COMMISSION IMPLEMENTING REGULATION (EU) 2016/1778

of 6 October 2016

imposing a provisional 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

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union [1], and in particular Article 7 (4) thereof,

After consulting the Member States,

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 4 January 2016, the European Steel Association ('Eurofer' or 'the complainant') lodged a complaint on behalf of producers representing more than 90 % of the total Union production of certain hot-rolled flat products of iron, non-alloy or other alloy steel. The complaint contained evidence of dumping and a resulting threat of material injury that was sufficient to justify the initiation of the investigation.

(2) Following this complaint, on 13 February 2016, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports into the Union of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China ('the PRC' or 'the country concerned') on the basis of Article 5 of Council Regulation (EU) 2009/1225 [2] ('the basic Regulation'). It published a Notice of Initiation in the Official Journal of the European Union [3] ('the Notice of Initiation').

(3) Subsequently, the Commission also initiated the following two investigations:

(a) On 13 May 2016 [4], an anti-subsidy investigation on imports of the same product originating in the People's Republic of China;

(b) On 7 July 2016 [5], an anti-dumping investigation on imports of the same product originating in Brazil, Iran, Russia, Serbia and Ukraine.

1.2. Registration

(4) On 5 April 2016, the complainant submitted a request for registration of imports from the PRC of the product concerned. On 2 June 2016, the complainant updated the request by providing more recent financial data, but on 11 August 2016, withdrew it.

---

[1] OJ L 176, 30.6.2016, p. 21.
[2] This Regulation was replaced as from 20 July 2016 by Regulation (EU) 2016/1036 of the European Parliament and of the Council (codified version).
[3] OJ C 58, 13.2.2016, p. 9.
[4] OJ C 172, 13.5.2016, p. 29, Notice of initiation of an anti-subsidy proceeding concerning imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China.
[5] OJ C 246/8, 7.7.2016, p. 7, Notice of initiation of an anti-dumping proceeding concerning imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in Brazil, Iran, Russia, Serbia and Ukraine.

1.3. **Interested parties**

(5) In the Notice of Initiation, the Commission invited interested parties to come forward in order to participate in the investigation. It specifically informed the complainant, other known Union producers, the known exporting producers, the Chinese authorities, known importers, suppliers and users, traders and associations known to be concerned about the initiation and invited them to participate.

(6) Interested parties were given the opportunity to make their views known in writing and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings. All interested parties who so requested and showed that there were particular reasons why they should be heard were granted a hearing.

1.4. **Sampling**

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

1.4.1. *Sampling of Union producers*

(8) In the Notice of Initiation, the Commission stated that it would select a sample of Union producers in view of their large number. The Commission subsequently selected a sample on the basis of the highest representative production and sales volumes whilst ensuring a geographical spread. It informed these provisionally selected companies and the complainant. The Commission invited interested parties to comment on the provisional sample.

(9) One provisionally selected Union producer informed the Commission that it would not be able to cooperate. In addition, both the Italian Iron and Steel association (Federacciai) and Eurofer commented that Southern Europe was not represented in the provisional sample. To ensure a better geographical spread, the Commission replaced the Union producer which decided not to cooperate with a Union producer from Southern Europe.

(10) As a result, the final sample consisted of five Union producers located in five different Member States. It accounts for over 45 % of Union production.

1.4.2. *Sampling of unrelated importers*

(11) The Commission asked unrelated importers to provide the information specified in the Notice of Initiation in order to decide whether sampling was necessary and, if so, to select a sample.

(12) Four importers provided the requested information. Therefore, no sampling was necessary and importer questionnaires were sent to all of them.

(13) However, even though the Commission contacted them in an effort to gather relevant information, no unrelated importer provided a complete questionnaire reply for the purposes of this investigation.

1.4.3. *Sampling of exporting producers in the PRC*

(14) In order to decide whether sampling was necessary and, if so, to select a sample for the PRC, the Commission asked 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 exporting producers that could be interested in participating in the investigation.

(15) Thirteen groups of exporting producers in the PRC provided the requested information and agreed to be included in the sample. The Commission proposed a sample of three groups of companies on the basis of the largest representative volume of exports to the Union, which could reasonably be investigated within the time available. It invited all known exporting producers concerned and the authorities of the PRC to comment on the proposed sample.

(16) One exporting producer, Jiangsu Tiangong Tools Company Limited ('Tiangong Tools'), claimed that it should be included in the sample because, unlike the selected exporting producers, it produces tool steel and high-speed steel. It argued that, if its product is considered as product concerned, the sample should be more representative and include it.

(17) This request was rejected. Tiangong Tools only exported small quantities of a particular product type into the Union. Therefore, the inclusion of this exporting producer in the sample would not have made the sample more representative. The Commission analysed the issue of representativity further within the context of the production scope.

(18) Accordingly, the Commission decided to retain the proposed sample of three groups of exporting producers. The sampled exporting producers account for 57 % of total Union imports of the product concerned from the PRC and 58 % of the total Union imports of the product concerned from Chinese cooperating exporting producers.

1.5. **Individual examination**

(19) Only one exporting producer, Tiangong Tools, requested an individual examination under Article 17(3) of the basic Regulation and submitted a questionnaire response for that purpose. The Commission accepted preliminary this request and verified the information provided on-spot.

(20) However, the investigation demonstrated that this company only produces and exports to the Union tool steel and high-speed steel. Given that, as explained in recitals (29) to (35) below, the Commission provisionally decided to exclude tool steel and high-speed steel from the scope of this investigation, no provisional dumping margin has been established for Tiangong Tools. Nevertheless, should the Commission change its decision regarding product scope at the definitive stage, the individual examination request of this exporting producer would be reconsidered.

1.6. **Replies to the questionnaire**

(21) The Commission sent questionnaires to all parties known to be concerned and to all other companies that made themselves known within the deadlines set out in the Notice of Initiation. Questionnaire replies were received from Eurofer, five Union producers and their related steel service centres, one user, three groups of exporting producers in the PRC, and one producer in an analogue country.

1.7. **Verification visits**

(22) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, a resulting threat of injury and Union interest. Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies/association:

Association of Union producers:

— Eurofer, Brussels, Belgium

Union producers:

— ThyssenKrupp Steel Europe AG, Duisburg, Germany

— Tata Steel IJmuiden BV, Velsen-Noord, the Netherlands

— Tata Steel UK Limited, Port Talbot, South Wales, United Kingdom

— ArcelorMittal France S.A., France owning the following subsidiaries:

  — ArcelorMittal Mediterranee SAS, Fos-sur-Mer, France

  — ArcelorMittal Atlantique Et Lorraine, Dunkerque, France

— ArcelorMittal España SA, Gozón, Spain

User:

— Marcegaglia Carbon Steel Spa, Gazoldo degli Ippoliti, Italy

Exporting producers in the PRC and related traders:

— Benxi Iron & Steel Group:

  — Bengang Steel Plates Co., Ltd, Benxi, Liaoning Province, PRC

  — Benxi Iron & Steel Hong Kong Limited, Hong Kong

— Jiangsu Shagang Group Co., Ltd.:

  — Zhangjiagang Hongchang Plate Co., Ltd. Jinfeng Town, Zhangjiagang City, Jiangsu Province, PRC

  — Zhangjiagang GTA Plate Co., Ltd., Jinfeng Town, Zhangjiagang City, Jiangsu Province, PRC

  — Jiangsu Shagang International Trade Co., Ltd., Jinfeng Town, Zhangjiagang City, Jiangsu Province, PRC

  — Shagang South-Asia Trading Co., Hong Kong

  — Xinsha International PTE. Ltd., Singapore

— Hebei Iron and Steel Group (HBIS):

  — Handan Iron & Steel Group Han-Bao Co., Ltd., Handan City, Hebei Province, PRC

  — Hebei Iron & Steel Co., Ltd. Tangshan Branch, Tangshan City, Hebei Province, PRC

  — Hebei Iron & Steel Co., Ltd. Chengde Branch, Chengde City, Hebei Province, PRC

  — Handan Iron and Steel Group Import and Export Co Ltd, Handan City, Hebei Province, PRC

  — Hebei Iron and Steel (Singapore) PTE Ltd, Handan City, Hebei Province, PRC

  — Hebei Iron and Steel (Hong Kong) International Trade Co Ltd, Handan City, Hebei Province, PRC

  — Hebei Iron and Steel Group (Shanghai) International Trade Co Ltd, Handan City and Chengde City, Hebei Province, PRC

  — Tangshan Iron and Steel Group Co Ltd, Tangshan City, Hebei Province, PRC

  — Sinobiz Holdings Limited (British Virgin Islands), Tangshan City, Hebei Province, PRC

  — Chengde Steel Logistics Co Ltd, Chengde City, Hebei Province, PRC

  — Duferco SA, Lugano, Switzerland

— Jiangsu Tiangong Tools Company Limited:

  — Tiangong Aihe Company Limited, Danbei County, Danyang City, Jiangsu Province, PRC

Related importers in the Union:

— Benxi Iron and Steel Group Europe GmbH, Dusseldorf, Germany

— Duferco Commerciale, SPA, Genova, Italy

Producer in the analogue country:

— ArcelorMittal USA, Chicago, USA

1.8. **Investigation period and period considered**

(23) The investigation of dumping and injury covered the period from 1 January 2015 to 31 December 2015 ('the investigation period'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2012 to the end of the investigation period ('the period considered').

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

(24) The product concerned is certain flat-rolled products of iron, non-alloy steel or other alloy steel, whether or not in coils (including 'cut-to-length' and 'narrow strip' products), not further worked than hot-rolled, not clad, plated or coated.

The product concerned does not include:

— products of stainless steel and grain-oriented silicon electrical steel,

— products of tool steel and high-speed steel ([1]),

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

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

The product concerned is currently falling within CN codes 7208 10 00, 7208 25 00, 7208 26 00, 7208 27 00, 7208 36 00, 7208 37 00, 7208 38 00, 7208 39 00, 7208 40 00, 7208 52 10, 7208 52 99, 7208 53 10, 7208 53 90, 7208 54 00, 7211 13 00, 7211 14 00, 7211 19 00, ex 7225 19 10, 7225 30 90, ex 7225 40 60, 7225 40 90, ex 7226 19 10, 7226 91 91 and 7226 91 99 and originating in the PRC.

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

(26) There are two main uses of the hot-rolled flat steel products. First, they are the primary material for the production of various value added downstream steel products, starting with cold-rolled ([2]) flat and coated steel products. Second, they are used as an industrial input purchased by end users for a variety of applications, including in construction (production of steel tubes), shipbuilding, gas containers, cars, pressure vessels and energy pipelines.

2.2. Like product

(27) The investigation showed that the following products have the same basic physical characteristics as well as the same basic uses:

(a) the product concerned;

(b) the product produced and sold on the domestic market of the PRC and the USA;

(c) the product produced and sold in the Union by the Union industry.

(28) The Commission decided at this stage that these products are like products within the meaning of Article 1(4) of the basic Regulation.

2.3. Claims regarding product scope

(29) First, one exporting producer (Jiangsu Tiangong Tools Company Limited) and one importer related to another Chinese exporting producer (Duferco S.A.) requested that certain types of hot-rolled flat steel products, known in the industry as tool steel and high-speed steel, should be excluded from the product scope. They claimed that tool steel and high-speed steel have significantly different properties, prices, different specifications and uses.

([1]) These products are not included on the basis of a product exclusion request (see from recital (29) onwards).
([2]) Cold rolling process is defined by passing a sheet or strip — that has previously been hot rolled and pickled — through cold rolls, i.e. below the softening temperature of the metal.

(30) On 21 April 2016, a hearing with this Chinese exporting producer was held in the presence of the Hearing Officer in trade proceedings. Furthermore, on 22 June 2016, a hearing with the importer was held about its product exclusion request.

(31) The Complainant was of the opinion that these claims were not well founded and that there is a risk of circumvention in case these claims would be accepted by the Commission.

(32) The Commission found that there are indeed major physical and chemical differences between other types of the product concerned than tool steel and high-speed steel on the one hand, and tool steel and high-speed steel on the other hand. There are several chemical elements ([1]) inherently present in tool steel and high-speed steel, which are not found in the product concerned.

(33) Furthermore, there are differences in the production process, different uses and significant price differences between tool steel and high-speed steel on the one hand and other types of the product concerned. For instance, tool steel and high-speed steel, unlike other types of the product concerned, are used for working, machining, extruding, cutting, stamping and perforating other materials, which is not the conventional use of the other types of the product concerned. Furthermore, the production of tool steel follows another production process, whereby the specific properties are achieved during all stages of the production process. This difference in production process makes the production process for tool steel and high-speed steel more cost-intensive, which also explains to an extent the difference in sales price with other types of the product concerned.

(34) Imports of tool steel and high-speed steel account volume-wise for about 1,25 % of total Chinese imports during the year 2015. Tool steel and high-speed steel are also put under different, specific CN codes.

(35) Therefore, the Commission provisionally excluded tool steel and high-speed steel, while alerting the national customs authorities about possible risks of circumvention.

(36) Second, on 5 August 2016, one Italian user, Marcegaglia Carbon Steel Spa, claimed that the following types of the product concerned should be excluded from the product scope: Interstitial-Free (IF) steel types, dual-phase steel types, high carbon steel types, and non-grain oriented steel types. The rationale for the product exclusion request for these types was mainly as follows:

(a) These product types have significantly different properties, uses and prices compared to all the other types of the product concerned;

(b) These are not interchangeable products with other types of the product concerned.

(37) The same user also requested that the product types which are used for cold-rolling should be excluded on the basis of their further use downstream.

(38) Concerning the product exclusion request for Interstitial-Free (IF) steel types, dual-phase steel types, high carbon steel types, and non-grain oriented steel types of the product concerned, the Commission found that it had not been demonstrated that these products have different properties and uses. Also, the final detailed request for the product exclusion request came in at a very late stage. Therefore, at this stage the Commission rejected this request, but will further investigate this claim.

(39) Concerning the product types which are used for re-rolling, this is one of the main uses of the product concerned, as mentioned under recital (26) above. A different use alone is not a reason for exclusion. Also, excluding these product types would lead to the exclusion of a majority of all imported types of the product concerned, on top of a complex, if not impossible administrative monitoring to distinguish the product concerned between those which are used for re-rolling and those which are not. Therefore, at this stage the Commission rejected this request as well.

([1]) These chemical elements are inter alia: Tungsten/wolfram, molybdenum, chromium and vanadium.

3. DUMPING

3.1. Normal value

(40) Pursuant to Article 2(7)(b) of the basic Regulation the Commission determines normal value in accordance with Article 2(1) to (6) of the basic Regulation for exporting producers in the PRC which comply with the criteria in Article 2(7)(c) of the basic Regulation and can be granted market economy treatment. However, none of the cooperating exporting producers applied for such treatment.

(41) Therefore, under Article 2(7)(a) of the basic Regulation normal value had to be determined on the basis of the prices or constructed normal value in an appropriate third market economy — country (the 'analogue country').

(42) In the Notice of Initiation, the Commission proposed using a third market economy country ('analogue country') within the meaning of Article 2(7)(a) of the basic Regulation. The Commission sent questionnaires to all known producers in the 11 market economy countries mentioned in the Notice of Initiation ([1]) and to eight other countries where there were indications of production and sales of the like product, namely Argentina, Australia, Egypt, Iran, Japan, South Africa, the Republic of Korea and Taiwan. In total, 62 producers in 19 potential analogue countries were contacted. However, only one company in the USA (ArcelorMittal USA) expressed its willingness to cooperate — and submitted a questionnaire reply.

(43) The USA is considered a suitable analogue market, as it is an open market, with ten domestic producers of the like product and imports from other countries account for up to over 10 % of total consumption. Therefore, and given that only one producer from USA expressed its willingness to cooperate, USA was provisionally selected as an appropriate analogue country.

(44) Interested parties were invited to comment on this selection. As no comments were received, the USA was selected as analogue country.

(45) In accordance with Article 2(2) of the basic Regulation, the Commission first examined whether the sales of the like product in the USA to independent customers were representative. The sales of the cooperating producer of the like product were found to be sold in representative quantities on the domestic market compared to the product concerned exported to the Union by the Chinese exporting producers included in the sample.

(46) The Commission subsequently examined whether those sales could be considered as made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing the proportion of profitable sales to independent customers. The sales transactions were considered profitable where the unit price was equal or above the cost of production. The cost of production of the American producer during the investigation period was therefore determined.

(47) For those product types where more than 80 % by volume of sales on the domestic market of the type in question were above cost and the weighted average sales price of that type was equal to or above the unit cost of production, normal value, by product type, was calculated as the weighted average of the actual domestic prices of the actual domestic prices of all sales of the type in question, irrespectively of whether those sales were profitable or not.

(48) Where the volume of profitable sales of a product type represented 80 % or less of the total sales volume of that type, or where the weighted average price of that type was below the unit cost of production, normal value was based on the actual domestic price, which was calculated as a weighted average price of only the profitable domestic sales of that type made during the investigation period.

(49) As regards the product types — that were not profitable, normal value was constructed pursuant to Article 2(3) of the basic Regulation using the cost of manufacturing of the American producer plus SG&A and profit for product types of the American producer that are profitable.

([1]) Canada, South Africa, Thailand, India, Malaysia, Mexico, Vietnam, Turkey, Russia, Ukraine and Brazil.

(50) Some product types produced in the analogue country could not be matched with the product types exported from the PRC to the Union because they are not sold by the American producer. Therefore, the normal value for the non-matching product types had to be constructed pursuant to Article 2(3) of the basic Regulation on the basis of the analogue country's producer's manufacturing costs. The Commission took those costs of the closest resembling product, and adjusted them for the cost of the modification work (slitting or cutting) needed in order to ensure a fair comparison. The Commission then added a reasonable amount for SG&A (7 %-13 %) based on actual data pertaining to production and sales, as provided for in Article 2(6) of the basic Regulation. It finally added a reasonable amount of profit (10 %-15 %) by using the average profit margin of sales of the profitable products.

3.2. **Export prices**

(51) The sampled exporting producers exported to the Union both directly to independent customers and through related companies.

(52) For direct sales, the export prices were based on the prices actually paid or payable for the product concerned, in accordance with Article 2(8) of the basic Regulation.

(53) For the transactions where the exporting producers export the product concerned to the Union through related companies acting as an importer, the export price was established on the basis of the price at which the imported product was first resold to independent customers in the Union in accordance with Article 2(9) of the basic Regulation. In this case, adjustments to the price were made for all costs incurred between importation and resale.

3.3. **Comparison**

(54) The normal value and export price were compared on an ex-works basis. The dumping margins were established by comparing the individual ex-works prices of the sampled exporting producers to the domestic sales prices of the analogue country producer or to the constructed normal value as appropriate.

(55) For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation.

(56) On this basis, adjustments, where appropriate, were made for transport, insurance, handling, loading and ancillary costs (4 %), bank charges (0,02 %), credit costs (0,05 %), commissions (0,6 %) and indirect taxation (4 %).

3.4. **Dumping margin**

(57) For the sampled exporting producers, the weighted average normal value of each type of the like product in the USA was compared with the weighted average export price of the corresponding product type, as provided for in Article 2(11) and (12) of the basic Regulation.

(58) The dumping margin for the cooperating exporting producers not included in the sample was established in accordance with the provisions of Article 9(6) of the basic Regulation. This margin was calculated as a weighted average on the basis of the margins established for the sampled exporting producers.

(59) With regard to all other exporting producers in the PRC, the Commission determined the level of cooperation in the PRC. It was measured by assessing the proportion of the volume of exports of the cooperating producers to the Union out of the total export volume from the country concerned to the Union.

(60) The level of cooperation is high. On this basis, the residual dumping margin applicable to all other exporting producers in the PRC was provisionally set at a level corresponding to the highest dumping margin found for the cooperating exporting producers in the sample.

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

Table 1

Dumping margins, the PRC

Company	Provisional dumping margin
Bengang Steel Plates Co., Ltd.	96,5 %
Hebei Iron & Steel Group	95,0 %
Jiangsu Shagang Group	106,9 %
Other cooperating companies	100,1 %
All other companies	106,9 %

4. INJURY

4.1. Definition of the Union industry and Union production

(62) Within the Union, 17 companies provided production and sales data in the standing exercise and indicated that they produced the like product during the investigation period. Based on the available information from the complaint, these 17 companies are representing around 90 % of the production of the like product in the Union.

(63) Apart from these 17 companies, there were five other companies producing the like product during the investigation period.

(64) The total Union production during the investigation period was established at around 74,7 million tonnes. The Commission established the figure on the basis of all the available information concerning the Union industry, such as information from the complainant and from all known producers in the Union. As indicated in recital (10), five Union producers were selected in the sample representing 45 % of the total Union production of the like product. This is a representative sample.

(65) The Union producers accounting for the total Union production constitute the Union industry within the meaning of Article 4(1) of the basic Regulation and are referred to as the 'Union industry'.

(66) The business model of the Union producers and their degree of vertical integration varies. Nevertheless, the Union industry can overall be characterised as an industry with a high degree of vertical integration, as further explained in recital (68) below.

4.2. Union consumption

(67) As mentioned in recital (24) above, the product concerned falls within a number of CN codes including certain ex codes. In order not to underestimate Union consumption, and in view of the apparent marginal impact of such codes on total consumption, import volumes of CN ex codes have been fully accounted for the purpose of calculating Union consumption.

(68) As the Union industry is mostly vertically integrated and the product concerned is regarded as a primary material for the production of various value added downstream products, starting with cold-rolled products, captive and free market consumptions were analysed separately.

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

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

4.2.1. *Captive consumption on the Union market*

(71) The Commission established the Union captive consumption on the basis of the captive use and captive sales on the Union market of all known producers in the Union. On this basis, the Union captive consumption developed as follows:

Table 2

Captive consumption on the Union market (tonnes)

	2012	2013	2014	IP
Captive consumption	40 775 889	42 418 062	42 887 175	42 271 071
Index (2012 = 100)	*100*	*104*	*105*	*104*

Source: Eurofer questionnaire reply

(72) During the period considered the Union captive consumption on the Union market increased by around 4 %. This increase is mainly due to a growth of the captive markets, including manufacturing parts such as for the automotive industry.

4.2.2. *Free market consumption on the Union market*

(73) The Commission established the Union free market consumption on the basis of (a) the sales on the Union market of all known producers in the Union and (b) the imports into the Union from all third countries as reported by Eurostat, thereby also considering the data submitted by the cooperating exporting producers in the country concerned. On this basis, the Union free market consumption developed as follows:

Table 3

Free market consumption (tonnes)

	2012	2013	2014	IP
Free market consumption	31 405 157	32 292 192	33 139 474	35 156 318
Index (2012 = 100)	*100*	*103*	*106*	*112*

Source: Eurofer questionnaire reply

(74) During the period considered, the Union free market consumption increased by around 12 %. The increase is mainly due to the economic recovery of the downstream industry.

4.3. **Imports from the country concerned**

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

(75) The Commission established the volume of imports on the basis of the Eurostat database. The market share of the imports was established by comparing import volumes with the Union free market consumption as reported in table (73) above.

(76) Imports into the Union from the PRC developed as follows:

Table 4

Import volume (tonnes) and market share

	2012	2013	2014	IP
Volume of imports from the PRC	246 720	336 028	592 104	1 519 304
Index (2012 = 100)	*100*	*136*	*240*	*616*
Market share PRC	0,79 %	1,04 %	1,79 %	4,32 %
Index (2012 = 100)	*100*	*132*	*227*	*550*

Source: Eurostat

(77) The above table shows that in absolute figures the imports from the country concerned increased significantly during the period considered. In parallel, the total market share of the Chinese imports into the Union increased more than five times during the period considered.

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

(78) The Commission established the prices of imports on the basis of Eurostat data. The weighted average price of imports into the Union from the country concerned developed as follows:

Table 5

Import prices (EUR/tonne)

	2012	2013	2014	IP
Average price of dumped imports	600	505	463	404
Index (2012 = 100)	*100*	*84*	*77*	*67*

Source: Eurostat

(79) The average prices of the imports decreased from 600 EUR/tonne in 2012 to 404 EUR/tonne during the investigation period. During the period considered, the decrease of the average unit price of the dumped imports was around 33 %.

(80) The Commission assessed the price undercutting during the investigation period by comparing:

— the weighted average sales prices per product type of the five Union producers charged to unrelated customers on the free Union market, adjusted to an ex-works level; and

— the corresponding weighted average prices at CIF Union frontier level per product type of the imports from the cooperating producers of the country concerned to the first independent customer on the Union market, with appropriate adjustments for post-importation costs.

(81) The price comparison was made on a type-by-type basis for transactions at the same level of trade, duly adjusted where necessary, and after deduction of rebates and discounts. The result of the comparison was expressed as a percentage of the Union producers' turnover during the investigation period. The main adjustments related to delivery costs (varying between 2,7 % and 6,3 % per sampled Union producer) and discounts (varying between 0,1 % and 19,5 %). As no unrelated importer came forward in this case, a post-importation of 7 euro per tonne was added, which was the adjustment taken in the investigation regarding certain cold-rolled flat steel products ([1]). This was assessed to be the most appropriate way due to the fact that the product concerned of the current investigation is similar in many respects to certain cold-rolled flat steel products, as explained in recital (221).

(82) On the basis of the above, the dumped Chinese imports were found to undercut the Union industry prices in a range between 2,7 % and 5,6 %.

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

4.4.1. *General remarks*

(83) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.

(84) The macroeconomic indicators (production, production capacity, capacity utilisation, sales volume, stock, growth, market share, employment, productivity and magnitude of dumping margins) were assessed at the level of the whole Union industry. The assessment was based on the information provided by the complainant, cross-checked with data provided by Union producers and available official statistics (Eurostat).

(85) The analysis of microeconomic indicators (sale prices, profitability, cash flow, investments, return on investments, ability to raise capital, wages and cost of production) was carried out at the level of the sampled Union producers. The assessment was based on their information, duly verified.

(86) To provide a picture of the Union industry that is as complete as possible, the Commission obtained data for the entire production of the product concerned and determined whether the production was destined for captive use or for the free market. For some injury indicators relating to the Union industry, the Commission analysed separately data related to the free and the captive market and made a comparative analysis. These factors are: sales, market share, unit prices, unit cost, profitability, and cash flow. However, other economic indicators could meaningfully be examined only by referring to the whole activity, including the captive use of the Union industry because they depend on the whole activity, whether the production is captive or sold on the free market. These factors are: production, capacity, capacity utilisation, investments, return on investments, employment, productivity, stocks and labour costs. For these factors, analysis of the whole Union industry is warranted in order to establish a complete injury picture of the Union industry, as the data in question cannot be separated out between captive sales and free sales.

4.4.2. *Macroeconomic indicators*

4.4.2.1. Production, production capacity and capacity utilisation

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

Table 6

Production, production capacity and capacity utilisation

	2012	2013	2014	IP
Production volume (tonnes)	73 050 974	74 588 182	75 509 517	74 718 189
Index (2012 = 100)	*100*	*102*	*103*	*102*

([1]) Commission Implementing Regulation EU 2016/1328 (OJ L 210, 4.8.2016, p. 20).

	2012	2013	2014	IP
Production capacity (tonnes)	102 247 218	100 667 836	100 040 917	98 093 841
Index (2012 = 100)	*100*	*99*	*98*	*96*
Capacity utilisation	71,4 %	74,1 %	75,5 %	76,2 %

Source: Eurofer questionnaire reply

(88) During the period considered, the Union industry's production volume increased by 2 %, despite the fact that one Italian Union producer reduced considerably its production during the same period (– 3 million tonnes).

(89) The reported capacity figures refer to technical capacity, which implies that adjustments, considered as standards by the industry, for set-up time, maintenance, bottle necks and other normal stoppages have been taken into consideration. The production capacity decreased during the period considered due to the stoppage of production in Belgium and Italy.

(90) The increase in capacity utilisation rate resulted from a slight increase in the production volume mainly driven by the increase in captive consumption (+ 4 %) and free consumption (+ 12 %) and this despite the significant reduction of production volume by mainly one Italian Union producer.

4.4.2.2. Sales volume and market share

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

Table 7

Sales volume and market share (free market)

	2012	2013	2014	IP
Sales volume (tonnes)	27 273 319	27 468 243	27 910 748	27 327 906
Index (2012 = 100)	*100*	*101*	*102*	*100*
Market share	86,8 %	85,1 %	84,2 %	77,7 %
Index (2012 = 100)	*100*	*98*	*97*	*90*

Source: Eurofer questionnaire reply and Eurostat

(92) The Union industry sales volume on the Union market remained relatively stable during the period considered, i.e. between 27 and 28 million tonnes.

(93) During the period considered, the Union industry's market share in terms of Union consumption went down with more than 9 percentage points, i.e. from 86,8 % to 77,7 %. The decrease of Union industry's market share exceeded significantly the slight increase in its sale on the Union free market.

(94) As far as the captive market on the Union market is concerned, the captive volume and market share developed over the period considered as follows:

Table 8

Captive volume on the Union market and market share

	2012	2013	2014	IP
Captive volume on the Union market (tonnes)	40 775 889	42 418 062	42 887 175	42 271 071
Index (2012 = 100)	*100*	*104*	*105*	*104*
Total production of Union industry (tonnes)	73 050 974	74 588 182	75 509 517	74 718 189
% of captive volume compared to total production	55,7 %	56,7 %	56,6 %	56,4 %

Source: Eurofer questionnaire reply and Eurostat

(95) The Union industry captive volume (composed of captive use and captive sales on the Union market) on the Union market increased by 4 % during the period considered, from about 40,7 million tonnes in 2011 to 42,2 million tonnes during the investigation period.

(96) The Union industry's captive market share (expressed as a percentage of total production) remained stable over the period considered, ranging between 55,7 % and 56,7 %.

4.4.2.3. Employment and productivity

(97) The employment was calculated by taking only the employees directly working for the like product in the different steel mills of the Union producers. This method provided accurate data which are relatively easy to determine.

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

Table 9

Employment and productivity

	2012	2013	2014	IP
Number of employees (Full time employment/ employee)	18 729	18 632	17 739	17 829
Index (2012 = 100)	*100*	*99*	*95*	*95*
Productivity (tonne/employee)	3 900	4 003	4 257	4 191
Index (2012 = 100)	*100*	*103*	*109*	*107*

Source: Eurofer questionnaire reply

(99) The level of the Union industry employment decreased during the period considered in order to reduce production costs and gain efficiency in view of the increasing competition from Chinese and other imports on the market. This resulted in a reduction of workforce by 5 % during the period considered, without taking into consideration any indirect employment. As a consequence and in view of the slightly increasing production volume (+ 2 %) over the period considered, the productivity of the Union industry's workforce, measured as output per person employed per year, increased much more (+ 7 %) than the increase in actual production. This shows that the Union industry was willing to adapt to the changing market conditions in order to remain competitive.

4.4.2.4. Inventories

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

Table 10

Inventories

	2012	2013	2014	IP
Closing stocks (tonnes)	2 908 745	2 646 989	2 653 224	2 798 420
Index (2012 = 100)	*100*	*91*	*91*	*96*
Closing stocks as a percentage of production	4,0 %	3,5 %	3,5 %	3,7 %
Index (2012 = 100)	*100*	*89*	*88*	*94*

Source: Eurofer questionnaire reply

(101) During the period considered the level of closing stocks decreased slightly. Most types of the like product are produced by the Union industry based on specific orders of the users. 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. As can be seen above, this indicator remained relatively stable at ca. 3,5 % to 4 % of the production volume.

4.4.2.5. Magnitude of the dumping margin

(102) All dumping margins were significantly above the de minimis level. The impact of the magnitude of the actual high margins of dumping on the Union industry was not negligible, given the volume and prices of imports from the country concerned.

4.4.2.6. Growth

(103) The Union consumption (free market) increased by around 12 % during the period considered, while the sales volume of the Union industry on the Union market remained stable. The Union industry thus lost market share, contrary to the market share of the imports from the country concerned which increased significantly during the period considered.

4.4.3. *Microeconomic indicators*

4.4.3.1. Prices and factors affecting prices

(104) The weighted average unit sales prices of the Union producers on the free market in the Union developed over the period considered as follows:

Table 11

Sales prices on the free market in the Union

	2012	2013	2014	IP
Sales price (EUR/tonne)	553	498	471	427
Index (2012 = 100)	*100*	*90*	*85*	*77*
Unit cost of production (EUR/tonne)	572	511	469	431
Index (2012 = 100)	*100*	*89*	*82*	*75*

Source: Questionnaire reply of sampled Union producers

(105) The table above shows the evolution of the unit sales price on the Union free market as compared to the corresponding cost of production. Sales prices have on average been lower than the unit cost of production, with the exception of 2014 where the market started picking up and where the market share of Chinese imports was lower than in the investigation period.

(106) In 2012 and 2013, the aftermath of the Eurozone debt crisis, on top of a declining steel demand in 2012, affected negatively the performance of the Union industry. In 2014, and also in the first half of 2015, the Union industry started recovering, due to increased efforts to remain competitive, in particular by increasing the productivity of the Union industry's workforce, as set out in recital (99), which resulted in productivity gains and in improved capacity utilisation.

(107) Despite these efforts, the cost of production remained generally higher than the decreasing sales prices, and in order to limit the loss in market share, the Union producers followed the downward price spiral and reduced their sales price significantly, in particular during 2015. As the product concerned is a commodity, Union producers had to follow the decreasing price spiral.

(108) Among the sampled producers, certain hot-rolled flat products of iron, non-alloy or other alloy steel for captive consumption were transferred or delivered at transfer prices for further downstream processing using different pricing policies (cost, cost plus, market price). Therefore, no meaningful conclusion can be drawn from captive use price evolution.

4.4.3.2. Labour costs

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

Table 12

Average labour costs per employee

	2012	2013	2014	IP
Average labour costs per employee (EUR)	63 722	63 374	66 039	66 023
Index (2011 = 100)	*100*	*99*	*104*	*104*

Source: Questionnaire reply of sampled Union producers

(110) During the period considered, the average wage per employee went up by 4 %.

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

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

Table 13

Profitability, cash flow, investments and return on investment

	2012	2013	2014	IP
Profitability of sales in the Union on the free market (% of sales turnover)	– 3,3 %	– 2,7 %	0,4 %	– 0,8 %
Cash flow ('000 EUR)	150 190	139 285	221 982	122 723
Index (2012 = 100)	*100*	*93*	*148*	*82*

	2012	2013	2014	IP
Investments ('000 EUR)	334 789	256 013	289 581	291 771
Index (2012 = 100)	*100*	*76*	*86*	*87*
Return on investment	– 4,5 %	– 3,5 %	0,5 %	– 1,0 %

Source: Questionnaire reply of sampled Union producers

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

(113) Profitability developed negatively over the period considered: losses were incurred during all the three years, with the exception of 2014. While the losses in the years 2012 and 2013 are partly linked to the aftermath of the Eurozone debt crisis (on top of a declining steel demand in 2012), the Union producers could partly recover during 2014 and the first half of 2015.

(114) The net cash flow is the ability of the Union producers to self-finance their activities. The trend in net cash flow varies a lot during the period considered, but remained overall largely positive, mainly due to non-cash expenses such as depreciation.

(115) As return on investment remained negative overall during all years, with exception of 2014, the Union industry reduced the level of its investments by 13 % between 2012 and 2015. The ability to raise capital has been affected by the losses incurred during the period considered as can be seen from the decrease in investments.

(116) Finally, the table below contains a breakdown of 2015 per quarter as the Complainant alleged in its complaint that there was a significant deterioration in the second half of 2015. The data in the table indeed confirm a significant deterioration, in the second half of 2015, of the profitability and of the net sales value due to further depressing sales prices on the free Union market.

Table 14

Profitability per quarter of the sampled Union producers

Quarter of 2015	Profitability (Loss) per quarter of the companies (in millions of euro)	Net sales price per tonne	Net sales on the free market (in millions of euro)	Profitability percentage
First	37,98	444,71	1 073,34	3,5 %
Second	22,78	436,19	1 001,60	2,3 %
Third	– 22,92	426,36	857,49	– 2,7 %
Fourth	– 69,80	392,92	699,47	– 10,0 %
Total	– 31,9	427,2	3 631,9	– 0,8 %

Source: Questionnaire reply of sampled Union producers

4.4.4. *Conclusion on material injury*

(117) On the one hand, the Union industry as a whole could slightly increase its production volumes (despite the significant reduction of production by mainly one major Italian producer) and improve its capacity utilisation rate due to the increase in captive and free consumption. It also took concrete actions to improve efficiency by keeping a tight grip on costs of manufacturing (mainly raw materials) and by increasing the production per employee. As a result, the cost of production decreased by 25 %. Furthermore, its cash flow remained positive over the whole period considered. The sampled Union producers could still make investments of around 250 — 330 million euro a year during the period considered.

(118) On the other hand, despite the Union industry's efforts during the period considered to improve its overall performance, other injury indicators show a deterioration of the situation on the free market: With exception of 2014 and the beginning of 2015, where the Union industry started to slightly recover, losses were incurred throughout the whole period considered, which reached unsustainable levels in the second half of 2015. Indeed, despite the fact that the sales volumes remained relatively stable on the Union free market, the Union industry lost market share and had to reduce investments in the light of the negative return on investment.

(119) In the light of the foregoing, it is concluded at this stage that the above data show that the Union industry was in a weak situation at the end of the investigation period but not to the extent that the Union industry has suffered material injury during the period considered within the meaning of Article 3(5) of the basic Regulation.

5. THREAT OF INJURY

5.1. Introduction

(120) In the analysis of a threat of material injury to the Union industry, in accordance with Article 3(9), second subparagraph, of the basic Regulation, consideration is given below to such factors as:

(i) a significant rate of increase of dumped imports into the Union market indicating the likelihood of substantially increased imports;

(ii) sufficient freely disposable capacity of the exporting producer on the part of the exporter or an imminent and substantial increase in such capacity indicating the likelihood of substantially increased dumped exports to the Union, account being taken of the availability of other export markets to absorb any additional exports;

(iii) whether imports are entering at prices that would, to a significant degree, depress prices or prevent price increases which otherwise would have occurred, and would probably increase demand for further imports, and;

(iv) the level of inventories.

(121) As the wording 'such as' in Article 3(9), second subparagraph, indicates, next to these four factors other factors may be analysed as well for the determination of a threat of injury. In particular, the Commission further analysed factors like profitability and order intakes, for which it had investigation period and post-investigation period data available.

(122) With respect to the period considered, the Commission reviewed again the data collected for 2012-2015, as an understanding of the present situation of the Union industry is necessary in order to be able to determine whether there is a threat of injury to the Union industry ([1]). It then conducted a prospective analysis for all factors. In addition, it was able to collect data on dumped imports, Chinese capacity and import prices for the period January — June 2016 in order to confirm or invalidate the forecasts, as required by the Court ([2]). For profitability and order intakes though, comprehensive data were not available for the period January- June 2016 and only partial data up to the end of March 2016. For the level of inventories, no comprehensive data could be found up to the end of June 2016, in particular for the Union industry. Nevertheless, these data will be updated after the publication of this Regulation and where possible, also other factors will be analysed. At this stage, the data for profitability, order intakes and the level of inventories were the best available data.

(123) Finally, Article 3(9) first subparagraph, second sentence, of the basic Regulation requires that the change in circumstances must have been clearly foreseen and must be imminent.

([1]) World Trade Organization, WT/DS132/R, 28 January 2000, Mexico- Anti-dumping investigation of high fructose corn syrup (HFCS) from the United States — Report of the Panel, recital 7.140, page 214. The WTO Panel stated the following: 'in order to conclude that there is a threat of material injury to a domestic industry that is apparently not currently injured, despite the effects of dumped imports during the period of investigation, it is necessary to have an understanding of the current condition of the industry as a background. Merely that dumped imports will increase, and will have adverse price effects, does *not, ipso facto, lead to the conclusion that the domestic industry will be injured — if the industry is in very good condition, or if there are other factors at play, dumped imports may not threaten injury*'

([2]) Judgment of The Court of Justice, 7 April 2016, case number C-186/14, recital 72, confirming the General Court's judgment of 29 January 2014, on case T-528/09, Hubei Xinyegang Steel Co. Ltd versus Council of the European Union,

5.2. **Threat of injury**

5.2.1. *Significant rate of increase of dumped imports into the Union market indicating the likelihood of substantially increased imports*

(124) Imports from the country concerned significantly increased from 246 720 to 1 519 304 tonnes between 2012 and the investigation period, as shown in the table at recital (76) above. These imports have consistently taken place at continuously lowering prices. The substantial increase of the market share held by these Chinese dumped imports (+ 550 %) confirms that the development of these imports was not only the consequence of an increase in demand (+ 12 %). The Chinese exporting producers have been penetrating a new market and gaining market shares with low-priced imports at the expense of other economic actors, including the Union producers. The volume of Chinese imports further increased (by 8,5 %) in the first half of 2016 (773 275 tonnes) (source: Eurostat), compared to the first half of 2015 (712 390 tonnes). The available data show that not only the Chinese dumped imports have shown a substantial increase during the period considered, but also that this trend was not stopped or reversed during the post-investigation period.

5.2.2. *Sufficient freely disposable capacity*

5.2.2.1. Capacity in the PRC (crude steel and the like product)

(125) Concerning Chinese crude steel capacity, the available information indicates that the Chinese steel capacity has been increasing rapidly for a long time. Whereas the PRC accounted for 25,6 % of the total world crude steel production in 2004 ([1]), it almost doubled its actual production and accounted for 50,3 % in 2015. In this respect, the Steel Communication from the Commission states the following: '…the spare production capacity in certain third countries, notably in China, has increased dramatically. The overcapacity in China alone has been estimated at around 350 million tonnes, almost the double of the Union's annual production. ([2])'

(126) In this respect, the OECD estimated the total Chinese steelmaking capacity to be 1 140 million tonnes ([3]) in 2014, whereas the actual Chinese production was calculated to be 822,8 million tonnes ([4]). As a result, the available Chinese excess capacity is certainly more than 300 million tonnes.

(127) Such steel overcapacity is also not in line with the demand for the like product in the PRC or in other countries. In fact there is a slowing demand growth in global markets and the capacity/demand gap has been widening, according to a recent OECD study ([5]).

(128) The fact that the country concerned has a massive steel overcapacity is not challenged by the Chinese authorities: First, the Chinese State Council issued on 1 February 2016 an 'Opinion for the steel industry to resolve excess capacity' which lays down the overall Chinese approach for tackling more resolutely the overcapacity in the Chinese steel industry. Measures would inter alia be a reduction of the crude steel capacity by 100-150 million tonnes over five years and the strict prohibition of new production capacity. Second, the China Iron & Steel Association (CISA) also mentioned in its submission that 'in the last few years the Chinese government and the Chinese steel association have taken effective measures…Since 2011 China has actively eliminated obsolete capacities and reinforced energy saving measures. ([6])'

([1]) World Steel in figures 2015, World Steel Association, p. 14, http//www.worldsteel.org/publications/bookshop/product-details.~World-Steel-in-Figures-2015~PRODUCT~World-Steel-in-Figures-2015~.html

([2]) COM(2016) 155 final, Brussels, 16.03.2016, Communication form the Commission to the European Parliament, The European Council, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank, Steel: Preserving sustainable jobs and growth in Europe, p. 2.

([3]) OECD, DSTI/SU/SC(2015)8/Final, Directorate for Science, Technology and Innovation, Capacity developments in the world steel industry, Table 1, p. 10, http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DSTI/SU/SC(2015)8/FINAL&docLanguage=En

([4]) World Steel Association, World Steel in Figures 2016, table 'major steel-producting countries 2014 and 2015', p. 9, http://www.worldsteel.org/media-centre/press-releases/2016/World-Steel-in-Figures-2016-is-available-online.html

([5]) OECD Directorate for Science, Technology and Innovation (2015): 'Excess capacity in the global steel industry: the current situation and ways forward', Technology and Industry Policy Papers, No. 18, OECD Publishing, pages 5 and 6. http://dx.doi.org/10.1787/5js65x46nxhj-en

([6]) Submission by Dentons on behalf of China Iron and Steel Association (CISA) and its members, Comments in the anti-dumping proceeding concerning imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating the People's Republic of China, 21 March 2016, paragraph (24), page 7.

(129) However, inconsistencies are recently reported between the above-mentioned Chinese announcement of capacity cuts in the post-investigation period and the actual situation, as follows:

— There are reports that the country concerned suffers from a phenomenon of 'zombie' steel mills ([1]): these are mills that are forever said to be dying but never actually die.

— Another source also reported that 41 blast furnaces have been reopened, and more recent reports even indicate that over 50 million tonnes of steel capacity has been restarted in the PRC since the start of 2016 ([2]).

— The World Steel Association states the following on the world crude steel production for the first 6 months of 2016: '*World crude steel production in the first six months of 2016 was 794,8 Mt, a decrease of – 1,9 % compared to the same period of 2015... Crude steel production … decreased by – 6,1 % in the EU 28… China's crude steel production for June 2016 was 69,5 Mt, an increase of 1,7 % compared to June 2015…* ([3])'

(130) Finally, the Commission analysed the pledges and commitments of the Chinese authorities as mentioned in recital (128). Despite these announcements early 2016, they did not yet materialise.

(131) As a result, it is considered that the issue of overcapacity in the steel sector in the PRC is widely-known and it is also acknowledged by the Chinese authorities.

(132) The like product is assessed to be a large portion of the total crude steel production for the following reason: whereas the total Chinese crude steel production was 822 000 million tonnes and 822 698 million tonnes, the total Chinese production of hot-rolled flat products was 311 564 million tonnes (or about 37,9 % of overall crude steel production) and 317 387 million tonnes (or about 38,6 % of overall crude steel production) in respectively the years 2013 and 2014 ([4]). Therefore, the above data on crude steel provide a good indication as well on the overcapacity of the like product in the PRC.

(133) Second, reference is made to the table in recital (185) where the actual production of the like product of the PRC is compared to the actual production of other countries for the years 2014 and 2013. This table shows for instance that the 2014 actual production of the like product in the PRC (317,4 million tonnes) is about 5 times the total aggregate production of Russia, Ukraine, Iran and Brazil combined (57,4 million tonnes). This is an indication of the enormous production capacity of the like product in the PRC.

(134) Third, the investigation confirmed that during the investigation period, the sampled Chinese exporting producers run on average, at a capacity utilisation rate of 65 %. This amounts to more than 14 million metric tonnes of freely disposable capacity of the product concerned amongst only three companies. This is another indicator of the spare capacity of the like product. Assuming similar ratios from other Chinese hot-rolled flat steel products (HRF) producers, a high total HRF spare capacity in China can be deducted.

(135) Furthermore, the Union market is an open market with a lot of imports from several countries, as shown in the table in recital (177). As shown in table 4 under recital (76), the Chinese exporting producers have been exporting to the Union market from mainly 2012 onwards and gaining rapidly market shares with low-priced imports at the expense of other economic actors, including the Union producers. This proves that penetration has proven relatively easy and very successful during the period considered for the Chinese exporting producers and is as such an indication of the attractiveness of the Union market for Chinese and other exporting producers.

5.2.2.2. Absorption capacity of third countries

(136) In line with Article 3(9), 2nd subparagraph, lit (b) of the basic Regulation, the Commission analysed the availability of other export markets for the Chinese exporting producers to absorb any additional exports.

([1]) Reuters, press article, China's zombie steel mills fire up furnaces, worsen global glut, http://in.reuters.com/article/china-steel-overcapacity-idINKCN0XI070

([2]) Reuters press article, BHP says over 50 million tonnes of steel capacity restarted in China, http://www.reuters.com/article/us-bhp-china-idUSKCN0YA09E

([3]) June 2016 crude steel production, World Steel Association, media centre, https://www.worldsteel.org/media-centre/press-releases/2016/June-2016-crude-steel-production0.html

([4]) World Steel Association, Steel Statistical Yearbook 2015, table 1 on page 2 and table 13 on page 35, http://www.worldsteel.org/statistics/statistics-archive/yearbook-archive.html

(137) Some (major) exporting markets are increasingly difficult to access for the Chinese exporting producers because of trade defence measures (countries such as the USA, Malaysia, India, and Mexico) and/or investigations (countries such as Thailand) or increased customs duties (South Africa).

(138) Statistical export data — for 2015 and for the first six months of 2016 — for a sample ([1]) of CN codes concerning the like product — show though a status quo in Chinese export volumes to the rest of the world.

(139) First, the country concerned exported about the same volumes during the first 6 months of 2016, if these figures were annualised and compared to 2015. Nevertheless, the average unit sales price was lower during the first 6 months of 2016 compared to 2015. Second, the loss of market share in some countries (such as Indonesia and Vietnam) during the first 6 months of 2016 compared to 2015 is compensated by a gain of market share in other countries (such as Bangladesh and the Democratic People's Republic of Korea). The Commission hence concluded that it is unlikely that third countries would absorb on their own the huge amount of freely disposable Chinese capacity. Even if there is currently a status quo in Chinese exports to other third countries, the attractive Union market, as mentioned under recital (135) is likely to continue to be among the primary targets of Chinese dumped exports.

5.2.2.3. Absorption capacity of the PRC

(140) There is no sufficient absorption capacity in the PRC either. The domestic demand in the PRC for steel is slowing down: According to the World Steel Association, China's steel demand was first expected to decrease by – 3,5 % in 2015 and – 2,0 % in 2016, following its demand peak in 2013. ([2]). However, these figures were afterwards adjusted by the same organisation as follows: 'the decline in steel demand in China is expected to be – 4,0 % in 2016 followed by – 3,0 % in 2017. This suggests a demand of 626,1 Mt steel (15 % down from 2013) for 2017, a contraction to 41,9 % of world steel use from 47,9 % in 2009 and 44,8 % in 2015' ([3]).

5.2.2.4. Conclusion on capacity

(141) In conclusion, it is likely that significant volumes of the existing massive excess capacity on steel, including the like product, will continue to be directed to the Union market. The present overcapacities and the insufficient absorption capacity of third states or the PRC itself indicate the likelihood of substantially increased Chinese exports to the Union where penetration has proven relatively easy and very successful during the period considered.

5.2.3. *Price level of imports*

(142) During the period considered, as set out in recital (78), average import prices from the country concerned decreased by 33 %, from 600 euro/tonne in 2012 to 404 euro/tonne in 2015.

(143) The table below compares the average unit Chinese import prices with the unit sales prices of the five sampled Union producers:

Table 15

Sales prices on the free market in the Union compared to Chinese import prices during the period considered

	See recital	2012	2013	2014	IP
Sales price of the 5 sampled Union producers (EUR/tonne)	(104)	553	498	471	427

([1]) The sample consisted of 679,4 million tonnes of Chinese exports of the like product for the year 2015 and of 343,8 million tonnes of Chinese exports of the like product for the first 6 months of 2016.

([2]) Worldsteel Short Range Outlook 2014 — 2015, World Steel Association, https://www.worldsteel.org/media-centre/press-releases/2015/worldsteel-Short-Range-Outlook-2015-2016.html

([3]) See also recital (103) for the slight decrease in inventories at the sampled Union producers as a percentage of production.

	See recital	2012	2013	2014	IP
Average price of Chinese imports according to Eurostat (EUR/tonne)	(78)	600	505	463	404
Difference (EUR/tonne)		– 47	– 7	+ 8	+ 23

Source: Questionnaire reply of sampled Union producers and exporting producers, and Eurostat

(144) The average Chinese prices were substantially higher than the prices of Union producers in 2012. However, in 2015, the prices of the Chinese imports became substantially lower (404 euro/tonne) than the prices of the Union industry (427 euro/tonne). This is confirmed by the undercutting analysis in recital (82) above.

(145) The following table shows a further continuing decrease of Chinese unit prices during the post-investigation period January — June 2016 when entering the Union market.

Table 16

Chinese import prices during the post-IP period

Average import prices of Chinese imports (euro/tonne)	January 2016	February 2016	March 2016	April 2016	May 2016	June 2016
	326	318	313	303	299	308

Source: Eurostat

(146) The negative effect of the low prices of the Chinese imports is found to be twofold:

(i) on the one hand, the significant price differential is likely to cause (further) a shift towards these dumped imports, because users will be more likely to buy increasing quantities of goods that are sold at low prices;

(ii) on the other hand, the existence of such low prices in the market is likely to be used by buyers as a negotiating tool to depress the prices offered by the Union producers and other sources, thereby causing further a depressive effect in terms of both diminishing volumes and lower prices. While these effects can be questioned in situations where the price differentials are not substantial, in the case at stake, and considering the price undercutting found, the resulting damage to the Union industry is expected to be serious.

5.2.4. *Level of inventories*

(147) The Commission considered that this factor is not of any particular significance for the analysis because normally stocks are kept by traders (stockists) and not so much by producers. Furthermore, Union producers are mainly producing on order, enabling them to keep their inventory levels as low as possible. Nevertheless, it analysed this factor which is expressly mentioned in Article 3(9), second subparagraph, of the basic Regulation (see recital (120) above).

(148) Falling levels of stock were noted both in the PRC and on the Union market [1] at the end of the investigation period. This might be explained in the framework of the price decreases in 2015 and in 2016, as follows: if a producer or trader expects that prices would rise, it should be building up stocks rapidly expecting to make proportionally more profits when prices rise.

[1] See also recital (100) for the slight decrease in inventories at the sampled Union producers as a percentage of production.

(149) The Commission was unable to find comprehensive post-investigation period data on stocks despite requests and own researches. It found it nevertheless likely that inventory levels of the product concerned remains rather low in the Union during early 2016: For instance, in Germany, 'according to the German Association of Steel Distribution (BDS), at the end of last year flat steel inventories dropped to the lowest level since December 2003. The latest data showed some improvement, but with flat steel stocks at 1,4 million tonnes in February, they remained 7 % lower year-on-year ([1])'.

(150) In the PRC, steel inventories in the warehouses of 40 major Chinese cities reportedly decreased to 8,86 tonnes late June 2016 from 9,47 tonnes late May 2016, which compares to 12,86 tonnes late June 2015. During the month of May 2016, the steel inventories of 80 major Chinese mills amounted to 14,17 tonnes, comparing to 16,71 tonnes late May 2015 ([2]).

(151) In conclusion, steel inventories are decreasing both during the end of the investigation period and in the post-investigation period. Although this factor is not decisive in the analysis, it might indicate a potential further decrease in prices reinforcing the threat of injury.

5.2.5. *Other elements: Profitability and order intakes in the Union by the Union industry*

(152) The Union industry needs sustainable profits. Therefore, this injury indicator is very important. Order intakes are confirmed commitments from customers and show the evolution of the Union industry's sales in the coming months. The Commission was able to collect and analyse data on profit and order intakes for the investigation and post investigation period.

(153) As set out in recital (113), the Union producers slightly started to recover during 2014 and the first two quarters of 2015 in terms of profitability. As set out in recital (116), during the second half of 2015, the Union profitability became loss making and losses reached the unsustainable level of – 10 % in the 4th quarter of the investigation period.

(154) For the post investigation period, profitability figures for the whole Union industry were not yet available. Profitability figures were collected for the complainants though, which represent about 90 % of the total production of the Union industry, as mentioned under recital (62). These data will be updated after the publication of this Regulation and where possible, also other factors will be analysed. At this stage of the investigation, the data for profitability and order intakes were the best available data.

(155) As was shown in the table in recital (145), Chinese export prices further decreased during the first half of 2016 and were below the cost of production of the Union producers. This shows an aggressive Chinese price setting on the Union market, which cannot be sustained in the future by the Union producers. This is confirmed by the table below which provides information on the profitability of the complainants. The investigation established a further deterioration of the profitability for the complainants.

Table 17

Evolution of profitability and order intakes of the Complainants

Description	2012	2013	2014	2015	April 2015-March 2016
Profitability	– 1,31 %	– 4,86 %	– 1,28 %	– 3 to – 5 %	– 5 % to – 7 %
Order intakes	16 763 734	16 631 630	16 677 099	15 529 155	15 636 444

Source: Eurofer

([1]) European steel producers on the offensive, but will price increases stick? Article, http://blogs.platts.com/2016/04/05/european-steel-producers-on-offensive/

([2]) WorldSteel Association, The Chinese steel industry, A monthly update for world steel members, Issue 115, June 2016.

5.2.6. *Foreseeability and imminence of the change in circumstances*

(156) Article 3(9) of the basic Regulation provides that '… the change in circumstances which would create a situation in which the dumping would cause injury must have been clearly foreseen and must be imminent.'

(157) All the above-mentioned factors have been analysed and verified with respect to the investigation period. In particular, the profitability of the sampled Union producers reached the unsustainable level of — 10 % in the 4th quarter of 2015 when Chinese price pressure was felt most. Furthermore, the post-investigation period data revealed that this negative trend, which started in the second half of 2015, was not invalidated during the first half of 2016. If this trend continues, the fragile situation of the Union industry will be turned into a material injury shortly. Based on the data for the investigation period, the Commission thus concluded that there was a clearly foreseeable and imminent change in circumstances at the end of the investigation period, which will create a situation in which the dumping will cause injury.

5.3. **Conclusion on threat of injury**

(158) While the Union industry was recovering during 2014 and the first two quarters of 2015, almost all injury indicators started to fall dramatically during the second half of 2015. The investigation revealed that this negative trend, which started in the second half of 2015, was not invalidated during the first half of 2016. The Union industry's forecast concerning future profitability and future sales is negative and could be confirmed (see table 17 under recital (155)). Decreasing sales and lower/negative margins are most likely to lead to heavy losses, lost orders and reduced jobs. As a result, all factors assessed in the framework of Article 3(9) of the basic Regulation, in particular the significant rate of increase of dumped imports in 2015 (continued in 2016) at further decreasing prices, the huge excess capacity in the PRC, and the negative developments in profitability of the Union industry point to the same direction.

(159) In the view of this analysis, at this stage the Commission concluded that there was a threat of a clearly foreseeable and imminent injury to the Union industry at the end of the investigation period.

6. **CAUSATION**

(160) In accordance with Article 3(6) of the basic Regulation, the Commission examined whether the threat of material injury to the Union industry was caused by the existing dumped imports from the country concerned. In accordance with Article 3(7) of the basic Regulation, the Commission also examined whether other known factors could at the same time have threatened to injure the Union industry. The Commission ensured that any possible threat of injury caused by factors other than the dumped imports from the PRC was not attributed to the dumped imports. These factors are: the economic crisis and decrease in steel demand, the cost of raw materials causing the decrease of the sales prices, imports from other third countries, the export sales performance of the Union producers, and the allegation that one Union producer on its own is injuring the Union industry.

6.1. **Effects of the dumped imports**

(161) Sales prices of the Chinese exporting producers decreased on average from 600 EUR/tonne in 2012 to 404 EUR/tonne during the investigation period (– 33 %). By continuously lowering their unit sales price during the period considered, and as set out in recital (76), the Chinese exporting producers were able to significantly increase their market share from 2012 (0,79 %) to the investigation period (4,32 %). In particular, during the investigation period, compared to the previous years, there was a substantial increase of Chinese imports.

(162) While the drop in steel demand and the aftermath of the Eurozone debt crisis affected negatively the performance of the Union industry in 2012 and 2013, the Union industry was able to recover slightly in 2014. However, in particular from the second half of 2015 onwards, the continuous increase in imports from the country concerned at undercutting prices had a clear negative impact on the performance of the Union industry. Indeed, while the Union industry was cutting in 2015 its costs by productivity gains, including some labour reductions and benefitting from the decrease in raw material prices, dumped imports kept on increasing and forced the Union industry to decrease its Union sales prices even more to limit its loss of market share. As a result, while the Union industry's profitability showed slight improvement by reducing losses in 2014 and the first half of 2015, the trend reversed completely from the second half of 2015 onwards: the volume of Chinese imports increased further and the Chinese prices decreased even more while the Union industry prices and profitability went further down.

(163) In view of the coincidence in time between, on the one hand, the ever-increasing level of dumped imports at continuously decreasing prices and, on the other hand, the Union industry's loss of market share and price depression resulting in further losses, in particular from the second half of 2015 onwards, the Commission concluded that the dumped imports had a negative impact on the situation of the Union industry.

(164) Moreover, the progressive slowing down of the Chinese economy and the very significant overcapacity of the Chinese steel industry has pushed Chinese steel producers to direct their excess production towards export markets and the Union market is an attractive export destination. Indeed, some other traditionally important export markets imposed measures against Chinese steel products, including hot-rolled flat steel products.

(165) With the growing imposition of trade defence measures across the globe, it is likely that the Union market has become one of the most attractive destinations for Chinese dumped imports of the product concerned, to the detriment of Union industry. This conclusion is corroborated by:

— the Eurostat import statistics which show that the level of Chinese imports continues to be significant after the end of the investigation period;

— the weakened Chinese internal steel demand.

6.2. **Effects of other factors**

6.2.1. *The economic crisis*

(166) The drop in steel demand in mainly 2012 and the aftermath of the Eurozone debt crisis affected negatively the performance of the Union steel industry in 2012 and 2013. As mentioned in recital (106), the Commission recognises the negative effect. It is also observed however that the Union industry started recovering during 2014 and 2015.

(167) Therefore, on the one hand, even if the Union industry was impacted by the Eurozone debt crisis, namely during the years 2012-2013, the market was recovering slightly from their effects with a relatively stable, even increasing Union market demand from 2013 onwards. As a result, whereas between 2014 and 2015 the Union industry could have benefited more from the recovery of the market, it was prevented from doing so by a steep increase in imports from the PRC. Low-priced Chinese imports gradually increased and captured market shares to the detriment of the Union industry. The continuous pressure of imports started to be fully felt from the second half of 2015.

(168) The Commission thus concluded at this stage that the Eurozone debt crisis had had a negative impact during mainly the years 2012 and 2013 of the period considered and before the investigation period. However, it did not contribute to the threat of injury found at the end of 2015.

6.2.2. *Decrease in cost of the main raw materials (iron ore, coking coal and scrap) of the product concerned/like product*

(169) An interested party argued that the prices of the product concerned and the like product would follow a sole worldwide price trend and basically reflect the decreasing prices of iron ore. Accordingly, it was not the Chinese exports, but a worldwide trend, which exerted the price pressure and caused the ensuing threat of injury.

(170) The Commission analysed the developments in raw material prices for HRF for the period considered.

(171) First, in established steel markets, such as the Union market, domestic producers compete with many import sources as shown in table 18 under recital (177) below, leading to a growing price pressure and, consequently, to price erosions.

(172) Second, even if the PRC is the most steel consuming country in the world, it has a significant excess capacity. Chinese producers are thus incentivised to export their surplus of production at low prices to their most attractive markets, including the Union market. Hence, the trend of raw materials prices is not the only factor which has an impact on world-wide prices.

(173) Third, it is acknowledged though that prices for the main raw materials (iron ore, coking coal and scrap) to produce HRF fell significantly between 2012 and 2015 as follows:

— the price for iron ore decreased from about 141 USD per MT to 56 USD per MT, or a decrease of 60 %;

— the price for demolition scrap fell from about 327 EUR per MT to 159 EUR per MT, or a decrease of 51 %;

— the price for coking coal lowered from about 252 USD per MT to 121 USD per MT (– 52 %).

(174) However, when analysing the cost of production of the biggest sampled Union producer, it turns out that the impact of these falling raw materials prices is much lower than the mentioned price evolution. The evolution is about averages and does not reflect the costs for the Union producers which also depend on quality, quantity and contracted relationships. For example, the input from the three above mentioned raw materials accounted for about 60 % of the total cost of production of one big producer in 2012, but was still at 50 % of its total cost of production in 2015. This shows that there is no direct correlation between the fall in raw material prices and a decrease of cost of production for HRF.

(175) Furthermore, the cost of production within the Union industry decreased altogether by 25 % over the period considered (see recital (104)), which was the result of not only a lower cost for the raw materials but also due to efficiency gains achieved by Union producers. In addition, the average import prices decreased by a higher percentage, i.e. by 33 % over the same period (see recitals (78) and (79)).

(176) Under fair market conditions, the Union industry could have maintained its sales price levels so as to reap the benefits of a reduction in costs and reach profitability again. However, Union producers had to follow the trend of prices on the Union market and prices fell down. During the investigation period Union producers were even forced to sell at prices below costs, even though they had already managed to reduce significantly their costs of production.

6.2.3. *Imports from third countries*

(177) The volume of imports and market share (in volume of total imports) from third countries developed over the period considered as follows:

Table 18

Volumes, unit prices and market shares from third countries

	2012	2013	2014	IP
BRAZIL				
Volume of imports from Brazil	69 457	41 895	108 973	580 525
Index (2012 = 100)	*100*	*60*	*157*	*836*
Unit import prices from Brazil	515	461	433	386
Index (2012 = 100)	*100*	*89*	*84*	*75*
Market share	0,22 %	0,13 %	0,33 %	1,65 %
Share in total Union import volume	1,68 %	0,87 %	2,08 %	7,42 %

	2012	2013	2014	IP
IRAN				
Volume of imports from Iran	96 505	125 202	527 161	1 015 088
Index (2012 = 100)	*100*	*130*	*546*	*1 052*
Unit import prices from Iran	499	454	415	369
Index (2012 = 100)	*100*	*91*	*83*	*74*
Market share	0,31 %	0,39 %	1,59 %	2,89 %
Share in total Union import volume	2,34 %	2,60 %	10,08 %	12,97 %
RUSSIA				
Volume of imports from Russia	1 341 666	1 334 322	1 376 412	1 714 880
Index (2012 = 100)	*100*	*99*	*103*	*128*
Unit import prices from Russia	500	448	431	387
Index (2012 = 100)	*100*	*90*	*86*	*77*
Market share	4,27 %	4,13 %	4,15 %	4,88 %
Share in total Union import volume	32,47 %	27,66 %	26,32 %	21,90 %
SERBIA				
Volume of imports from Serbia	156 894	155 055	211 835	427 558
Index (2012 = 100)	*100*	*99*	*135*	*273*
Unit import prices from Serbia	523	468	442	400
Index (2012 = 100)	*100*	*89*	*84*	*77*
Market share	0,50 %	0,48 %	0,64 %	1,22 %
Share in total Union import volume	3,8 %	3,21 %	4,05 %	5,46 %
UKRAINE				
Volume of imports from Ukraine	906 872	905 397	939 545	1 084 477
Index (2012 = 100)	*100*	*100*	*104*	*120*
Unit import prices from Ukraine	478	429	415	370
Index (2012 = 100)	*100*	*90*	*87*	*78*
Market share	2,89 %	2,81 %	2,84 %	3,08 %
Share in total Union import volume	21,95 %	18,77 %	17,97 %	13,85 %

Source: Eurostat

(178) As set out in the table in recital (76), imports from the PRC grew with 516 % during the period considered. Although the growth rate during the period considered was even higher for Brazil (+ 736 %) and Iran (+ 952 %), their levels of imports (580 525 tonnes from Brazil, and 1 015 088 tonnes from Iran respectively) were much lower than the imports from the PRC in absolute figures (1 519 304 tonnes from the PRC) during the investigation period.

(179) Furthermore, comparing absolute export figures, it is observed that the country concerned was the second largest exporter to the Union market during the investigation period, after Russia. Russian imports [1] may have contributed to the threat of injury, but did not break the causal link because of the following considerations.

(180) First, the growth rate of the PRC during the period considered (+ 516 %) is much higher than the one of Russia (+ 28 %).

(181) Second, the PRC closed the gap with Russia that exported only slightly more, i.e. 773 686 tonnes (source: Eurostat) during the first half of 2016 compared to a volume of 773 275 tonnes (source: Eurostat) from the PRC in the same period.

(182) Third, the excess capacity of Russia is not as significant as the excess capacity existing in PRC as shown in the table below-:

Table 19

Actual production of the like product by third countries (in thousands of tonnes)

Country	Crude steel capacity estimated for the year 2014	Crude steel production in 2013	Crude steel production in 2014	HRF actual production in 2013	HRF actual production in 2014
Russia	89 000	69 008	71 461	26 140	26 996
PRC	1 140 000	822 000	822 698	311 564	317 387

Source for capacity data: OECD (*)
Source for production data: World Steel Association, Steel Statistical Yearbook 2015 (**)
(*) OECD, DSTI/SU/SC(2015)8/Final, Directorate for Science, Technology and Innovation, Capacity developments in the world steel industry, Table 1, p. 10, http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DSTI/SU/SC(2015)8/FINAL&docLanguage=En
(**) World Steel Association, Steel Statistical Yearbook 2015, table 1 on pages 1 and 2 and table 13 on page 35, http://www.worldsteel.org/statistics/statistics-archive/yearbook-archive.html

(183) Even if the figures above on capacity are exclusively on crude steel, and even under the very unlikely assumption that all crude steel in Russia would be used for producing the like product, the excess capacity of Russia is even in that unlikely scenario far below the excess capacity of China.

(184) Furthermore, the Commission then assessed the prices and market shares of the third country imports. It noted that imports of the like product from some other countries such as Iran, Russia and Ukraine, were made at prices even lower than that of imports from the country concerned. However, when analysing the trends and import volumes, it is clear that the level of imports from Iran were much lower than the level of imports from the PRC in the investigation period, and that imports from Russia and Ukraine indeed increased in volumes during the period considered, but at a much slower pace than the imports from the PRC. Also, contrary to the PRC, imports from Russia and Ukraine lost a significant share in the total Union import volumes during the period considered.

(185) Finally, the Commission compared the actual production by third countries with the production of the country concerned showing that China outnumbers all other countries both in production of the like product and in capacity of crude steel.

[1] As mentioned under recital (3), on 7 July 2016, the Commission initiated an investigation on imports of the same product originating inter alia in Russia. However, the initiation does not prejudge the outcome of the investigation.

Table 20

Actual production of the like product by third countries (in thousands of tonnes)

Country	Crude steel capacity estimated for the year 2014 (1)	Crude steel production in 2013	Crude steel production in 2014 (2)	Theoretical excess capacity in 2014 (1)	HRF actual production in 2013	HRF actual production in 2014
Russia	89 000	69 008	71 461	17 539	26 140	26 996
PRC	1 140 000	822 000	822 698	317 302	311 564	317 387
Ukraine	42 500	32 771	27 170	15 330	8 929	7 867
Iran	27 000	15 422	16 331	10 669	8 250	8 276
Brazil	48 000	34 163	33 897	14 103	15 014	14 229

Source for capacity data: OECD (*)
Source for production data: World Steel Association, Steel Statistical Yearbook 2015 (**)
(*) OECD, DSTI/SU/SC(2015)8/Final, Directorate for Science, Technology and Innovation, Capacity developments in the world steel industry, Table 1, p. 10, http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DSTI/SU/SC(2015)8/FINAL&docLanguage=En
(**) World Steel Association, Steel Statistical Yearbook 2015, table 1 on pages 1 and 2 and table 13 on page 35, http://www.worldsteel.org/statistics/statistics-archive/yearbook-archive.html

(186) The above production figures for the like product show that the country concerned outnumbers by far all other large exporting countries. Furthermore, the above capacity figures for crude steel also indicate that only the PRC has such a massive excess capacity.

(187) Accordingly, the Commission found that the PRC posed a threat of an imminent injury to the Union industry. As mentioned before, this threat of injury has even become more realistic, due to the combined effect that the Chinese demand for steel is slowing down and that some other Chinese export markets are gradually becoming more difficult to access. As a result, a part of the Chinese volumes is likely to be continued to be directed in the near future to the Union.

(188) However, it is also likely that imports from Brazil, Iran, Russia, Serbia and Ukraine have contributed to the threat of material injury. Nevertheless, the underlying production, the import trends and the precise import volumes in absolute figures are not of such a scale that they would break the causal link between ever increasing and ever more heavily dumped imports from the PRC and the threat of injury to the Union industry.

6.2.4. *Export sales performance of the Union industry*

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

Table 21

Export volumes to unrelated customers by the sampled Union producers

	2012	2013	2014	IP
Export volume to unrelated customers	2 344 463	2 379 035	2 777 446	2 409 721
Index (2012 = 100)	*100*	*101*	*118*	*103*
Average price (EUR/tonne)	516	463	459	391
Index (2011 = 100)	*100*	*90*	*89*	*76*

Source: Questionnaire reply of sampled Union producers

(190) The volume of exports to unrelated customers increased by 3 % during the investigation period. As far as prices are concerned, they dropped significantly by – 24 % over the period considered.

(191) Export sales accounted for not more than 4 % of the total Union production and for 22 % of total sales to unrelated customers during the investigation period. Also, the decrease in export prices followed percentage-wise the same trend as the sales prices of the Union producers on the Union market. Therefore, at this stage the Commission concluded that the export sales performance of the Union producers contributed to the weak situation of the industry. However, this factor did not break the causal link between the dumped imports and the threat of material injury to the Union industry either.

6.2.5. *Specific situation of one Italian Union producer*

(192) One interested party claimed that one Italian producer was potentially causing injury to the Union industry. It alleged that this Italian producer is benefiting from illegal State aid to the detriment of the other Union producers on the Union market, possibly 'to an extent to break the causal link…' It also claimed that the actual production of the Italian producer decreased significantly during the period considered.

(193) First, the definition and analysis of the Union industry is based on the entire Union industry, including the Italian producer. Despite the fact that this Italian producer effectively reduced significantly its production level during the period considered, the overall production levels of the Union industry (see recital (87)) increased by 2 %. As a consequence, on balance, all other Union producers increased their production during the period considered.

(194) Second, the allegation that the Italian producer is benefiting from illegal State aid is still under investigation by the Commission until 2017. The opening of an investigation does not prejudge the outcome of the proceedings. As a result, no conclusions can be drawn yet concerning this allegation. Nevertheless, the Commission noted that the sales prices from this Italian producer were found to be lower than the Union average sales price during the investigation period. If the Italian producer had a meaningful impact on sales prices in the Union, one would have expected that average Union prices would have gone up after the reduction of its production. However, this was not the case.

(195) Third, the fact that certain Union producers perform better on the Union market than others may be the result of a variety of factors but does not affect the provisional conclusion that the Union industry as a whole is suffering from dumped imports.

(196) The Commission therefore concluded at this stage that the specific situation of one Italian producer did not contribute to the weak situation of the Union industry.

6.3. **Conclusion on causation**

(197) A causal link was provisionally established between the Chinese dumped imports and the threat of material injury of the Union industry. There is a clear coincidence in time between the sharp increase of, in particular, the level of the dumped imports at continuous decreasing sales prices from the PRC, and the drop of the Union's performance, in particular from the second half of 2015 onwards. The Union industry had no other choice but to follow the price level set by the dumped imports in order to avoid a further shrinking of its market share. This resulted in a loss-making situation which is likely to further deteriorate.

(198) The Commission distinguished and separated the effects of all known factors on the situation of the Union industry from the injurious effects of the dumped imports, causing the threat of material injury for the Union industry as a whole at the end of the investigation period. The situation of the Italian producer did not contribute to the weak situation of the Union industry. The other identified factors such as the economic crisis, the cost of the raw materials, imports from third countries, and the export sales performance of the Union producers were not found to break the causal link between the threat of material injury and the Chinese dumped imports. On the basis of the above, the Commission concluded at this stage that the dumped imports from the PRC in the investigation period were causing a threat of material injury to the Union industry within the meaning of Article 3(6) of the basic Regulation. Known other factors other than the dumped imports from the PRC which at the same time had an impact on the situation of the Union industry were not found to break the causal link.

7. UNION INTEREST

(199) In accordance with Article 21 of the basic Regulation, the Commission examined whether it could clearly conclude that it was not in the Union interest to adopt measures in this case. It gave special consideration to the need to eliminate the trade-distorting effects of injurious dumping and to restore effective competition. The determination of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, importers, and users.

7.1. Interest of the Union industry

(200) The Union industry is located in several Member States (UK, France, Germany, Czech Republic, Slovak Republic, Italy, Luxembourg, Belgium, Poland, the Netherlands, Austria, Finland, Sweden, Portugal, Hungary and Spain), and employs directly ca. 18 000 employees in relation to hot-rolled flat steel products.

(201) Seventeen producers cooperated during the investigation. None of the known producers opposed the initiation of the investigation. As shown above when analysing the injury indicators, the whole Union industry showed some signs of injury during the period considered. In particular, injury indicators related to the financial performance of the sampled Union producers, such as profitability, were seriously affected. They experienced a deterioration of its situation, in particular from the second half of 2015 onwards, and were negatively affected by the dumped imports, causing the threat of injury which became imminent at the end of the investigation period.

(202) It is expected that the imposition of provisional anti-dumping duties will restore fair trade conditions on the Union market, putting an end to the price depression and enabling the Union industry to recover. This would result in an improvement of the Union industry's profitability towards levels considered necessary for this capital intensive industry. It is therefore important that prices be restored to a non-dumped or a non-injurious level in order to allow all various producers to operate on the Union market under fair trade circumstances. In the absence of measures, it is very likely that the threat of injury will materialise and that there will be a further deterioration of the Union industry's economic situation. A negative performance on the hot-rolled flat steel products segment would impact the downstream and upstream segments of many Union producers as capacity utilization on these segments is closely linked to the production of the product investigated.

(203) The Commission therefore concluded at this stage that the imposition of anti-dumping duties would be in the interest of the Union industry.

7.2. Interest of importers

(204) As mentioned in recitals (11) to (13), no unrelated importer completed a questionnaire reply or provided the Commission with elements showing to what extent importers would be harmed by the imposition of measures. Therefore and also taking into account that, in addition to the PRC, many other countries export to the Union, the Commission provisionally concluded that it is likely that the imposition of measures may not be in the interest of importers.

7.3. Interest of users

(205) The hot-rolled flat steel products are used as an industrial input purchased by end users for a variety of applications, including in construction (production of steel tubes), shipbuilding, gas containers, pressure vessels and energy pipelines.

(206) Only one user from Italy (Marcegaglia Carbon Spa) with imports from the country concerned and producing inter alia tubes, pipes and downstream steel products provided a questionnaire reply. The product concerned/like product is a cost item for this user.

(207) This Italian user alleged that the imposition of measures on imports from the country concerned would lead to a situation whereby it would no longer have access to reliable supplies of the product concerned on the Union market, in particular of high quality coils used for re-rolling. It alleged that 88 % of the total Union production is accounted for by only 16 companies belonging to eight large groups, whereby the largest part of the production (about 70 %) is used in the captive market. As a consequence, allegedly, the Union producers as a result of their still relatively high market share can exercise a strong pressure both on the market of the product concerned as on the downstream market.

(208) First, the Commission noted that the objective of anti-dumping duties is not to close off the Union market from any imports, but to restore fair trade by removing the effect of injurious dumping. Imports from the PRC are therefore not expected to come to an end, but to continue, albeit at non-dumped prices.

(209) Second, the Commission found that the user is not exclusively dependent on Chinese imports, but also purchased the product concerned during the investigation period from Union producers as well as from other producers in third countries other than the country concerned.

(210) Third, even if the prices of the Chinese product concerned were to increase by around 30 %, this would only have a 3 % impact of the cost of production of this Italian user. Such an impact is considered minor.

(211) Fourth, because imports from the country concerned and from other countries are expected to continue after the imposition of anti-dumping duties, and since as such alternative sources of supply still exist, the claim that the imposition of anti-dumping duties would result in the Union industry being able to exercise strong price pressure is unfounded. The Union industry consists of 23 producers which provide users with a wide range of supply already within the Union, in addition to the option of imports from the other third countries which produce and export the like product. Therefore, at this stage the Commission rejected the claim that the imposition of measures would lead to a shortage of supply of the product concerned/like product.

(212) With regard to any potential negative effects on the competition on the Union market, it is true that the EU competition rules impose more stringent standards of behaviour on a company that has a significant market share. However, it is ultimately up to the competent competition authorities to determine whether there is a dominant position and whether it is abused.

(213) In view of the above, it is concluded at this stage that the imposition of measures would be against the interest of users but would not have any disproportionate negative effect on them. In particular the wide range of supply which is available on the market, and that the investigation revealed that the impact of the measures on the cost of the user that came forward was less significant than alleged were taken into consideration.

7.4. **Conclusion on Union interest**

(214) The Commission concluded at this stage that the imposition of measures would contribute to the recovery of the Union industry in terms of profitability. The imposition of measures would allow the Union producers to make the necessary investments and R&D to better equip their hot-rolled flat steel production equipment and boost their competitiveness.

(215) The Union industry underwent already significant restructuring in the (recent) past. If no measures were imposed, the threat of imminent injury at the end of the investigation period is likely to materialise. Some Union hot-rolled flat steel producers might have to close down/reduce their hot-rolled flat steel products activities, dismiss employees and leave many Union users with limited sources of supply.

(216) As regards the interest of unrelated importers and users, the Commission concluded at this stage that the imposition of measures at the proposed level would have only a limited impact. More specifically, the prices, their profitability and the employment in the user's industry would not be disproportionately affected. Hence, the imposition of measures at the proposed level only has a limited impact on the prices of the supply chain and the performance of users. The level of measures will lead to a level playing field but still allow for imports from the country concerned, at fair prices.

(217) Weighing and balancing the strong interests of an important Union industry to be protected against unfair practices, on the one hand, and the limited likely effects of measures on unrelated importers and users, which continue to benefit from a wide array of supply in the Union, the Commission concluded at this stage that there were no compelling reasons that it was not in the Union interest to impose measures on imports of the product concerned originating in the country concerned.

8. **PROVISIONAL ANTI-DUMPING MEASURES**

(218) On the basis of the conclusions reached by the Commission on dumping, threat of injury, causation and Union interest, provisional measures should be imposed to prevent that the imminent threat of material injury which is caused to the Union industry by the dumped imports would materialise.

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

(219) To determine the level of the measures, the Commission first established the amount of duty necessary to eliminate the threat of material injury. According to the case-law, the target price is the price which the Union industry could reasonably count on under normal conditions of competition, in the absence of the dumped imports. In the Commission decision practice, the target price is normally calculated by establishing the costs of production of the like product and adding the profit margin which the Union industry could reasonably count on under normal conditions of competition, in the absence of the dumped imports.

(220) As regards the determination of a target profit, the Commission first analysed the proposal of the complainant, which pointed to 12,9 %, taken from a previous Commission decision on the same product ([1]). However, this finding dates back to the year 2000, and the data from over 15 years ago cannot be regarded as representative anymore given the technological and financial changes the Union industry faced since then.

(221) The Commission then turned to the profitability data of the year 2008, which it had regarded as the most representative year for a downstream product, namely cold-rolled steel products ([2]) The product concerned of the current investigation is similar in many respects to certain cold-rolled flat steel products (cold-rolled products) for the following reasons:

(a) For both products (iron ore and coking coal) certain alloys are major parts of their cost of production and they go through similar processes (furnace, hot strip mill).

(b) As set out in recital (26), the product concerned is the primary material for the production of various value-added downstream steel products, starting with cold-rolled products.

On this basis, the Commission found a profit margin of 14,4 %.

(222) However, various elements in that case relating to injurious dumping from China and Russia are not present in the current case, where the Commission found a threat of injury from Chinese exports, which involves a prospective analysis. In particular, in that case, imports at low prices from the countries under investigation had taken place throughout the four-year period prior to the investigation period.

(223) The Commission then tried to establish a target profit by simulating how the recovery of the Union industry from the recession caused by the economic and financial crisis in 2009 might have developed if it had not been interrupted by the high volumes of price-depressing Chinese imports. For this exercise, it relied on more recent data and a prospective analysis presented to the OECD's Steel Committee in December 2013. In a study entitled 'Laying the foundations for a financially sound industry' an expert opinion looked at the profitability of the global steel industry in recent years and fixed a long-term sustainability profit threshold. In particular, this study

([1]) See Commission Decision No 284/2000/ECSC of 4 February 2000 imposing a definitive countervailing duty on imports of certain flat rolled products of iron or non-alloy steel, of a width of 600 mm or more, not clad, plated or coated, in coils, not further worked than hot-rolled, originating in India and Taiwan and accepting undertakings offered by certain exporting producers and terminating the proceeding concerning imports originating in South Africa, OJ L 31, 2000, p. 44, para. 338.

([2]) See Commission Implementing Regulation (EU) 2016/1328 of 29 July 2016 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain cold-rolled flat steel products originating in the People's Republic of China and the Russian Federation, OJ L 210, 2016, p. 1, Recital 156.

argued in favour of 17 % global average EBITDA margin (earnings before interest, taxes, depreciation and amortisation) ([1]). The report also points to an average of 7 % investment costs and an average debt cost of 3 %. The Commission deducted these two posts, and arrived at level of 7 % for earnings before taxes (EBT). Absent any other reliable data, it equated these figures made for the steel industry as a whole to the product concerned, as HRF makes up a big proportion of the crude steel production.

(224) In conclusion, the Commission established provisionally at this stage that a target profit of 7 % can be used to calculate the threat of injury margin for the Union HRF industry, but will further investigate whether more precise data are available for the product concerned.

8.2. **Provisional measures**

(225) Provisional anti-dumping measures should be imposed on imports of the product concerned originating in the country concerned, in accordance with the lesser duty rule provided for in Article 7(2) of the basic Regulation. The Commission compared the injury margins and the dumping margins. The amount of the duties should be set at the level of the lower of the dumping and the injury margins.

(226) On the basis of the above, the provisional anti-dumping duty rates, expressed on the CIF Union border price, customs duty unpaid, should be as follows:

Company	Dumping margin	Injury margin	Provisional anti-dumping duty
Bengang Steel Plates Co., Ltd.	96,5 %	17,1 %	17,1 %
Hebei Iron & Steel Group	95,0 %	13,2 %	13,2 %
Jiangsu Shagang Group	106,9 %	22,6 %	22,6 %
Other cooperating companies	100,1 %	18,0 %	18,0 %
All other companies	106,9 %	22,6 %	22,6 %

(227) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of this investigation. Therefore, they reflected the situation found during this investigation with respect to these companies. These duty rates are exclusively applicable to imports of the product concerned originating in the country concerned and produced by the named legal entities. Imports of product concerned produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other companies'. They should not be subject to any of the individual anti-dumping duty rates.

(228) A company may request the application of these individual anti-dumping duty rates if it changes the name of its entity or sets up a new production or sales entity. The request must be addressed to the Commission ([2]). The request must contain all the relevant information, including: modification in the company's activities linked to production; domestic and export sales associated with, for example, the name change or the change in the production and sales entities. The Commission will update the list of companies with individual anti-dumping duties, if justified.

(229) To ensure a proper enforcement of the anti-dumping duties, the anti-dumping duty for all other companies should apply not only to the non-cooperating exporting producers in this investigation, but to the producers which did not have exports to the Union during the investigation period.

([1]) McKinsey & Company, Laying the foundations for a financially sound industry, OECD Steel Committee meeting of 5th December 2013, p. 7

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

9. FINAL PROVISIONS

(230) In the interests of sound administration, the Commission will invite the interested parties to submit written comments and/or to request a hearing with the Commission and/or the Hearing Officer in trade proceedings within a fixed deadline.

(231) The findings concerning the imposition of provisional duties are provisional and may be amended at the definitive stage of the investigation.

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is imposed on imports of certain flat-rolled products of iron, non-alloy steel or other alloy steel, whether or not in coils (including 'cut-to-length' and 'narrow strip' products), not further worked than hot-rolled, not clad, plated or coated.

The product concerned does not include:

— products of stainless steel and grain-oriented silicon electrical steel,

— products of tool steel and high-speed steel,

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

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

The product concerned is currently falling within CN codes 7208 10 00, 7208 25 00, 7208 26 00, 7208 27 00, 7208 36 00, 7208 37 00, 7208 38 00, 7208 39 00, 7208 40 00, 7208 52 10, 7208 52 99, 7208 53 10, 7208 53 90, 7208 54 00, 7211 13 00, 7211 14 00, 7211 19 00, ex 7225 19 10 (TARIC code 7225 19 10 90), 7225 30 90, ex 7225 40 60 (TARIC code 7225 40 60 90), 7225 40 90, ex 7226 19 10 (TARIC code 7226 19 10 90), 7226 91 91 and 7226 91 99 and originating in the People's Republic of China.

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

Country	Company	Provisional duty rate	TARIC Additional Code
PRC	Bengang Steel Plates Co., Ltd.	17,1 %	C157
	Handan Iron & Steel Group Han-Bao Co., Ltd.	13,2 %	C158
	Hebei Iron & Steel Co., Ltd. Tangshan Branch	13,2 %	C159
	Hebei Iron & Steel Co., Ltd. Chengde Branch	13,2 %	C160
	Zhangjiagang Hongchang Plate Co., Ltd.	22,6 %	C161
	Zhangjiagang GTA Plate Co., Ltd.	22,6 %	C162
	Other cooperating companies listed in Annex I	18,0 %	See annex
	All other companies	22,6 %	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 concerned) sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in [country concerned]. I declare that the information provided in this invoice is complete and correct.'* If no such invoice is presented, the duty applicable to all other companies shall apply.

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

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

Article 2

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

(a) Request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted;

(b) Submit their written comments to the Commission; and

(c) Request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

2. Within 25 calendar days of the date of entry into force of this Regulation, the parties referred to in Article 21(4) of Regulation (EU) 2016/1036 of the European Parliament and of the Council may comment on the application of the provisional measures.

Article 3

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

Article 1 shall apply for a period of six months.

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

Done at Brussels, 6 October 2016.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Country	Name	TARIC additional code
PRC	Angang Steel Company Limited	C150
PRC	Inner Mongolia Baotou Steel Union Co., Ltd.	C151
PRC	Jiangyin Xingcheng Special Steel Works Co., Ltd.	C147
PRC	Shanxi Taigang Stainless Steel Co., Ltd.	C163
PRC	Shougang Jingtang United Iron & Steel Co., Ltd	C164
PRC	Maanshan Iron & Steel Co., Ltd	C165
PRC	Rizhao Steel Wire Co., Ltd.	C166
PRC	Rizhao Baohua New Material Co., Ltd.	C167
PRC	Tangshan Yanshan Iron and Steel Co., Ltd.	C168
PRC	Wuhan Iron & Steel Co., Ltd.	C156