comments with respect to the definition of the Union industry and Union production, the conclusions set out in recitals (46) to (50) of the provisional Regulation are confirmed.

2. **Sampling of Union producers**

(36) In the absence of any comments with respect to the sampling of Union producers, the conclusions set out in recital (51) of the provisional Regulation are confirmed.

3. **Free and captive markets**

(37) In the absence of any comments with regard to free and captive markets, the conclusions set out in recitals (52) to (56) of the provisional Regulation are confirmed.

4. **Union consumption**

(38) As explained in recitals (20) to (21) above, following definitive disclosure one interested party claimed that the Union consumption figures would erroneously not include the consumption in Spain and Portugal. This claim was rejected because the rebars used in Spain and Portugal are not part of the product under investigation.

(39) In the absence of any comments with regard to Union consumption, the conclusions set out in recital (57) of the provisional Regulation are confirmed.

5. **Imports into the Union from the country concerned**

(40) In the absence of any comments with regard to the volume, the market share and prices of the imports concerned, the findings and conclusions set out in recitals (58) to (61) of the provisional Regulation are confirmed.

(41) As explained in recitals (62) of the provisional Regulation, the price undercutting was established by comparing the prices of the imports from China on a CIF basis with the prices of the matching product types of the Union industry, adjusted to ex-works level.

(42) Following provisional disclosure, the Union industry claimed that in the current case, comparing the prices with different sales conditions, namely CIF vs. ex-works, leads to an underestimation of the actual price undercutting practiced by Chinese exporters. This is particularly true when the prices of imports from China are compared with the prices of products sold from continental Europe to the UK and Ireland, which are the only two markets where HFP rebars are exclusively used. According to the Union industry, adjusting the Union prices of the producers selling from continental Europe to ex-works level does not reflect the actual competition with the imports from China which are delivered to UK and Irish harbours, close to their clients' premises. The Union industry argued that undercutting and also injury elimination level ('underselling') should be established at the most appropriate point of comparison, namely by comparing Chinese import prices with the Union prices at their arrival in the importation harbour in UK and Ireland, so as to compare Chinese prices at CIF level with Union industry prices at the same destination. The Union industry underlined the Commission's wide margin of discretion in establishing the most accurate method for establishing price undercutting and underselling.

(43) In response to these claims, the Commission notes that the investigation showed that there are different standards and grades used in the construction industries in different Member States. Whilst the standard of HFP rebars corresponds to the standard suitable to be consumed only in the UK and in Ireland, production takes place in both the UK and several other Member States, in particular in France, Spain, and Portugal. The Commission confirms that the determination of undercutting should be based on a fair price comparison between matching product types. The investigation has established that the matching product types are exclusively produced by the Union producers located in the continental Europe who deliver their products by sea to harbours in the UK and in Ireland. By contrast, the investigation also showed that HFP rebars produced in the UK are of a different grade than the imports from China and could thus not be compared with the imports from China.

(44) It is clear that in this case the imports from China enter into competition with Union industry products only when delivered in the UK or in Ireland. Customers will make their purchase decisions based on prices quoted at the same point of destination. The Commission therefore considers that in order to reach a fair determination of undercutting, and subsequently underselling, the calculations should reflect a comparison at the level of the importation in the UK or in Ireland. The claim of the Union industry is thus accepted.

(45) However, differently from the claim of the Union industry, the Commission considers that instead of CIF level, the most accurate point of comparison is the level where the goods have been offloaded from the vessels and have reached land in the harbour. This means that such a comparison includes in the Chinese prices the post-importation costs, typically borne by the importer, that occur on top of the CIF costs. The investigation has not established any difference in harbour handling costs between shipments from China and from the Union. By contrast, a fair comparison should also reflect the fact that shipments from China must undergo customs clearance at the importation harbour, whereas shipments from the Union do not.

(46) On the basis of the above, the Commission adjusted the determination of undercutting to the price comparison at the point where the goods from both China and the Union have landed in the UK or in Ireland. This had the effect of including in the comparable price of the Union industry the transport cost (in the range of 25-35 EUR/tonne) and handling costs (in the range of 5-10 EUR/tonne), which corresponded to approximately 8 % of the CIF price. The same adjustment was done for underselling calculations as explained in recital (127) below.

(47) Therefore, the recitals (62) to (63) of the provisional Regulation are replaced by the following recitals:

(48) In order to determine whether there was price undercutting during the IP, and to what extent, the weighted average sales prices per product type of the sampled Union producers charged to unrelated customers on the Union market, adjusted to the level of landed costs by including the actual delivery costs up to the arrival harbour and the handling costs at the harbour, and by deducting commissions and credit notes, were compared to the corresponding weighted average prices per product type of the dumped imports from the sampled Chinese producers to the first independent customer on the Union market, established on a CIF basis, and adjusted with post-importation costs corresponding to handling costs and customs clearance costs, and by deducting commissions and credit notes. As explained in recital (103) of the provisional Regulation, undercutting was established in comparison with sales to unrelated customers only and only for matching product types. The sales to related parties made by the Union industry were exclusively composed of product types not being imported from China.

(49) The result of the comparison, when expressed as a percentage of the sampled Union producers' turnover during the IP, showed an undercutting margin ranging from 8,3 % to 11,8 %. The lower prices of the dumped imports compared to the Union prices during the period considered explain the significant increase in Chinese import volume and in the market share held by the imports from China from 2013 onwards.

(50) Following definitive disclosure, several interested parties disagreed with the price comparison on the basis of the landed costs. Two interested parties stated their opposition without substantiating why it was not appropriate in the case at hand. The claim could therefore not be taken into account.

(51) Another interested party claimed that the comparison should concern the entire Union industry and that therefore it was incorrect to take into account the prices in one member country or countries only. It expressed its worry that the basic principle of establishing Union prices would be changed as a result.

(52) The Commission reaffirms that the price comparison on the basis of the landed costs remains exceptional. In situations where both the Union consumption can take place in several Member States, as is usually the case, the comparison between Union ex-works prices and CIF import prices is justified. In the case at hand, however, a different comparison is exceptionally warranted due to the specific circumstances of the market, as explained above.

(53) The same interested party also requested a disclosure of the information concerning transport costs, handling costs and profitability, which had an impact on the determination as compared with the provisional measures.

(54) The Commission notes that the definitive disclosure included detailed information on the facts and considerations used in the calculation. In recital (41) of the General Disclosure Document, the Commission disclosed the ranges of the transport costs and handling costs. These costs were expressed in ranges in order to protect the confidentiality of the business data of the cooperating Union producers. The ranges allowed interested parties to verify the facts used for the determination. The Commission notes that none of the interested parties has questioned the level of these costs. The recitals (46) to (49) of the General Disclosure Document contained detailed information on the profitability calculations, allowing a comparison with the data disclosed at the provisional stage in recitals (81) to (83) of the provisional Regulation. The Commission therefore concludes that the interested parties have been provided with the essential facts and considerations on the basis of which it intends to impose definitive measures.

(55) Following definitive disclosure, several interested parties argued that the Union producer exclusively producing the non-matching product types ('grade C') cannot have been injured by the imports from China ('grade B') because the two product types are not in competition with each other. The interested parties argued that the Commission, in order to be consistent, should have limited the product scope and the definition of Union industry only to grade B. Alternatively, the interested parties alleged that if the product scope includes both grade B and C, it is not correct to calculate undercutting and underselling on the basis of matching product types only. They claimed that there is little difference in the production costs of grade B and grade C. The interested parties argued that in this case the Commission should have instead disregarded the difference between product types, thereby including all product types in the calculation of undercutting and underselling.

(56) The Commission clarifies that the standard methodology has been used as regards product scope and product types. The product subject to investigation includes several product types, some of which are imported from China while others are not. The Commission has concluded that the different product types are in competition with each other, because grade C can be used for all applications where grade B is required. The submissions of the interested parties also underline this fact. The Commission confirms that the product scope and the definition of the Union industry include both grade B and C. The injury indicators have been established on the basis of the entire Union industry, in line with the standard practice. As explained in recital (69) of the provisional Regulation, even if the injury indicators would have been established on the basis of the matching product types only, this would not have altered the trends observed.

(57) As regards the calculation of undercutting and underselling margins, the Commission has compared the prices on the basis of the product control number, i.e. compared like with like, as per the standard practice. The

Commission also underlines that the representativity of matching product types between the product types exported from China and product types sold by the EU industry on the free market was high. The product control numbers reflect, among others, also the grade B or C. The inclusion of the grade as one of the features in the product control number is justified because the two grades have different physical characteristics: grade C has higher ductility than grade B, which makes it necessary for certain applications where grade B cannot be used. The investigation has also shown that grade C is sold for a higher price than grade B, and its production costs are on average higher. For these reasons, the Commission has taken this product feature into account when making the undercutting and underselling calculations. As a result, the price comparison between grade B and grade C could not be made as there was no matching between the product types sold by the Chinese exporting producers and the grade C sold by the Union industry. There was also no justification for altering the product control number because representativity of the imported product types was high. At the same time, the fact that a product type sold by the Union industry does not entirely match with product types imported to the EU from the country concerned does not preclude that such product types compete with each other and fall within the product scope. The claim of the interested parties must therefore be rejected.

(58) Following definitive disclosure, two interested parties claimed that the prices of the non-matching product types were not undercut by the imports from China, and that therefore a significant proportion of the Union market has not been affected by the imports from China.

(59) The Commission notes that the prices of the non-matching product types (grade C) were higher than those of the matching product types (grade B), and therefore the imports from China undercut the prices of grade C by more than they undercut the prices of grade B. The imports from China were found to be in competition also with the sales of grade C, as explained in recital (56). Contrary to the claim of the interested party, therefore, the Union prices of all product types were undercut by the imports from China. However, as explained in recital (57) above, the determination of undercutting and underselling margins has been made on the basis of matching product control numbers in order to reach an objective and fair determination. This is to the advantage of the Chinese producers, because Chinese imports were not compared against more expensive types of Union products. In any case, the non-matching product types represented only a small part of the free market, since the vast majority of the grade C sales took place in the captive market. The claim must therefore be rejected.

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

(60) In the absence of any comments concerning the preliminary remarks and macroeconomic indicators, the conclusions set out in recitals (64) to (80) of the provisional Regulation are confirmed.

(61) Following provisional disclosure, as explained in recital (8) above, the Union industry submitted revised cost data in particular for the period considered. The revised data that was verified at their premises also concerns cash flow and investments. As a result, the indicators concerning costs, profitability, cash flow, investments and return on investments were re-stated to reflect the verified data. While the changes affect slightly the exact level of certain indicators, they do not alter the overall conclusions on injury of the provisional Regulation. The below recitals (66) to (68) replace the recitals (81) to (83) of the provisional Regulation.

(62) Following definitive disclosure, several interested parties questioned the procedural grounds for the submission of the revised data and its verification by the Commission. The interested parties requested more additional information on the revised data, and claimed that the revisions put into question the overall conclusion on the existence of injury.

(63) On procedure, the Commission notes that the new submissions addressed questions or omissions detected at the provisional stage and were thus aimed at improving the accuracy of the findings. The Commission only accepted the revisions that could be verified, which limited the impact of the revised submissions as compared with the initial claims of the Union industry.

(64) On the consequences of the changes on the injury findings, the Commission notes, contrary to the claims of the interested parties, that the impact of the modifications was small. The Commission observes that the adjustments to scrap prices and cost of goods sold were in a range of 1 % to 2 %. The changes therefore do not alter the overall findings on the existence of injury.

(65) Concerning cash flow from unrelated sales, the Commission took into account revised data that was not available at the provisional stage. The correction did not affect the cash flow on related sales, neither changed the conclusion that the cash flow situation deteriorated following the start of the imports from China. As regards return on investments and employment costs, the Commission corrected clerical errors in the formulas in the tables in recitals (83) and (91) of the provisional Regulation. These corrections confirmed the conclusions on the deteriorating return on investment and the impact of the labour costs.

(a) *Average unit selling prices on the Union market and unit cost of production*

(66) The average sales prices of the sampled Union producers to unrelated customers in the Union decreased by 16 % from 2012 to the IP. The price decrease reflects a general lowering trend in the worldwide cost of raw material, both shredded scrap used in the Union and iron ore used in China and in the analogue country, as shown in the table below.

	2011	2012	2013	2014	IP
Scrap price in EUR/tonne (sampled Union producers)	319	307	279	269	260
Index (2012 = 100)	*104*	*100*	*91*	*88*	*85*
Shredded scrap price in EUR/tonne (Union market)	318	285	254	261	251
Index (2012 = 100)	*112*	*100*	*89*	*92*	*88*
Iron ore price in EUR/tonne (imports to China)	124	100	96	72	60
Index (2012 = 100)	*125*	*100*	*96*	*73*	*61*
Iron ore price in EUR/tonne (imports to China) submitted by the Chinese exporting producers	Not provided	Not provided	[90-110]	[60-80]	[50-70]

Source: Complainant, questionnaire replies, www.indexmundi.com, CISA

(67) However, the sales prices of the Union industry decreased from 2012 to the IP faster than the raw material prices for shredded scrap, both in absolute and in relative terms. As can be seen in the table below, this resulted in losses from 2013 onwards.

	2011	2012	2013	2014	IP
Average unit selling price in the Union to related customers	529	540	483	464	458
Index (2012 = 100)	*98*	*100*	*89*	*86*	*85*
Average unit selling price in the Union to unrelated customers	505	507	456	434	427
Index (2012 = 100)	*100*	*100*	*90*	*86*	*84*

	2011	2012	2013	2014	IP
Unit cost of goods sold for related sales (EUR/tonne)	544	527	490	479	470
Index (2012 = 100)	*103*	*100*	*93*	*91*	*89*
Unit cost of goods sold for unrelated sales (EUR/tonne)	504	491	458	444	433
Index (2012 = 100)	*103*	*100*	*93*	*90*	*88*

Source: Questionnaire replies

(b) *Profitability, cash flow, investments, return on investments and ability to raise capital*

(68) During the period considered the Union producers' cash flow, investment, return on investment and their ability to raise capital developed as follows:

	2011	2012	2013	2014	IP
Profitability of sales in the Union to related customers (% of sales turnover)	– 2,8	+ 2,5	– 1,5	– 3,2	– 2,7
Profitability of sales in the Union to unrelated customers adjusted for comparable product types (% of sales turnover)	+ 0,2	+ 4,8	+ 0,9	– 1,9	– 0,5
Cash flow related sales (EUR)	– 208 055	6 928 639	1 692 126	609 421	1 441 890
Cash flow unrelated sales (EUR)	3 311 842	11 567 283	1 947 404	2 258 271	1 060 330
Investments (EUR)	7 176 323	6 546 524	5 880 627	4 504 181	5 030 792
Index (2012 = 100)	*110*	*100*	*90*	*69*	*77*
Return on investments (%)	– 3	8	– 2	– 7	– 5

Source: Questionnaire replies

(69) In the absence of any modification concerning the profitability of the related sales, the conclusions set out in recitals (84) to (85) of the provisional Regulation are confirmed.

(70) As a result of the revised data, the recitals (86) to (87) of the provisional Regulation are replaced by the recitals (71) to (72) below:

(71) For their unrelated sales, a similar trend as for the related sales was followed. The unrelated sales were profitable in 2012, almost broke even in 2013 and then became loss-making from 2014 onwards.

(72) Cash flow, which is the ability of the industry to self-finance its activities, was initially largely positive for unrelated sales, but reduced since 2013 in line with the weakening profits. Cash flow from related sales was negative in 2011 but positive in the rest of the period considered. However, since the related sales prices do not necessarily reflect market prices, the cash flow from related sales could not be considered to reflect the cash flow situation of the Union industry.

(73) In the absence of any other comments concerning the indicators listed in recital (68) above, the conclusions set out in recitals (88) to (89) of the provisional Regulation are confirmed.

(c) *Stocks*

(74) In the absence of any comments concerning stocks, the conclusions set out in recital (90) of the provisional Regulation are confirmed.

(d) *Labour costs*

(75) Following provisional disclosure, an error in the Table in recital (91) of the provisional Regulation came to the attention of the Commission. The clerical error concerned the formula of the average costs per employee in the table in recital (91) of the provisional Regulation. The expression '13 % of the total costs of production' is replaced by '4 % of the total costs of production'. The table in recital (91) of the provisional Regulation is replaced by the below table:

	2011	2012	2013	2014	IP
Average labour costs per employee (EUR)	41 407	47 208	41 650	45 539	49 449
Index (2012 = 100)	*88*	*100*	*88*	*96*	*105*

Source: Questionnaire replies

(76) One interested party commented, in the light of recital (91) of the provisional Regulation, that the labour costs of the Union industry have increased significantly from 2012 to the IP.

(77) The Commission notes that the corrected table above shows a moderate 5 % increase in the average labour cost from 2012 to the IP. The comment of the interested party is found to be justified and has been addressed in the corrected table. The correction does not alter the overall conclusion on injury.

7. **Conclusion on injury**

(78) In recital (93) of the provisional Regulation, the expression '4 percentage points' is replaced by 'over 5 percentage points'.

(79) In the absence of any other comments concerning the conclusion on injury, the conclusions set out in recitals (92) to (94) of the provisional Regulation that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation are confirmed.

E. **CAUSATION**

1. **Introduction and the effect of the dumped imports**

(80) Following provisional disclosure, one interested party claimed that the Union industry had itself shifted its focus away from the product concerned to other products. The observed decrease in sales of the product concerned

would thus be a result of the choices made by the Union industry and not attributable to the Chinese imports. The interested party claimed that the Union industry has therefore not suffered injury since other products have compensated the decrease in the production of the product concerned, leaving no negative net effect on the situation of the Union industry. This claim was repeated by two interested parties following the definitive disclosure.

(81) The Commission notes that the same machinery can be used to manufacture both HFP rebars and other products, as explained in recital (72) of the provisional Regulation. This fact does not, however, lead to the conclusion that the increase in the production of other products is the cause of the decrease of the production of HFP rebars. Such a causal link would exist only if the machinery would be operating close to full capacity. At less than full capacity, as is the case here, the production of other products can increase without causing the decrease of production of HFP rebars. The increase of output of other products does not affect the assessment of injury for HFP rebars established in section D above. The Commission found no evidence suggesting that the Union producers had made an active decision to decrease the production of HFP rebars in order to focus on other products. The claim must therefore be rejected.

(82) In the absence of any other comments with regard to the introduction and the effect of the dumped imports, the conclusions set out in recitals (95) to (99) of the provisional Regulation are confirmed.

2. **Effect of other factors**

2.1. *Export performance of the Union industry*

(83) One interested party claimed that the inefficiency of the Union industry, instead of the imports from China, would be the cause of the material injury. The interested party alleged that the lack of exports to third markets and the existence of imports from Turkey into the Union, despite their high prices, are signs of inefficiency of the Union industry. The interested party claimed that as a result, the imposition of measures against the imports from China would not help the EU industry, as the imports from China would be replaced by imports from other countries. This claim was repeated by two interested parties following the definitive disclosure.

(84) The Commission notes that the Union industry was profitable in 2012, before the start of the imports from China. The exports volumes were already small, without this preventing the industry from making a profit. The deterioration of the situation of the Union industry therefore cannot have been caused by the absence of exports to third countries. The Commission observes that the deterioration of the situation of the Union industry started with the appearance of the dumped imports from China.

(85) Moreover, the Commission notes that as explained in recital (105) of the provisional Regulation, the imports from Turkey represented only 2 % market share during the IP and that the impact of the imports from Turkey therefore was not such as to break the causal link between the Chinese imports and the material injury suffered by the Union industry.

(86) The Commission has found no evidence to substantiate the alleged inefficiency of the Union industry. On the contrary, the costs of production of the Union industry were found to be lower than the costs of production in the analogue country. The claim must therefore be rejected.

(87) In the absence of other comments with regard to the export performance of the Union industry, the conclusions set out in recital (100) of the provisional Regulation are confirmed.

2.2. *Sales to related parties*

(88) One interested party commented that the overall decrease in sales to unrelated parties is explained by one Union producer's increased sales to its related parties at the expense of unrelated parties. The interested party alleged that the drop in unrelated sales is therefore not caused by the imports from China but by shifting the sales towards related customers by one Union producer.

(89) Firstly, the Commission observes that the decrease in the Union industry sales to unrelated parties took place in a context of increasing Union consumption, as explained in recitals (74) to (76) of the provisional Regulation. Related sales cannot explain why the Union producers could not increase their sales in line with the expanding consumption. Secondly, the above claim concerning the Union industry sales to related parties is contradicted by the table in recital (74) of the provisional Regulation which shows that related sales did not increase but remained by and large stable during the period considered. The argument concerning an alleged increase of related sales at the expense of unrelated sales is unfounded and therefore cannot break the causal link between the Chinese import and the material injury suffered by the Union industry.

(90) In the absence of other comments with regard to the sales to related parties, the conclusions set out in recitals (101) to (103) of the provisional Regulation are confirmed.

2.3. *Imports from third countries*

(91) In the absence of any comments with regard to the imports from third countries, the conclusions set out in recitals (104) to (106) of the provisional Regulation are confirmed.

2.4. *The economic crisis*

(92) In the absence of any comments with regard to the economic crisis, the conclusions set out in recitals (107) to (108) of the provisional Regulation are confirmed.

2.5. *Cost of the main raw material*

(93) One interested party repeated the claim discussed in recitals (109) to (110) of the provisional Regulation, stating that the root cause of the injury would be more costly production methods and raw materials of the EU industry (scrap and electric furnaces) compared with China (iron ore and coal). It claims that the reasoning of the recitals (109) to (110) of the provisional Regulation failed to take into account the different consumption rates of iron ore and scrap.

(94) The Commission reiterates, as stated in recital (110) of the provisional Regulation, that the two production methods are different and they use different combinations of raw material and energy. The interested party has not put forward substantiated data on the alleged impact of the production method. On the basis of the available information, the Commission observes that the weight of the raw material is approximately 60 % in the cost of production of the Union industry, whereas energy cost is in the range of 8-10 %. Any savings in the raw material price due to an alternative production method would be at least partly offset by higher energy consumption. Therefore the Commission concludes that the prices of the two different raw materials are not directly comparable. In any event, the Commission observes that the dumping margin was established on the basis of the normal value in South Africa, not on the basis of Chinese raw material and energy prices. The arguments put forward by the interested party do not show that the injury suffered by the Union industry is due to the production method. The Commission therefore concludes that even though the decreasing iron ore prices in China may have had a positive impact on the Chinese exporting producers, the production method cannot in itself be the cause of the injury suffered by the Union industry and break the causal link between injury and the dumped imports from China. This claim must therefore be rejected.

(95) In the absence of other comments with regard to the cost of the main raw material, the conclusions set out in recitals (109) to (110) of the provisional Regulation are confirmed.

2.6. *Competition between Union producers*

(96) One interested party claimed that the decrease of prices and the injury suffered by the Union industry is not caused by the imports from China but by the fierce competition between Union producers. It alleged that this is demonstrated by the continued decrease of the prices in the post-IP period, even in the absence of imports from China.

(97) The Commission notes that the dumped imports from China have been found to undercut the EU prices during the IP, thereby establishing a causal link between the injury and the dumped imports from China. As regards the post-IP developments, the Commission notes the significant increase of inventories of Chinese origin, which is likely to be suppressing prices over time even in the absence of immediate imports. This argument must therefore be rejected.

2.7. *USD/GBP exchange rate*

(98) One interested party claimed that exchange rate fluctuations between GBP and USD would be the cause of the imports from China. The appreciation of GBP against USD would allegedly have made the UK producer uncompetitive and opened the demand for imports from China, which are quoted in USD.

(99) The Commission notes that the undercutting and underselling determination is based on the sales of the Union producers located in France, Portugal and Spain, while the dumping determination is based on the normal value in South Africa. These findings are not affected by fluctuations in the USD/GBP exchange rate. Moreover, the USD has appreciated against GBP from 2012 to the IP. The argument must therefore be rejected.

2.8. *Other alleged factors*

(100) Following definitive disclosure, several interested parties claimed that the imports from China cannot have caused the injury to the Union producer whose product types did not match the product types imported from China. This is allegedly demonstrated by the lower profit rate of this producer when compared to the average profit of the other Union producers. The interested parties claimed that there must be some other factor causing the injury to this producer that the Commission had not taken into account, but they did not specify a possible alternative cause. The interested parties claimed that the Union producer should not have been included in the injury analysis.

(101) Firstly, the Commission refers to recital (69) of the provisional Regulation, which clarifies that even if the injury had been established on the basis of the matching product types only, it would not have altered the trends observed. Secondly, as explained in recitals (55) to (57) above, the product types imported from China are substitutable by the non-matching product and can therefore cause injury also to the Union producer whose product types did not match the product types imported from China. Thirdly, the profits of the different producers may be different due to the specific cost and price structures of each producer. Finally, the interested party has not suggested any alternative cause of injury that might break the causal link. For the above reasons, the claim must be rejected.

2.9. *Conclusion on causation*

(102) In summary, the Commission considers that none of the arguments put forward by the interested parties after the provisional disclosure are able to alter the provisional findings which established a causal link between the dumped imports and the material injury suffered by the Union industry during the IP. The conclusions set out in recitals (111) to (114) of the provisional Regulation are confirmed.

(103) Based on the above analysis, which had distinguished and separated the effects of all known factors on the situation of the Union industry from the injurious effects of the dumped imports, it is concluded that the dumped imports from China have caused material injury to the Union industry within the meaning of Article 3(6) of the basic Regulation.

F. **UNION INTEREST**

(104) After the provisional disclosure, several interested parties claimed that the imposition of the measures would be contrary to the Union interest.

1. **General considerations**

(105) In the absence of any comments with regard to the general considerations, the conclusions set out in recitals (115) to (117) of the provisional Regulation are confirmed.

2. **Interest of the Union industry**

(106) In the absence of any comments with regard to the interest of the Union industry, the conclusions set out in recitals (118) to (124) of the provisional Regulation are confirmed.

3. **Interest of users**

(107) Several interested parties expressed concerns regarding the availability of supply for independent users. They pointed out that imports are necessary to satisfy the demand since domestic capacity is far below the consumption. According to these interested parties, the independent users will face difficulties to source the product concerned in the event that the imports from China will become uncompetitive as a result of the measures. They alleged that alternative sources are not available because the Union producer located in the UK is giving preference to its related users, which restricts the availability of supply to the independent users and potentially forces them out of the market. This in turn will lead to competition distortions in the downstream market, putting at risk a large proportion of the jobs currently existing with the independent users. They pointed out that there are more jobs at stake in the downstream industry than in the Union industry involved with the product concerned.

(108) The Commission notes that the purpose of anti-dumping measures is not to foreclose the market to exporters practicing dumping but to eliminate the trade distorting effect of injurious dumping and restore effective competition in the market. Users could continue to purchase HFP rebars from China once price discrimination has been eliminated. Furthermore, as explained in the recital (132) of the provisional Regulation, there is a significant spare capacity in the Union, in particular with producers located outside of the UK and who do not have any related users. The Commission considers that no arguments have been put forward showing that the independent users will face difficulties in purchasing from these Union producers. As a consequence, the independent users can continue to compete in the market. The argument must therefore be disregarded.

(109) Following definitive disclosure, two interested parties claimed that the measures are not in the Union interest because the users would become loss-making should the measures against imports from China be imposed. However the interested parties did not provide arguments as to why the users could not turn to the alternative sources of supply explained above. The claim was therefore disregarded.

(110) In the absence of other comments with regard to the interest of the users, the conclusions set out in recitals (125) to (136) of the provisional Regulation are confirmed.

4. **Interest of importers**

(111) Some interested parties argued that the imposition of measures would have negative impact on the importers. The importers would be unable to pass on price increases to customers, which would lead them to losses. Considering their narrow profit margins, they would risk going out of business.

(112) The Commission however points out that the domestic production in the UK is not sufficient to supply the entire consumption, thereby leading to a continuous need of imports. The importers will be able to continue their activity by importing from other sources of supply and also from China at non-injurious prices following the imposition of the duties. The importers are therefore unlikely to suffer substantially negative effects as a result of the measures.

(113) In the absence of other comments with regard to the interest of importers, the conclusions set out in recitals (137) to (139) of the provisional Regulation are confirmed.

5. **Conclusion on Union interest**

(114) In summary, none of the arguments put forward by the interested parties demonstrate that there are compelling reasons against the imposition of measures on imports of the product concerned from China. Any negative effects on the unrelated users are mitigated by the availability of alternative sources of supply. Moreover, when considering the overall impact of the anti-dumping measures on the Union market, the positive effects, in particular on the Union industry, appear to outweigh the potential negative impacts on the other interest groups. The conclusions set out in recitals (140) to (142) of the provisional Regulation are confirmed.

G. **RETROACTIVE IMPOSITION OF ANTI-DUMPING DUTIES**

(115) As mentioned in recital (3) above, the Commission made imports of HFP rebars originating in the PRC subject to registration as of 19 December 2015 following a request by the complainant.

(116) The registration concerns imports that have been made between 19 December 2015 and the imposition of the provisional anti-dumping measures, namely 29 January 2016.

(117) As mentioned in recital (10) above, cooperation was received from all sampled Union producers and from three unrelated importers. Their imports represented 70 % of all imports from China during the IP and 79 % of all imports from China in the post-IP period, namely from April 2015 to January 2016.

(118) Several interested parties submitted comments opposing a retroactive collection of the duties. The Union industry, on the opposite, asked for retroactive application.

(119) Pursuant to Article 10(4)(b) of the basic Regulation, duties may be levied retroactively if there is 'in addition to the level of imports which caused injury during the investigation period, a further substantial rise in imports which, in the light of its timing and volume and other circumstances, is likely to seriously undermine the remedial effect of the definitive anti-dumping duty to be applied'.

(120) The Commission observes that after the registration, the imports from China stopped, with the exception of one shipment of approximately 10 000 tonnes that entered the Union after registration. Verification by national customs authorities, on the basis of a request based on Article 6(4) of the basic Regulation, has not shown any other declarations belonging under the relevant TARIC code, so the import statistics at the disposal of the Commission appear reliable. The Commission therefore observes that the registration has sufficed to almost completely stop the imports and therefore to avoid further injury to the Union industry. The Commission concludes that the shipment is hence not likely to seriously undermine the remedial effect of the duties.

1. **Conclusion on retroactivity**

(121) On this basis, the Commission considers that one of the legal conditions under Article 10(4) of the basic Regulation is not met and therefore the duties should not be levied retroactively on the registered imports.

H. **DEFINITIVE ANTI-DUMPING MEASURES**

1. **Injury elimination level (Injury margin)**

(122) Following provisional disclosure, the Union industry contested the target profit used in order to determine the injury elimination level as set out in recital (147) of the provisional Regulation, arguing that the level (+ 1,65 %) was insufficient and not representative for that type of industry in the absence of dumped imports. The Union industry argued that the Commission should select a higher profit rate and suggested a number of alternative methods to determine the relevant profit rate. As mentioned in recital (8) above, the Union industry also submitted data on historical profits from before the period considered and suggested using 2008 as the most suitable reference year as one possible alternative. Finally, as also explained in recital (61) above, the verification of the revised cost data of the Union industry for the period considered also led to changes in their profitability.

(123) The Commission observes that profitability data related specifically to the product concerned constitutes a more accurate benchmark than the profitability data of other steel products or of the steel sector in general, which were the basis of some of the methods suggested by the Union industry. Those methods were therefore rejected.

(124) Furthermore, the Commission observes that profitability data from the period considered, if a year with normal conditions of competition is available, constitutes a more accurate benchmark than the profitability data from before the period considered, which was the basis of some of the other methods suggested by the Union industry. For the reasons explained in recitals (147) to (148) of the provisional Regulation, the Commission found that the year 2012 reflected the profits that could be achieved by the Union industry under normal conditions of competition, in the absence of dumped imports. The methods that were based on the data from the years before the period considered were therefore rejected.

(125) The Commission notes that the profit level provisionally determined in recital (147) of the provisional Regulation was in line with the revenues and costs of the year 2012 submitted by the Union industry and verified by the Commission at the provisional stage.

(126) As explained in recital (61) above, the revised data submitted and verified after the provisional disclosure led to changes in the level of certain indicators concerning profitability, cash flow, investments and return on investments. The revised data was applied consistently to the entire period considered. As a can be seen in the tables in recitals (66) to (68), the costs and profits were slightly altered in all of the years as a result. In particular, profitability of the sales to unrelated customers achieved in the year 2012 changed to + 4,8 %, whereas at the provisional stage the profitability was 1,65 %. The change in profitability was due to the revised costs being lower, which therefore resulted in a higher profit.

(127) The Commission found that the profits achieved in the year 2012 reflected the profits that the Union industry could have achieved under normal conditions of competition, in the absence of dumping. This revised profit level achieved in 2012 was therefore applied as the target profit at the definitive stage to establish the injury margins. As a result, in recital (147) of the provisional Regulation, the expression '1,65 %' should be replaced by '4,8 %'.

(128) Following definitive disclosure, the Union industry commented that the profit margins of other products and other periods should not be excluded as possible ways to establishing the normal profit. The Union industry underlined the Commission's role of making a factual assessment to determine the most accurate profit margin in each situation. As regards the case at hand, the Union industry argued that 2012 was not a year with normal conditions of competition because of high scrap prices, weak demand and the liquidation of a UK producer putting additional supply to the market. Therefore profit margins of other products and/or other periods should have been used instead.

(129) The Commission notes that it has specifically analysed the situation in the market during the period considered in the light of the arguments concerning scrap prices, demand and the liquidation of a producer put forward by the Union industry at the provisional stage. As explained in recital (148) of the provisional regulation, these circumstances led the Commission to consider the year 2011 not to be a period under normal market conditions. By contrast, the Commission does not find that these factors warrant the exclusion of the year 2012. As regards scrap prices, the price peak took place in early 2011, and the scrap prices continued to fall in 2012, as shown in recital (81) of the provisional Regulation. As regards the allegedly weak demand, the consumption increased by 9 % from 2011 to 2012, as shown in recital (57) of the provisional Regulation. As regards the liquidation of a producer, the disruptions impacted the market particularly in the year 2011, while the liquidation was completed in early 2012.

(130) For these reasons, the Commission rejects the arguments of the complainant and reaffirms the finding that the year 2012 was a period under normal market conditions. As there is a year of normal conditions of competition within the period of investigation, it is not necessary to base the determination of normal profit on other periods or other products.

(131) After the provisional disclosure, one interested party questioned whether the target prices of the Union industry had been correctly calculated and in particular whether the Commission had calculated the actual profit and the target profit separately for each PCN or whether the Commission had used the same profit margins for all PCNs.

(132) In response to the question, the Commission confirms that the standard methodology has been used: the target unit price has been calculated by adding the target profit established above to the individual cost of production of each separate PCN. By contrast, the actually achieved profit was different for each PCN, and equalled the difference between the average sales price and average costs for each individual PCN. The question of the interested party is therefore considered to have been answered.

(133) Finally, as explained in recitals (40) to (49) above, the price comparison between imports from China and the Union producers was adjusted to the level of the goods landed in the UK or in Ireland. As a result, the calculation of the injury elimination level was also modified to reflect a comparison of the prices of the level of the products landed in the harbour in the UK or in Ireland. This had the impact of increasing the injury margin.

(134) One interested party highlighted that the level of the injury margins and dumping margins of the Chinese exporting producers seem contradictory, since producers with higher dumping margins have lower injury margins.

(135) The Commission notes that the normal value is based on the analogue country and hence the same for all Chinese exporting producers. It could therefore indeed be expected that a higher dumping margin would be a consequence of lower CIF export prices, leading to a higher underselling margin too. However, the exports to the Union of one Chinese exporting producer (Xicheng Group) were made via independent trading companies located in China. The export prices used for the calculation of the dumping margin were established on the basis of the prices invoiced to the independent trading companies, whereas the CIF prices used for the calculation of the injury margin were established on the basis of prices paid by the first independent buyers in the Union. The CIF prices were exceeding the export prices by at least 20 %. This difference in sales channels had an effect of increasing the difference between dumping margin and injury margin of this exporting producer.

(136) Considering the change in the target profit mentioned in recital (121) above, in the absence of any other comments regarding the injury elimination level, the other conclusions reached in recitals (144) to (151) of the provisional Regulation are confirmed.

2. **Definitive measures**

(137) In view of the conclusions reached with regard to dumping, injury, causation and Union interest, and in accordance with Article 9(4) of the basic Regulation, definitive anti-dumping measures should be imposed on the imports of the product concerned at the level of the injury margin, in accordance with the lesser duty rule. The Commission notes that the claims of the interested parties concerning the dumping margin, even if accepted, would therefore not have changed the level of the measures.

(138) On the basis of the above, the rate at which such duties will be imposed are set as follows:

Company	Injury margin (%)	Dumping margin (%)	Definitive anti-dumping duty rate (%)
Jiangyin Xicheng Steel Co., Ltd Jiangyin	18,4	62,1	18,4
Jiangyin Ruihe Metal Products Co., Ltd Jiangyin	18,4	62,1	18,4
Jiangsu Yonggang Group Co., Ltd Zhangjiagang	22,5	48,1	22,5

Company	Injury margin (%)	Dumping margin (%)	Definitive anti-dumping duty rate (%)
Jiangsu Lianfeng Industrial Co., Ltd Zhangjiagang	22,5	48,1	22,5
Zhangjiagang Hongchang High Wires Co., Ltd Zhangjiagang	22,5	48,1	22,5
Zhangjiagang Shatai Steel Co., Ltd Zhangjiagang	22,5	48,1	22,5
All other companies	22,5	62,1	22,5

(139) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the country-wide duty applicable to 'all other companies') are thus exclusively applicable to imports of product concerned originating in PRC and produced by the companies and thus by the specific legal entities mentioned. Imported product concerned produced by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.

(140) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission ([1]) forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, that name change or that change in the production and sales entities. If appropriate, the Regulation will accordingly be amended by updating the list of companies benefiting from individual duty rates.

(141) To minimise the risks of circumvention due to a 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) hereof. Imports not accompanied by that invoice should be subject to the anti-dumping duty applicable to 'all other companies'.

(142) In order to ensure a proper enforcement of the anti-dumping duty, the residual duty level should not only apply to the non-cooperating exporting producers but also to those producers which did not have any exports to the Union during the IP.

3. **Definitive collection of the provisional duties**

(143) In view of the dumping margins found and given the level of the injury caused to the Union industry, the amounts secured by way of the provisional anti-dumping duty, imposed by the provisional Regulation, should be definitively collected.

(144) The measures provided for in this regulation are in accordance with the opinion of the Committee established by Article 15(1) Regulation (EC) No 1225/2009,

([1]) European Commission, Directorate-General for Trade, Directorate H, CHAR 04/039, 1049 Brussels, Belgium.

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of high fatigue performance iron or steel concrete reinforcing bars and rods made of iron, non-alloy steel or alloy steel (but excluding of stainless steel, high-speed steel and silico-manganese steel), not further worked than hot-rolled, but including those twisted after rolling; these bars and rods contain indentations, ribs, grooves or other deformations produced during the rolling process or are twisted after rolling; the key characteristic of high fatigue performance is the ability to endure repeated stress without breaking and, specifically, the ability to resist in excess of 4,5 million fatigue cycles using a stress ratio (min/max) of 0,2 and a stress range exceeding 150 MPa, currently falling within CN codes ex 7214 20 00, ex 7228 30 20, ex 7228 30 41, ex 7228 30 49, ex 7228 30 61, ex 7228 30 69, ex 7228 30 70 and ex 7228 30 89 (TARIC codes 7214 20 00 10, 7228 30 20 10, 7228 30 41 10, 7228 30 49 10, 7228 30 61 10, 7228 30 69 10, 7228 30 70 10 and 7228 30 89 10) 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:

Company	Duty (%)	TARIC additional code
Jiangyin Xicheng Steel Co., Ltd, Jiangyin	18,4	C060
Jiangyin Ruihe Metal Products Co., Ltd, Jiangyin	18,4	C061
Jiangsu Yonggang Group Co., Ltd, Zhangjiagang	22,5	C062
Jiangsu Lianfeng Industrial Co., Ltd, Zhangjiagang	22,5	C063
Zhangjiagang Hongchang High Wires Co., Ltd, Zhangjiagang	22,5	C064
Zhangjiagang Shatai Steel Co., Ltd, Zhangjiagang	22,5	C065
All other companies	22,5	C999

3. The application of the individual duty rate specified for the companies mentioned in paragraph 2 shall be conditional upon presentation to the customs authorities of the Member States 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 concerned) sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in the People's republic of China. I declare that the information provided in this invoice is complete and correct.' If no such invoice is presented, the duty rate applicable to 'all other companies' shall apply.

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

Article 2

The amounts secured by way of the provisional anti-dumping duties pursuant to Implementing Regulation (EU) 2016/113 shall be definitively collected.

Article 3

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, 28 July 2016.

For the Commission

The President

Jean-Claude JUNCKER