

COMMISSION IMPLEMENTING REGULATION (EU) 2017/141**of 26 January 2017****imposing definitive anti-dumping duties on imports of certain stainless steel tube and pipe butt-welding fittings, whether or not finished, originating in the People's Republic of China and Taiwan**

THE EUROPEAN COMMISSION,

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

Having regard to 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⁾ ('the basic Regulation'), and in particular Article 9(4) thereof,

Whereas:

1. PROCEDURE**1.1. Initiation**

- (1) On 29 October 2015, pursuant to Article 5 of Council Regulation (EC) No 1225/2009 ⁽²⁾, the Commission announced by a notice ('Notice of Initiation') published in the *Official Journal of the European Union* ⁽³⁾ the initiation of an anti-dumping proceeding with regard to imports into the European Union of certain stainless steel tube and pipe butt-welding fittings, whether or not finished, originating in the People's Republic of China ('PRC') and Taiwan ('the countries concerned').
- (2) The proceeding was initiated following a complaint lodged on 14 September 2015 by the Defence Committee of the Stainless Steel Butt-welding Fittings Industry of the European Union ('the complainant') on behalf of producers representing between 37 % and 48 % of the total Union production. One producer expressing its opposition has come forward.
- (3) Therefore, the relevant thresholds as set out in the Article 5(4) of the basic Regulation, i.e. 'an investigation shall not be initiated pursuant to paragraph 1 unless it has been determined, on the basis of an examination as to the degree of support for, or opposition to, the complaint expressed by Union producers of the like product, that the complaint has been made by, or on behalf of, the Union industry. The complaint shall be considered to have been made by, or on behalf of, the Union industry if it is supported by those Union producers whose collective output constitutes more than 50 % of the total production of the like product produced by that portion of the Union industry expressing either support for or opposition to the complaint. However, no investigation shall be initiated where Union producers expressly supporting the complaint account for less than 25 % of total production of the like product produced by the Union industry.', were met at the time of the initiation of the case. Once the investigation is opened, it is not necessary that the conditions for standing are met throughout the entire investigation. The Court has confirmed this for the situation where a company withdraws its support for the complaint ⁽⁴⁾; the same reasoning applies by analogy in a situation where the product scope changes.
- (4) At initiation stage, one of the interested party claimed that the Commission had wrongly calculated the representativity of the complainant on the total production of the Union industry. They claimed that the current complainant cannot represent 43 %-49 % of the Union production as in the previous case covering a similar product scope eight companies had represented 48 % of the Union production. The Commission noted that while the product scope of the two investigations are indeed similar the exact product scope and the period covered in the current investigation differ from the product scope and the period covered in the previous investigation. Therefore the assessments performed and the results of that assessment were different (i.e. different Union producers came forward in the investigation at hand than in the investigation initiated in 2012; and those Union

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ L 343, 22.12.2009, p. 51).

⁽³⁾ OJ C 357, 29.10.2015, p. 5.

⁽⁴⁾ Judgment of the Court (Grand Chamber) of 8 September 2015, Case C-511/13 P, *Philips Lighting Poland S.A., Philips Lighting BV v Council of the European Union, Hangzhou Duralamp Electronics Co., Ltd, GE Hungary Ipari és Kereskedelmi Zrt. (GE Hungary Zrt.), Osram GmbH, European Commission*.

producers were defined on the basis of the like product of the investigation of 2012). The note to file on standing dated 28 October 2015 establishes the total production of the like product in the Union at 8 600 tonnes for the period 1 April 2014 to 31 March 2015. For the previous investigation initiated in 2012 the note to the file on standing dated on 9 November 2012 established the total production of the like product in the Union at 21 600 tonnes.

- (5) The same interested party claimed that the number of companies supporting the complaint is low, 3 out of 16 Union producers, and requested the Commission to investigate why the other Union producers remained silent. In reply to this comment, the Commission noted that the number of producers supporting a complaint does not matter at the time of the initiation of a case, only their part in the production volume of the Union industry as defined in the Article 5(4) of the basic Regulation.
- (6) Moreover, the interested party questioned the inclusion of a Union producer in the definition of the Union industry as this Union producer was producing significantly higher added value fittings than the other Union producers. However, the investigation confirmed that this Union producer was also producing and selling the like product and its inclusion in the sample was justified. It only covered those volumes of that producer which fall in the scope of the investigation. Therefore, this claim was rejected.

1.2. Parties concerned by the proceeding

- (7) The Commission officially advised the complainant, all the Union producers, importers, traders and users known to be concerned and their associations, as well as the exporting producers and the authorities of the countries concerned of the initiation of the investigation.
- (8) The Commission also contacted producers in Brazil, India, Malaysia, Korea, Switzerland, Thailand and the United States of America ('the USA') which were listed in the Notice of Initiation as possible analogue countries for the purpose of establishing a normal value for the PRC.
- (9) Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the Notice of Initiation. All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

1.3. Sampling

- (10) In its Notice of Initiation, the Commission stated that it might sample the interested parties in accordance with Article 17 of the basic Regulation.
 - (a) Sampling of Union producers
- (11) In the Notice of Initiation, the Commission stated that, in view of the large number of Union producers involved in the investigation, it would limit its analysis to a reasonable number the Union producers. At the time of the initiation, the producers mentioned in recital 2, i.e. one Union producer and a group of two subsidiaries, located in the Union producing the like product came forward.
- (12) Following the publication of the Notice of Initiation, another Union producer requested to be included in the sample. The four cooperating Union producers were therefore included in the sample. The sampled Union producers accounted for around 47 % of the total estimated Union production, and the sample was considered representative of the Union industry.
- (13) However, one of the sampled Union producers, i.e. Springer GmbH, subsequently informed the Commission of its decision not to cooperate. This producer was therefore not further investigated. The Commission nevertheless concluded that the three remaining Union producers in the sample, which account for ca. 43 % of the total estimated Union production, were still representative of the Union industry. That Union producer also informed the Commission that it was not only a Union producer, but also had an outward processing arrangement with a Chinese producer.

- (14) In addition, the Commission assessed the impact of the exclusion of the flanged and low-roughness fittings (see section 2.2 below) on the representativity of the sample. It found that flanged and low-roughness fittings production was not substantial either regarding the sampled Union producers or regarding the total Union production and, therefore, had no impact on the representativity of the sample already selected.
- (15) One interested party stated that the Union producers other than ones supporting the complaint were increasing their sales during the period 2010-2015 and selling at higher prices and volume, based on Eurostat Intra Union trade statistics.
- (16) The Commission analysed the potential injury caused by the imports from the countries concerned in relation to the Union industry, including all Union producers through the macro economic data (see recitals 193-207). Furthermore, the Commission noted the party based its analysis on CN codes including not only the product concerned but also products outside of the scope of this investigation. Moreover, in general the volume reported in the Intra Union trade statistics does not concern only Union production but also re-sales of imported products. Therefore, no conclusion could be drawn concerning the sales prices or the volume of the Union producers. In any event, it remains that the microeconomic data of the sample are deemed representative for the Union industry. That this data does not comprise the non-complaining producers is the consequence of the fact that those did not come forward to be included in the sample.

(b) Sampling of importers

- (17) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all unrelated importers were requested to make themselves known to the Commission and to provide the information specified in the Notice of Initiation.
- (18) Three unrelated importers provided information and agreed to be included in the sample. Together they represented 10 % of the estimated volumes imported from the PRC and Taiwan during the investigation period. Given that the Commission could examine all importers that came forward, no sampling was necessary.

(c) Sampling of exporting producers in Taiwan

- (19) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all exporting producers in Taiwan were requested in the Notice of Initiation to make themselves known to the Commission and to provide the information specified in the Notice of Initiation. The information on the initiation of the investigation and the Notice of Initiation (which included a sampling form) were sent to the 10 Taiwanese companies identified in the complaint as exporting producers of the product concerned to the Union. In addition, the Taipei Representative Office in the European Union was requested to identify and/or contact additional exporting producers, if any.
- (20) Four exporting producers in Taiwan provided the information requested in the Notice of Initiation and agreed to be included in the sample. Taking into account the number of cooperating Taiwanese exporting producers, sampling was not considered necessary.
- (21) During the investigation, two of the four companies did not further cooperate. The Commission informed these companies that, according to Article 18(1) of the basic Regulation, provisional or final findings, affirmative or negative, may be made on the basis of the facts available.

(d) Sampling of exporting producers in the PRC, MET claims and requests for individual examination

- (22) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all exporting producers in the PRC were requested to make themselves known to the Commission and to provide information specified in the Notice of Initiation. In addition, the Mission of the People's Republic of China to the European Union was requested to identify and/or contact additional exporting producers, if any.

- (23) Nine exporting producers in the PRC provided the requested information and requested to be included in the sample. In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of four companies or groups of companies, representing around 79 % of the exports of the cooperating exporting producers to the Union and an estimated 35 % of the total quantities exported from PRC to the Union during the investigation period. The criterion used to select the four companies included in the sample was the volumes of exports of the product concerned to the Union during the investigation period. In accordance with Article 17(2) of the basic Regulation, all known exporting producers concerned and the authorities of the country concerned were consulted on the selection of the sample, and no comments were received.
- (24) In the course of the investigation, one of the four sampled companies did not further cooperate. The Commission informed this company that according to Article 18(1) of the basic Regulation, provisional or final findings, affirmative or negative, may be made on the basis of the facts available.
- (25) None of the cooperating exporting producers in the PRC claimed market economy treatment ('MET'). However, five exporting producers in the PRC which were not included in the sample requested individual examination under Article 17(3) of the basic Regulation. As mentioned in recital 99, these requests were not granted.

1.4. Questionnaire replies

- (26) Questionnaires were sent to the four companies in Taiwan and the four sampled companies in the PRC, to the four sampled Union producers and to the three sampled importers.
- (27) Questionnaire replies were received only from two companies in Taiwan, three in the PRC, three Union producers and three importers.
- (28) After provisional disclosure, a questionnaire reply was also received from one of the potential analogue country producers located in Switzerland.

1.5. Verification visits

- (29) The Commission sought and verified all the information deemed necessary for a determination of dumping, resulting injury and Union interest. Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies/association:
- union producers:
 - OSTP Sweden AB, Sweden,
 - OSTP Finland OY, Finland,
 - Erne Fittings, Austria,
 - unrelated importer:
 - Arcus Nederland BV, the Netherlands,
 - exporting producers in Taiwan:
 - Ta Chen Stainless Pipes Co. Ltd, Taichung,
 - King Lai Hygienic Materials Co. Ltd Tainan,
 - exporting producers in the PRC:
 - Suzhou Yuli Pipeline Industry Co. Ltd and its related companies, Suzhou, Jiangsu and Shanghai,
 - Zhejiang India Pipeline Industry Co. Ltd, Wenzhou,
 - Zhejiang Good Fittings Co. Ltd, Wenzhou.
- (30) A verification visit was also carried out at the premises of the Swiss company Rohrbogen AG (Basel), which was considered as potential analogue country producer. This verification visit took place after provisional disclosure.

1.6. Provisional disclosure

- (31) At the provisional stage of the investigation the Commission decided not to impose provisional anti-dumping measures. The main reason for this decision was the ongoing search for an appropriate analogue country on the basis of which normal value would be established for the Chinese exporting producers. In the absence of a dumping margin determination for the PRC, also the level of cumulated dumped imports from both countries concerned could not be established. While the data with regard to the Union industry was available for the purposes of the analysis of the various injury indicators, the volume and prices of the dumped imports are an indispensable element in the determination of injury in accordance with Article 3 of the basic Regulation. Therefore, no determination of injury, and consequently of the causal link between injury and dumped imports, was made at the provisional stage of the investigation.
- (32) Interested parties received a provisional disclosure on 13 July 2016. Submissions after provisional disclosure were received from one Taiwanese exporting producer, one Chinese exporting producer, the China Chamber of Commerce of Metals, Minerals and Chemical Importers & Exporters ('CCCMC') and the complainant. All these submissions are dealt with in the following recitals.

1.7. Final disclosure

- (33) Interested parties received the final disclosure document on 27 October 2016. The Commission invited the interested parties to submit written comments and/or to request a hearing with the Commission and/or the Hearing Officer in trade proceedings by 16 November 2016.
- (34) Three Chinese exporting producers, the CCCMC, two Union importers and the complainant submitted comments after final disclosure, and a hearing with the hearing officer was requested by the Union producer that also had an outward processing arrangement and a hearing with the Commission services was requested by the CCCMC.
- (35) During the hearing with the Hearing Officer, the Union producer has requested that the products that are re-imported following the outward-processing be exempted from the duties, because they are not causing injury to the Union industry as there is very little overlap with the production of the complainants and because it would not be in the Union interest to impose duties, taking into account its status as SME, the fact that it has received EU structural funds to establish its factory, and the fact that imposing duties would destroy its business. The Commission invited interested parties to express any views they may have in this regard.
- (36) In addition, one Chinese exporting producer requested the correction of its name which had been misspelled, and one Union importer suggested a more precise definition of 'low roughness fittings', which was accepted by the Commission.
- (37) With regard to the final disclosure, two Chinese exporting producers and CCCMC claimed that the period provided by the Commission for the submission of the comments by interested parties was inadequate and did not allow them to fully and comprehensively address all the data and reasoning, which had been presented for the first time in the final disclosure. They considered that a serious breach of the interested parties' rights of defence in this proceeding.
- (38) The Commission noted that an anti-dumping proceeding initiated under Article (5) of the basic Regulation is conducted under strict deadlines. The interested parties in question have received disclosure of the Commission's decision not to impose provisional measures and of the Commission's proposal for the imposition of definitive measures and have been reasonable time to respond. Under Article 20(5) of the basic Regulation, the Commission must set a deadline for at least 10 days for comments after final disclosure. By giving 22 days the Commission has complied with this requirement. No interested party requested any extension in this respect. It is also stressed that no additional data could be disclosed at the provisional stage, not only with regard to dumping findings concerning PRC but also with regard to injury. In the absence of dumping margin determination for the PRC, the level of dumped imports from the countries concerned could not be established. While the data with

regard to the Union industry is available for the purposes of the analysis of the various injury indicators, the volume and prices of the dumped imports are an indispensable element in the determination of injury in accordance with Article 3 of the basic Regulation. Therefore, no determination of injury was made at the provisional stage of the investigation. The claim was therefore rejected.

- (39) Following comments and requests of some of the interested parties after final disclosure the Commission disclosed additional data and information. This additional disclosure took place on 25 November 2016. Subsequent submissions were received from two Chinese exporting producers, the CCCMC, the Complainant and three Union importers.
- (40) During the hearing with the Hearing Officer, the Complainant requested that the exemption request for an outward processing scheme submitted by one of the Union producer as explained in recital 35 above should not be granted as the Union producer in question is also importing the product concerned produced in China. Furthermore, contrary to what it had claimed, its products are in competition with the product produced by the Union industry. During the same hearing the Complainant also explained that majority of the traders in the Union store products that are double certified both under the EN/DIN and ASME/ANSI standards. Moreover contrary to the claim of one the traders products subject to different standards are interchangeable.
- (41) Two Chinese exporting producers and CCCMC reiterated their claims, especially with regard to the lack of disclosure of the injury findings at the provisional stage which in their opinion could not be justified by the lack of data.
- (42) In response to the above the Commission notes that conclusions on injury indicators can only be disclosed once the volume of dumped imports is determined. In this particular case at provisional stage no dumping determination had been made for the PRC. The fact that the raw data for injury indicators had been collected and does not mean that the conclusion on injury indicators could be established. The Commission provided an adequate disclosure within the meaning of Article 20 of the basic Regulation. The Commission considers that the rights of defence of these interested parties were respected.

1.8. Investigation period and period considered

- (43) The investigation of dumping covered the period from 1 October 2014 to 30 September 2015 ('the investigation period' or 'IP').
- (44) The examination of trends relevant for the assessment of injury covered the period from 1 January 2012 to the end of the investigation period ('period considered').
- (45) Following the definitive disclosure, several interested parties claimed that the Commission should have examined the period 2010 — IP instead of 2012 — IP. It is the standard practice of the Commission to use 4 years period to analyse the injury trends. The parties failed to submit any evidence that would have supported the conclusion that the period considered was inappropriate.
- (46) Following the additional disclosure, two Chinese exporting producers and CCCMC reiterated their claim regarding the period considered for the injury trends. As stated above it is the standard practice of the Commission to use a 4-year period for its injury assessment, on the basis of its wide discretion in trade defence investigations. Furthermore the interested parties did not submit any compelling evidence that would have required the Commission to deviate from its standard practice. Furthermore the case ⁽¹⁾ the interested parties are referred to was terminated by the withdrawal of the complaint. Therefore no injury determination was made in that case. Furthermore, the product concerned of this investigation differs from the product concerned of the terminated investigation. Therefore this claim was rejected.

⁽¹⁾ Commission Decision 2013/440/EU of 20 August 2013 terminating the anti-dumping proceeding concerning imports of stainless steel tube and pipe butt-welding fittings, whether or not finished, originating in the People's Republic of China and Taiwan (OJ L 223, 21.8.2013, p. 13).

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

- (47) The product subject to this investigation is tube and pipe butt-welding fittings, of austenitic stainless steel grades, corresponding to AISI types 304, 304L, 316, 316L, 316Ti, 321 and 321H and their equivalent in the other norms, with a greatest external diameter not exceeding 406,4 mm and a wall thickness of 16 mm or less, with a roughness not less than 0,8 micrometres, not flanged, whether or not finished, originating in the PRC and Taiwan. The product falls under CN codes ex 7307 23 10 and ex 7307 23 90.
- (48) The product concerned is manufactured essentially by cutting and forming tubes and pipes. The product concerned is used to join pipes and tubes of stainless steel and exist in different shapes such as elbows, reducers, tees and caps.
- (49) The product concerned is used in a wide range of consumer industries and final applications. Examples of these are:
- petro-chemical industry,
 - beverages and food processing and pharmaceuticals industries,
 - shipbuilding,
 - energy generation, power plants,
 - constructions and industrial installations.
- (50) Following the final disclosure, one of the Union importers claimed that caps should not be included in the product scope as they are not produced by cutting and forming pipes.
- (51) In response to this claim it is noted that product concerned is 'essentially' but not 'exclusively' manufactured by cutting and forming tubes and pipes. It is further noted that from market perspective point of view caps are types of fittings and are presented as such in the companies' catalogues. The claim was therefore rejected.
- (52) Following the definitive disclosure, several parties claimed that the imported products and the Union production are not technically interchangeable due to different technical standards, i.e. EN/DIN and ASME/ANSI, or that products produced according to EN/DIN standards should be excluded from the product scope.
- (53) First, it is important to clarify that both the Union industry and the exporting producers subject to the investigation produce both types of technical standards. That holds also true for the sampled companies. Furthermore, the machines used to produce for different standards are the same, and the production process is the same.
- (54) Second, the investigation and a hearing with the Union producer that also has an outward processing arrangement have shown that the physical, technical and chemical characteristics of products approved under the EN/DIN and under the ASME/ANSI standards are comparable. Whereas standards may require slight differences as to thickness and resistance, those differences vary for each product type, and for many product types, there is substantial or complete overlap.
- (55) Third, both product types are in competition to each other. Whereas it is true that for certain projects, the specifications will require the use of EN/DIN or ASME/ANSI, at the point in time at which the engineers decide on the choice of the standard, both specifications compete. This is witnessed by the fact that the use of EN/DIN and ASME/ANSI standards differs between Member States based on historical patterns, but there is no barrier for new projects to use either standard everywhere in the Union.
- (56) Finally, there is even direct competition after the choice of the standard where the standards completely overlap, as is the case for certain product types.
- (57) The Commission also notes that despite specific requests made to the cooperating importer, the Commission did not receive any evidence demonstrating that the like product and the product concerned are not in competition.

- (58) Therefore the claim was rejected.
- (59) Following additional disclosure several interested parties, including an unrelated importer, confirmed the above findings of the investigation. These interested parties reiterated that ASME/ANSI and EN/DIN standard to a large extent are interchangeable. Furthermore, one interested party stated that Union pipe and tube suppliers deliver double certified products and any manufacturer of the product concerned can also acquire double certification. This interested party further stated that, in fact, the majority of the traders' stocks of the product concerned and the like product is double certified.
- (60) In absence of any further comments regarding the product standards, the claim that product concerned and like product should have been separately analysed based on ASME/ANSI and EN/DIN standard was rejected.

2.2. Products excluded from the definition of the product concerned

2.2.1. *Low roughness fittings*

- (61) Three unrelated importers, CCCMC and two Chinese exporting producers claimed that the product definition does not sufficiently distinguish between industrial and so-called 'sanitary fittings', although they have different physical characteristics. Moreover, they stated that the Union industry does not produce 'sanitary fittings' and that therefore only 'industrial fittings' should be included in this anti-dumping proceeding.
- (62) During a joint hearing the three unrelated importers submitted evidence supporting their claim and demonstrated a number of key differences between 'industrial' and 'sanitary' fittings, based on physical characteristics, packaging, end use and price level.
- (63) The difference needed to be redefined in terms of physical characteristics and the appropriate distinction was based on the surface roughness of the fittings. Instead of using the term 'sanitary' fittings, it is appropriate to talk about 'low roughness fittings' i.e. fittings with a roughness average (Ra) of the surface finish below 0,8 micrometer. These fittings are used in the food and beverage industry, the semiconductor industry and the pharmaceutical and health care industries.
- (64) There are important differences in surface smoothness and surface finish. The end of low roughness fittings is typically square (as opposed to bevelled), and they in general have lower wall thickness and outside diameter. The existence of separate standards is not visible nor is the fact that the raw material for low roughness fittings is always cold rolled coil or cold drawn tube (as opposed to hot rolled for high roughness fittings). Finally, low roughness fittings are packaged individually in a plastic bag, whereas high roughness fittings are packaged in bulk in carton.
- (65) There is no interchangeability: the industry using low roughness fittings cannot use high roughness fittings because of the hygienic requirements; on the other hand, low roughness fittings are not suitable for applications using high roughness fittings because of their lower pressure and temperature resistance requirements and higher price levels. The investigation showed that the price level of low roughness fittings is on average 2 to 3 times higher per kg. This is mainly due to the labour intensity linked to polishing and additional quality control.
- (66) Since questionnaires had already been sent out at the time of the hearing, a fundamental change to the product code number ('PCN') reporting was no longer possible. However, by adding the sole physical characteristic of 'roughness' as a column in the transaction-by-transaction table and a supplementary criterion in the cost of production table in the questionnaire reply, the distinction between both types of fittings could be made. Both the Union industry and the Union importers eventually agreed that fittings with a roughness average (Ra) of the

surface roughness below 0,8 micrometre are not to be considered product concerned. Therefore the Commission services at the provisional stage of the investigation considered that these fittings should be excluded from the scope of the investigation.

- (67) After provisional disclosure one of the sampled Chinese producers claimed that low roughness fittings should not be excluded from the product scope. The company in question challenged also the statements made by interested parties regarding the differences in physical characteristics, packing materials, cost/price levels, and the lack of interchangeability between low roughness fittings and high roughness fittings. However, the issue regarding the differences in the physical characteristics, packing materials and price levels between low and high roughness fittings were verified and confirmed on spot in Taiwan. Therefore this claim was rejected.

2.2.2. *Flanged fittings*

- (68) A Chinese-Taiwanese exporting producer claimed that flanged fittings, meaning fittings having ends shaped as flanges, are not the product concerned based on the definition in the Notice of Initiation.
- (69) It should be mentioned that the shape of the end is the determinant for the technique which may be used for the connection of the fittings to the tubes. Different techniques are used to produce butt-welding fittings and flanged fittings. Butt-welding fittings are produced using the welding technique, while in contrast the clamping and bolting technique is used in the production of flanged fittings. In addition, the explanatory notes of the CN codes of the product definition specify that the ends of the butt-welding fitting should be shaped square cut or chamfered to facilitate welding to the tubes.
- (70) It has also been found that the production of flanged fitting requires additional costs, because of a larger input of raw and intermediate material and a more elaborate manufacturing process. From a production process point of view, butt-welding fittings can be considered as semi-finished products for the production of flanged fittings.
- (71) The Union industry agreed with the view that flanged fittings were a different product and with its exclusion from the product scope.
- (72) The Commission services already at the provisional stage considered that flanged fittings should be excluded from the scope of the investigation. No comments of interested parties were received challenging this finding, therefore this decision is sustained.

2.3. **Like product**

- (73) 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 Taiwan (which was also used as the analogue country for the PRC — see recital105);
 - (c) the product produced and sold in the Union by the Union industry.
- (74) The Commission therefore decided that these products are like products within the meaning of Article 1(4) of the basic Regulation.

3. DUMPING

3.1. Taiwan

3.1.1. Introduction

- (75) As indicated in recital 27, only two Taiwanese companies cooperated in the investigation providing full replies to the anti-dumping questionnaires. The sales of these companies accounted for 36 % of the imports of the product concerned into the Union from Taiwan in the investigation period.
- (76) One of the cooperating companies produced mainly fittings which are not covered by the revised product scope of the investigation as explained in recitals 61 to 71 (fittings with a roughness average (Ra) of the surface finish below 0,8 micrometre and/or flanged fittings). This producer did not have domestic sales of the like product during the investigation period.
- (77) The second cooperating company by contrast engages in the extensive production of most of the standard types of fittings, which are covered by the scope of the investigation. The company produces only on the basis of welded pipes, only from 304 and 316 grades of steel and only elbow and tee shapes (and tee shapes only with the same diameter of main and branch pipe which are not welded but produced from one piece of pipe with its centre 'pulled down' to make a T-shape). The producer did not have domestic sales of the like product during the investigation period.

3.1.2. Normal value

- (78) In the case of both Taiwanese exporting producers, due to the lack of domestic sales of the like product, the normal value was constructed in line with Article 2(3) and (6) of the basic Regulation by adding to the average cost of manufacturing of the relevant product the selling, general and administrative ('SG&A') expenses incurred and a reasonable profit.
- (79) In the case of the first cooperating company, the amount of SG&A expenses and profit were determined, in accordance with Article 2(6)(b) of the basic Regulation, that is, on the basis of the actual amounts applicable to production and sales, in the ordinary course of trade, of the same general category of products for the producer in question in the domestic market of the country of origin, namely domestic sales of the fittings with roughness average (Ra) of the surface finish below 0,8 micrometre.
- (80) In the case of the second cooperating company, due to the lack of own domestic sales of the like product or of the same general category of products, Article 2(6)(c) of the basic Regulation was applied. To this end, the Commission used in the construction of normal value the same amounts of SG&A expenses and profit used for the first company, which was the only available and verified data and referred to sales of the same general category of product on the Taiwanese market.
- (81) Following the provisional disclosure, the second Taiwanese exporting producer raised certain claims against the use of the data of the first Taiwanese producer for the construction of its normal value. First, the company claimed (on the basis of the open version of the questionnaire response and the deficiency letter responses of the other producer) that the first producer cannot be considered at all an exporting producer of the product concerned as it allegedly produces and exports to the Union only types of product which were excluded from the product scope, that is, low-roughness fittings and flanged fittings. Second, the company claimed that the use of a single company's SG&A figures for the purpose of the construction of the normal value for another company contradicts the findings of the WTO Appellate Body ⁽¹⁾ that a single company's SG&A cannot be used to construct normal values.
- (82) In response to the above claims, the Commission established during the on spot verification at the premises of the company in question that part of the company's production and sales to the Union during the IP (namely vacuum fittings with additional surface treatment which result in surface roughness of above 0,8 micrometre) fell within the product scope of this investigation. Therefore, the company was considered as an exporting producer of the product concerned and a dumping margin for this company was calculated. It should be stressed that the company in question was not selling this type of product on the domestic market in Taiwan during the IP, which affects the methodology of construction of normal value for both Taiwanese exporting producers as explained

⁽¹⁾ EU-India Bed Linen (case AB-2000-13) at paragraph 76: '...use of the phrase "weighted average", combined with the use of the words "amounts" and "exporters or producers" in the plural in the text of Article 2.2.2(ii) of the [WTO Anti-Dumping Agreement], clearly anticipates the use of data from more than one exporter or producer. We conclude that the method for calculating amounts or SG&A and profits set out in this provision can only be used if data relating to more than one exporter or producer is available.'

in recitals 79 and 80. Second, it should also be noted that the WTO Appellate Body ruling quoted by the interested party refers to the situation described in the Article 2(6)(a) of the basic Regulation; that is the use of weighted average of SG&A costs of other producers in respect to production and sales of the like product in the domestic market of the country of origin. In this case however the construction of the normal value was based on Article 2(6)(c) of the basic Regulation; that is with SG&A costs determined on the basis of 'any other reasonable method, provided that the amount for profit so established shall not exceed the profit normally realized by other exporters or producers on sales of products of the same general category in the domestic market of the country of origin'. Taking into account the above, the Commission sustains its decision as to the source of data used for the construction of normal value. It should be noted that the Commission looked also at the alternative source of data for establishment of SG&A costs for the construction of normal value that is data provided by the cooperating analogue producer in Switzerland. The figure in question was not provided for the IP but it is confirmed that for the financial years 2014 and 2015 it was in the range of 8 % to 12 % which is comparable with the adjusted SG&A figure finally used in the calculation as indicated in recital 86.

- (83) The Taiwanese exporting producer further claimed in its submission an inadequate disclosure of the critical data used for the determination of the normal value. Indeed, for business confidentiality reasons, this specific disclosure could not reveal SG&A, profit and allowances on costs figures used in the calculations. The company, knowing its own cost of manufacturing, could easily estimate the overall average adjustment made. However, it requested disclosure of the specific figures with regard to certain elements of the calculation, namely the SG&A and profit levels, levels of normal value allowances on costs and prices and VAT adjustment to normal value.
- (84) In response to this request, it has to be underlined that exact figures of SG&A costs, profit and allowances on costs applied in the construction of normal value cannot be disclosed, as the data originate from one single company, which is a Taiwanese competitor of the company requesting this information, and that company requested confidential treatment because the data contains business secrets. That request is obviously justified. However, the most important figures, that is, the SG&A and profit used for the final calculation, are disclosed in ranges in recital 86 below. It should also be noted that the level of allowances on costs was very low and had an insignificant impact on the level of normal value and the dumping margin. No allowances on prices were applied as domestic prices were not used in the calculation of the normal value. Also in case of Taiwan no VAT adjustment to normal value was done.
- (85) Finally, this company submitted that the level of SG&A and profit of its competitor is not representative for them. It claimed that the other producer in Taiwan operates a small scale production and sells highly specialised products, while it was involved in massive production and sales of standard products.
- (86) Indeed, it was confirmed during the verification visits that the products produced and sold by the two companies are different, and thus their SG&A cost structures are also different. Therefore, the Commission decided to reduce the level of SG&A costs used for construction of normal value for this second cooperating exporting producer by the proportion of labour costs related to quality control and research and development costs. This resulted in a reduction of the SG&A adjustment to the level of 7 %-13 % expressed as a percentage of turnover, which subsequently reduced the level of its individual dumping margin. At the same time, the Commission considered that the profit margin used for the normal value construction (1 %-5 % on turnover) was reasonable. Final overall adjustment made to the costs of manufacturing in the calculation of the normal value for the exporting producer in question was 15,36 %.

3.1.3. *Export price*

- (87) The two cooperating exporting producers made export sales to the Union directly to independent customers located in the Union.
- (88) Export prices were established on the basis of the prices actually paid or payable for the product concerned when sold for export from the exporting country in accordance with Article 2(8) of the basic Regulation.

3.1.4. Comparison and dumping margins

- (89) The normal value and export price of the cooperating exporting producers were compared on an ex-works basis.
- (90) 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.
- (91) On this basis, adjustments were made for transport, ocean freight and insurance costs, handling, loading and ancillary costs, packing costs, credit costs, discounts and commissions which were demonstrated to affect price comparability. The total adjustments were in the range of 1 %-10 %, based on actual values reported by the Taiwanese exporting producers and verified on spot. Those figures are the ones reported for the relevant cost items by the Taiwanese companies, and have been disclosed to them for verification in the specific disclosures.
- (92) It is noted that in the calculation, the Commission rejected an adjustment for currency conversion requested by one of the interested parties. The party has asked the Commission to use instead of the exchange rate on the date of invoicing the exchange rate on the day of payment. The basic Regulation stipulates that normally, the date of invoicing is used for establishing the exchange rate, but that in extraordinary situations, an earlier date can be used (date of contract for example). However, the basic Regulation does not provide any legal basis for using a date after the date of invoicing. The rationale for this is that at the date of invoicing, the price is fixed and the company no longer has any influence to decide to dump or not. In any event, even if the use of a later date was possible, quod non, as explained already in the provisional disclosure, the applicant has not shown that the additional condition, namely a sustained movement in the exchange rates took place.
- (93) As provided by Article 2(11) and (12) of the basic Regulation, for each cooperating company, the weighted average normal value of each type of the like product was compared with the weighted average export price of the corresponding type of the product concerned.
- (94) On this basis, the weighted average dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Company	Dumping margin established (%)
King Lai Hygienic Materials Co., Ltd	0,0
Ta Chen Stainless Pipes Co., Ltd	5,1

- (95) For non-cooperating producers, the Commission had to rely on facts available pursuant to Article 18(6) of the basic Regulation. Non-cooperation allows the concerned exporting producers not to share their company specific data on the basis of which their actual export behaviour can be assessed and it obliges the Commission to use best facts available in their respect. The Commission, in its decision practice, distinguishes for that purpose between investigations where cooperation is high (i.e. above 80 % of reported exports to the Union), and situations where cooperation is low (80 % and less of cooperation). In the present case, the level of cooperation was substantially below 80 %. In such a situation, the Commission considers that the highest dumping rate of the cooperating producers does not constitute a good approximation for the dumping rate of the non-cooperating producers, for the following reason: it has to be suspected that one of the reasons why so many producers decided not to cooperate is that they were aware that their dumping rates would be far higher than the ones of the cooperating producers. The fact that, in the present case, cooperation was withdrawn during the investigation supports this understanding. Therefore, the Commission considers that the dumping rate of the non-cooperating producers is best reflected at the level of the highest dumping margin established for a representative product type in terms of volume, namely representing more than 10 % of exports to the Union, for the cooperating exporting producer who was found to be dumping.
- (96) After adjustment of SG&A costs used for the calculation of the dumping margin for the Taiwanese cooperating exporting producer as described in recital 86, the country-wide dumping margin, expressed as a percentage of the CIF Union frontier price, duty unpaid, amounts to 12,1 %.
- (97) Following the final disclosure, the complainant claimed in this regard that the residual duty for Taiwan should be based on complaint and amount to 34,8 %. The complainant claimed that most of the Taiwanese producers of the product concerned deliberately failed to cooperate in the procedure in order not to allow the Commission to

use their domestic sales for the calculation of the normal value. Therefore, according to the complainant, normal value calculation in the complaint, which was based on domestic prices in Taiwan, should be used as best fact available.

- (98) In response to the above it is noted that in its calculation of the residual duty for Taiwan the Commission is using best facts available based on data collected and verified in the investigation. This claim is therefore rejected.

3.2. People's Republic of China

3.2.1. Analogue country

- (99) According to Article 2(7)(a) of the basic Regulation, the normal value for the exporting producers not granted MET has to be established on the basis of the prices or constructed value in a third market country ('analogue country'). None of the cooperating exporting producers claimed MET.
- (100) The complainant proposed the USA as a potential analogue country. In addition, according to available information, the production of the like product takes place in a number of other countries worldwide such as Brazil, India, Japan, Malaysia, Korea, Switzerland and Thailand. These countries were all considered as potential analogue countries.
- (101) All known producers (52) of the like product in the above mentioned countries were contacted, but none of them cooperated. Only one Malaysian company agreed to cooperate but provided insufficient information. The company was not able to provide per PCN data with regard to costs and domestic prices. Therefore, its deficient data could not be used for determination of the normal value. Furthermore, it is noted that the Malaysian company in question has refused on spot verification of the data provided.
- (102) At a later stage a Swiss producer came forward, as a potential analogue producer and agreed to cooperate. The company submitted the requested questionnaire reply which was verified on spot. Nevertheless, due to the rather limited range of product types produced by this company compared to the wide range of product types exported by the sampled Chinese exporting producers to the Union, the Commission decided that the data provided by the Swiss company would be inappropriate for the determination of the normal value for the Chinese exporting producers. With this regard it is noted that only 4,6 % of product types exported to the Union by Chinese producers covering 4,2 % of Chinese export volume were directly matching with product types produced by the Swiss producer. In case of Taiwan, finally used as the analogue country, the level of direct matching with product types exported to the Union by the Chinese producers was 7,7 % for the number of product types and 11,1 % for the export volume.
- (103) In this situation, the Commission decided to use the other country subject to the investigation, i.e. Taiwan, as the analogue country despite arguments initially presented by the complainants claiming that Taiwanese companies mainly produced fittings types based on welded tubes as raw material (as opposed to the Chinese producers, which use mainly seamless tubes). The same argument was put forward also by the Chinese exporting producers. On the other hand, the CCCMC in its submission after provisional disclosure considered that the Taiwanese manufacturing cost data would be more appropriate for the basis of construction of the normal value than data of the Union producers, which was also considered by the Commission as an alternative in the provisional disclosure.
- (104) Taiwan was considered appropriate as an analogue country because, contrary to what was claimed by the complainants and notwithstanding the different use of raw materials, the data provided allowed for a proper attribution methodology of costs in relation to the different characteristic of the product coding. Furthermore, the level of competition on Taiwanese market is high since there are at least 10 known domestic producers of the product concerned and this is also reflected in a strong presence of imports from different origins, in a situation where the level of custom duties is moderate (7,5 % to 10 %).
- (105) For the reasons above, the Commission decided to use Taiwan as the analogue country for the PRC.
- (106) Following the final disclosure, two Chinese exporting producers and the CCCMC claimed that the choice of Taiwan as analogue country was inappropriate as the manufacturing costs used came only from one Taiwanese company that did not have any domestic sales. The parties in question also submitted that the matching level of comparable products was too low. The claim of low matching level of comparable products was also raised by one of the Union importer. The latter company indicated also that the China could not be compared to Taiwan as the two entities have different levels of Human Development Index ('HDI') and GDP per capita.

- (107) With regard to these claims, it is first recalled that the WTO ruling ⁽¹⁾ implies that all product types exported by the Chinese exporting producers should be assigned a normal value. The Commission considers that the data found at the level of one analogue country exporting producer is sufficient to base the remaining product types upon as the types found allow for further construction of the missing product types. The occurrence of only one such exporting producer is by no means exceptional or a new practice. The basic Regulation further foresees that the normal value can be constructed based on the cost of production, in the absence of domestic sales. Secondly, it is recalled that the HDI and GDP levels are not factors which are taken into account in the establishment as to whether an analogue country is appropriate. In order to determine the proper analogue country, the Commission proceeds as explained in recital 104. The above claims were therefore rejected.
- (108) Finally, two Chinese exporting producers and the CCCMC raised questions on allegedly a serious procedural flaw based on the fact that the Commission calculated the Chinese producers' dumping margins on the basis of the non-market economy (NME) provisions of the basic Regulation. The parties claimed that the legal authority to apply NME methodology for the determination of normal value for the Chinese exporting producers expires on 11 December 2016. Therefore, according to the parties in question, for any definitive anti-dumping measures adopted after this date, which will be the case in this proceeding, the Commission is obliged under the WTO law to apply the standard dumping calculation methodology.
- (109) In this regard, the Commission notes that it has no discretion on whether or not to apply the current rules as set out in the basic Regulation. This claim was therefore rejected.

3.2.2. Normal value

- (110) As explained in recital 103, the normal value for the exporting producers in the PRC was determined on the basis of constructed value in the analogue country, in this case Taiwan, in accordance with Article 2(7)(a) of the basic Regulation.
- (111) Furthermore, due to lack of domestic sales of the like product in Taiwan, normal value was constructed in line with Article 2(3) and (6) of the basic Regulation by adding to the average cost of manufacturing of the relevant product type SG&A costs incurred and profit realised on the Taiwanese market during the investigation period.
- (112) As a basis for establishing of manufacturing costs, the Commission used data of one of the cooperating Taiwanese producers (Ta Chen). It should be noted that the second Taiwanese cooperating producer (King Lai) had very limited production volume of the product concerned in the investigation period and this production related to highly specialised product types. In this small part of their production which is still considered product concerned King Lai is producing products which could be considered low-roughness fittings but with an extra surface treatment which makes their surface roughness to raise above 0,8 micrometer and thus according to the definition of recital 47 it is product concerned. These fittings have very high costs of manufacturing and taking them into account would distort calculations. Furthermore, these types of product are not exported by the Chinese sampled producers to the EU (although they might be covered by their PCNs as roughness is not one of the parameters of the PCN construction). Therefore, manufacturing costs data of this company were considered by Commission as not appropriate for the construction of normal value for the Chinese producers.
- (113) With regard to the construction of the normal value, one Union importer claimed that manufacturing costs of the Taiwanese company King Lai could not be used as basis for calculation of the normal value for the Chinese companies as King Lai produces a different product which cannot be considered as industrial fitting and that it also implies a different production method and range of profits.
- (114) In response to this claim, it is reiterated that the Commission did not use any manufacturing costs data of King Lai for comparison with other companies. For constructing the normal value of other companies, the Commission used only King Lai's SG&A costs and profit of the same general category of product sold on the domestic market, in accordance with Article 2(6)(c) of the basic Regulation. It is also recalled that the SG&A cost

⁽¹⁾ Article 21.5 Appellate Body Report, EU — Definitive Anti-Dumping Measures on Certain Iron or Steel fasteners from China, WT/DS397/AB/RW.

used for these calculations was adjusted in order to take into account differences between the products produced by King Lai and other companies. With regard to the profit used, it is stressed that it is not in a different range (1 %-5 %) than those of other companies.

- (115) The same Union importer also claimed that the second Taiwanese producer, Ta Chen, whose manufacturing costs were used as the basis of calculation for the normal value of Chinese exporting producers, is a large and integrated company and, as such, is able to 'optimise costs'. Thus, the company in question cannot be compared with the small Chinese factories.
- (116) In this regard, the Commission recalled that the manufacturing costs of the Chinese producers were not part of the analysis in this procedure as none of the Chinese producers had claimed MET status. Nevertheless, it should be pointed out that the allegedly 'optimised costs' of the Taiwanese producer can only result in a lower constructed normal value and therefore in lower dumping margins for the Chinese exporting producers.
- (117) Taking into account that only a limited number of product types exported to the Union by the sampled Chinese exporting producers could be identified in Taiwan, the Commission has constructed the normal value of the remaining product types based on the costs of manufacturing of the most resembling product types produced in Taiwan in order to achieve a full and fair comparison, based on the costs of manufacturing adjusted for:
- (a) differences in raw material used — on the basis of verified Union Industry cost data, whereby fittings produced from seamless tubes are between 2,12 and 2,97 times more expensive to produce than those from welded tubes;
 - (b) differences in grade of steel — on the basis of verified Union industry data, whereby a steel grade cost adjustment is made to the cost of the least expensive steel grades used for fittings produced based on welded tubes as raw material; this adjustment ranges from 1,49 to 3,60 times depending on the steel grades used;
 - (c) differences in shapes — on the basis of observed price differences in the sales transactions of the Chinese exporters, whereby an elbow is considered the most basic shape and the other shapes (tees, reducers, caps and specialty forms) are between 1,08 and 1,74 times more expensive.
- (118) The CCCMC proposed in its submission after provisional disclosure an alternative basis for adjustments of points (a) and (b) and presented data from the Chinese markets in this respect. However, this data are, firstly, unverified and, secondly, originate in a non-market economy country. Therefore, using them would negate the analogue country methodology for the calculation of the normal value. This claim of the CCCMC was thus rejected.
- (119) Following the final disclosure, the CCCMC, as well as two Chinese exporting producers, claimed it was unreasonable to adjust the Taiwanese cost data by using the Union industry cost data. The parties in question referred to the Union common practice not to do that in past cases.
- (120) As mentioned above, the EU's previous practice was revised in the light of the WTO ruling referred to in recital 107. In order to construct the normal values of the missing product types, the Commission relied on Taiwanese cost data and adjusted the costs found and verified by applying proportional adjustments that were found at the level of the cost of production of the Union industry. The CCCMC failed to substantiate why this was unreasonable and/or to propose an alternative approach.
- (121) Following additional disclosure CCCMC and the two Chinese exporting producers reiterated their objection to the use of Union industry data for the adjustment of costs of manufacturing used in construction of the normal value for missing product types. The parties underlined that the Commission did not provide evidence showing that differences in raw material costs in the EU market would be at the same level of that in Taiwan's market.

Furthermore, the parties repeated their claim that the Commission could use differences in Chinese export sales prices of seamless and welded fitting for the above adjustment as sales prices 'to some extent reflect the trend of differences in costs of production'.

- (122) In response to the above claims it is first stressed that the Commission could not compare the level of adjustments for types of pipes used as raw materials or grades of steel to the data from Taiwanese market as the Taiwanese producer whose costs of manufacturing were used as a basis for construction of normal value simply did not use certain types of raw materials. That was the basic reason why the Commission at all considered looking for the missing cost data outside the market of the analogue country. Secondly, with regard to the use of Chinese prices, it is reiterated that none of the Chinese exporting producers had claimed MET in this procedure. Therefore, the Chinese costs of production were not available nor examined. Thus, the Commission cannot draw any conclusion 'to what extent' differences in sales prices reflect differences in costs of production of different types of fittings (¹). Furthermore, even if such conclusions could be drawn it would apply to the costs of production in a NME country. Therefore, the above claims are rejected.
- (123) These interested parties further question the adjustment whereby fittings produced from seamless tubes are between 2,12 and 2,97 times more expensive to produce than those from welded tubes. They refer to an unsubstantiated CCCMC claim made after provisional disclosure regarding price levels, whereby the difference between welded and seamless tubes is said to be less than 30 % of the price of welded tubes.
- (124) In this regard, it is noted that the adjustment made by the Commission is based on the observed cost difference between fittings produced using seamless tubes and fittings produced using welded tubes, and not on the price difference between welded and seamless tubes as such. It should also be noted that none of the Chinese exporting producers requested MET. As a consequence, the Chinese exporting producers had not submitted any cost of production data and continued to do so even when putting into doubt the cost determinations and differences established by the Commission. Moreover, standard price lists are even further away from cost and price determinations as they do not give evidence of the prices effectively applied, let alone of the costs levels.
- (125) To support their submissions, the interested parties provided an analysis of differences based on price levels of the producers Zhejiang Good and Zhejiang Jndia, concluding on this basis that the applicable price adjustment should be between 0,43 and 1,70, and 0,64 and 1,80 respectively.
- (126) Apart from the fact that these ranges refer to prices and not costs, the fact that welded tube based fittings are sometimes sold at higher prices than seamless tube based fittings does not give evidence that the costs should be higher. The quoted price levels rather illustrate a complete absence of an economic link between the costs and the price quoted to clients, or alternatively it means that other factors have played a role, such as order size. The Commission, for reasons of confidentiality, cannot disclose the underlying figures but can reveal further factual data, whereby the adjustment from welded tube based to seamless tube based fittings used for the comparison according to the PCN description is as follows:

From W1 to S1 2,97

From W2 to S2 2,21

From W3 to S3 2,14

From W4 to S4 2,12.

Other conversions were not needed in order to construct the product types exported by the Chinese exporting producers.

⁽¹⁾ It should be also noted that the prices in the Chinese steel sector are themselves distorted due to activities of SOEs and various subsidy schemes. See, inter alia, Steel: Preserving sustainable jobs and growth in Europe, COM(2016)155 final; Subsidies to Chinese Industry: State Capitalism, Business Strategy and Trade Policy by Usha C. V. Haley and George T. Haley, Oxford University Press, USA, April 25, 2013.

- (127) The Commission further made adjustments converting the cost of the least expensive steel grade W1 into other grades and/or other grades based on seamless tubes, again using cost of production data of the Union industry. The Commission, again for reasons of confidentiality, cannot disclose the underlying figures but can give further factual data:

From W1 to S2 3,14

From W1 to S3 3,60

From W1 to S4 3,16

From W1 to W3 1,69

From W1 to W4 1,49.

Other conversions were not needed in order to construct the product types exported by the Chinese exporting producers.

- (128) The Commission also wishes to highlight that, in its comments on these adjustment factors, the interested parties do not refer to price levels of both Chinese exporting producers as it did for the other adjustments, most probably because the figures do not put the Commission's methodology into doubt.
- (129) With regards to differences in shape, the adjustments were made on the basis of the four sampled exporting producers' sales price data which is more comprehensive than the two producers the Chinese interested parties represent.

Taking the price level of elbows as the basis, the proportions are the following:

Tees 1,08

Reducers 1,22

Caps 1,29

Other shapes 1,74.

- (130) In a subsequent step in the construction of the normal value, the Commission adjusted the costs of manufacturing calculated in accordance with recitals 112 to 117 by adding SG&A and profit. Due to the lack of domestic sales of the like product of both cooperating Taiwanese producers and the lack of sales of same general category of products by one of them (Ta Chen), Article 2(6)(c) of the basic Regulation had to be applied. To this end, in the construction of normal value, the Commission used the amounts of SG&A expenses and profit obtained from the other Taiwanese cooperating company (King Lai) — the only available and verified data referring to sales of the same general category of product on the Taiwanese market.
- (131) It should be noted that the SG&A costs used for the calculation of the normal value for Chinese exporting producers were adjusted (reduced), as it was verified that the three Chinese sampled producers are also producing and selling mostly standard products, as explained in recital 86. The final level of the normal value adjustments for SG&A costs and profit is therefore also the same as provided in that recital.
- (132) With regard to adjustments for SG&A costs, the two Chinese exporting producers and the CCCMC agree in their submission after final disclosure that reductions should be made when determining the SG&A costs used for construction of the normal value. This is because the Taiwanese exporter whose data was used in this regard does not produce the standard product. At the same time, these parties question whether the Commission made a proper assessment as to the level of this reduction.
- (133) It is noted in this respect that the adjustments were made on the basis of comparison of the general SG&A structure of the Taiwanese company King Lai and the second Taiwanese company Ta Chen. This approach was taken because King Lai was the only company which had domestic sales in Taiwan (Ta Chen did not have domestic sales of the PC and any other product within the same general category of products). The adjustments are justified because the first company is a producer of highly sophisticated specialised product, while the second company produces standard products (so some parts of their SG&A costs are clearly different). On the basis of this comparison, the Commission deducted from the SG&A of King Lai R & D costs and part of labour costs related to the quality control department. There were no other significant differences between the two companies in other categories of SG&A costs. It should be underlined that in this adjustment the Commission deducted the two whole categories of SGA costs mentioned above. Thus, the Commission took a conservative approach when granting this adjustment, giving a higher, rather than lower, adjustment.

- (134) The interested parties further claim that the Commission did not make a comparison of the structure of SG&A costs between Taiwanese company in question and Chinese exporting producers.
- (135) In this regard, it is recalled that, since Taiwan is analogue country, it is the Taiwanese SG&A costs related to domestic sales in Taiwan which should be used. Their adjustment on the basis of comparison with SG&A costs of Chinese producers would mean using as a benchmark costs from the NME country. Nevertheless, it is stressed that, as a result of the adjustment made by the Commission, SG&A cost used for the calculation of normal value were reduced to the level which is not unreasonable in comparison with SG&A costs of the Chinese sampled companies. Actually, two out of three Chinese sampled companies have reported higher levels of SG&A costs than the one used for construction of the normal value.

3.2.3. *Export price*

- (136) The cooperating exporting producers made export sales to the Union directly to independent customers or through unrelated trading companies located outside the Union.
- (137) Export prices were established on the basis of the prices actually paid or payable for the product concerned when sold for export from the exporting country in accordance with Article 2(8) of the basic Regulation.

3.2.4. *Comparison and dumping margins*

- (138) The normal value and export price of the cooperating exporting producers were compared on an ex-works basis.
- (139) 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.
- (140) On this basis, adjustments were made for transport, ocean freight and insurance costs, handling, loading and ancillary costs, packing costs, credit costs, discounts and commissions where demonstrated to affect price comparability. The total adjustments were in the range of 5 %-16 %, based on actual values reported by the Chinese exporting producers and verified on spot. Those figures are the ones reported for the relevant cost items by the Chinese companies, and have been disclosed to them for verification in the specific disclosures.
- (141) China applies a policy of reimbursing VAT only partially upon export and in this case 8 % VAT is not reimbursed. To ensure that the normal value was expressed at the same level of taxation as the export price, the normal value was adjusted upward by that part of the VAT charged on exports of large diameter seamless pipes and tubes that was not refunded to the Chinese exporting producers ⁽¹⁾.
- (142) The above adjustment was commented in the submissions of two Chinese exporting producers and CCCMC after final disclosure. The parties in question undescribed the principle that the non-reimbursed VAT upon export should be corrected for. However, as the normal value is considerably higher than the export price, the interested parties claim that adjustment of 8 % should be implemented on the export price, citing the absence of MET and higher dumping margins.
- (143) In this regard it is noted that the Commission adjusted normal value, in line with the Judgement of the General Court in case T-423/09. This claim was therefore rejected.
- (144) As provided by Article 2(11) and (12) of the basic Regulation, for each cooperating company, the weighted average normal value of each type of the like product was compared with the weighted average export price of the corresponding type of the product concerned.

⁽¹⁾ That method was accepted by the General Court in its judgment of 16 December 2011, case T-423/09, *Dashiqiao v Council*, ECLI:EU:T:2011:764, paras 34 to 50.

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

Company	Dumping margin established (%)
Zhejiang Good Fittings Co., Ltd	55,3
Zhejiang India Pipeline Industry Co., Ltd	48,9
Suzhou Yuli Pipeline Industry Co., Ltd (*)	30,7
Jiangsu Judd Pipeline Industry Co., Ltd (*)	30,7
Weighted average	41,9

(*) Part of Yuli-Judd Group.

- (146) Weighted average dumping margin shall be applied to cooperating, non-sampled Chinese exporting producers.
- (147) In relation to the above, one Union importer claimed in its submission after final disclosure that the difference between dumping margins calculated for Taiwanese company King Lai (0 %) and its related company in China (41,9 %) is unreasonable since the two companies manufacture the same kinds of fitting which are excluded from the product scope.
- (148) In response to the above, it is first stressed that Taiwanese King Lai did not obtained a 0 % dumping margin because it produces fittings excluded from the product scope as seems to be this Union importer's understanding. Products excluded from the product scope were not taken into account in the dumping margin calculations for King Lai. The company, however, also produced and exported to the Union a small volume of products falling within the product scope of this investigation. Thus, a dumping margin, which was found to be negative, had to be calculated for this company. On the other hand, King Lai in China was not part of the sample and, therefore, no individual dumping margin was calculated for the company. The company thus obtained the weighted average dumping margin of the sampled Chinese companies. Nevertheless, no anti-dumping duty shall apply for the product which is not covered by the product scope of this investigation. Thus, if it is correct that King Lai in China exports to the EU a product which is not covered by the product scope of this investigation, then it will not be subject to anti-dumping duties upon importation.
- (149) Due to the low level of cooperation of the Chinese exporting producers and following the reasoning of recital 95, the country-wide dumping margin for the PRC was established at the level of the highest dumping margin established for a representative product type in terms of volume, for the cooperating exporting producer who was found to be dumping.
- (150) On this basis, the country-wide dumping margin, expressed as a percentage of the CIF Union frontier price, duty unpaid, amounts to 64,9 %.

3.2.5. Individual examination requests

- (151) Five Chinese exporting producers which were not sampled requested individual examination in this proceeding. Taking into account the high number of applications, the Commission concluded that it would be unduly burdensome for the timely conclusion of the proceeding to accept any of these requests. In this regard it is noted that accepting the requests of the companies in question would more than double the number of companies which would require individual dumping margin calculations as the original sample consisted of four exporting producers. It is further noted that some of the individual examination applicants are part of the groups. According to the preliminary replies of the companies in question (sampling forms) individual examination would require analysis and verification of questionnaire replies of at least seven companies.

4. INJURY

4.1. Definition of the Union industry and Union production

- (152) Based on the available information from the complaint and subsequent investigation, the like product was manufactured by at least 16 Union producers during the investigation period. 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 will be thereafter referred to as the 'Union industry'.
- (153) The total Union production during the investigation period was estimated at around 8 270 tonnes. The Commission established the figure on the verified questionnaire replies of the sampled Union producers and the estimated data provided by the complainant. As mentioned in recitals 11 to 13, sampling was applied for the determination of possible injury suffered by the Union industry. The Union producers selected in the sample represented ca. 43 % of the total estimated Union production of the like product.
- (154) One party requested an explanation why the volume of the total Union production decreased by 80 tonnes between provisional and definitive disclosure. In the provisional disclosure the total Union production was estimated at around 8 350 tonnes. The recital above states that the total Union production was established at around 8 270 tonnes. The reason for the difference is that at provisional stage the Commission services wrongly estimated the production volume of one of the non-sampled Union producer. This Union producer ceased production during the investigation period. Therefore, its production was re-calculated taking into consideration of its shut down. The Commission confirmed that the total Union production was estimated at around 8 270 tonnes during the investigation period.
- (155) As the sampled companies is constituted of only one producer and a group of companies, all data concerning micro indicators had to be indexed to protect confidentiality under Article 19 of the basic Regulation.

4.2. Union consumption

- (156) The Commission established the Union consumption on the basis of total estimated sales volume of the Union industry on the Union market and on the total import volume of the product concerned to the Union.
- (157) The Union industry's sales volume of the like product was estimated on the basis the actual verified data provided by the sampled producers in their questionnaire replies and, for the non-cooperating producers, the data provided by the complainant.
- (158) As explained above in recital 47, the product concerned falls under two CN codes: ex 7307 23 10 and ex 7307 23 90. However, these two CN codes include not only the product concerned but also products outside of the scope of this investigation. Therefore, the volume of imports falling outside of the scope of this investigation needed to be deducted from the total volume of imports registered under the above mentioned CN code.
- (159) The complainant estimated the volume of imports of the product concerned for all origins on the basis of its market knowledge. Regarding the countries concerned, it considered that that the products under investigation represented the vast majority of the volume reported under the above mentioned two CN codes for the PRC and Taiwan, 90 % and 100 % respectively.
- (160) In order to verify this estimation, the Commission used the information received during a previous investigation concerning stainless steel fittings initiated on 10 November 2012. This investigation covered all the products classified under these two CN codes including the product concerned of this investigation. From the analysis made, it appears that at least 22,3 % of the products exported by the Chinese exporting producers under these CN codes would fall outside the scope of this investigation. For Taiwan, the percentage provided by the complainant is confirmed, i.e. 100 %.

- (161) In the case of the PRC, the Commission decided to adjust the import volumes on the basis of the most conservative ratio, i.e. 22,3 %.
- (162) Moreover, the consumption was further adjusted for the volume of flanged/low roughness fittings (see sections 2.2.1 and 2.2.2), both excluded from the product scope of the investigation. The volume imported was estimated on the basis of the sampling replies at around 150 tonnes for the PRC and 20 tonnes for Taiwan. Therefore, these quantities were deducted from the estimated volume of imports from the PRC and Taiwan. For the Union industry, the investigation revealed that the volume produced and sold of these excluded product types is insignificant.
- (163) On this basis, the Union consumption was established as follows:

Table 1

Union consumption (tonnes)

	2012	2013	2014	IP
Total Union consumption	13 766	14 350	14 671	14 145
<i>Index (2012 = 100)</i>	100	104	107	103

Source: Eurostat, sampling replies, verified questionnaire replies and information provided by the complainant.

- (164) The Union consumption increased by 3 % between 2012 and the investigation period.

4.3. Imports from the countries concerned*4.3.1. Cumulative assessment of the effects of the imports from the countries concerned*

- (165) The Commission examined whether imports of the product concerned originating in the countries concerned should be assessed cumulatively, in accordance with Article 3(4) of the basic Regulation.
- (166) The margins of dumping established in relation to the imports from the PRC and Taiwan are summarised under recital 145 and recital 94 above.
- (167) With the exception of King Lai, all these margins are above the *de minimis* threshold laid down in Article 9(3) of the basic Regulation. As mentioned in recital 94, the volume of the non-dumped imports was insignificant. In any event, these non-dumped imports were excluded from the total volume of Taiwanese imports of the product concerned.
- (168) The volume of imports from each of the countries concerned was not negligible within the meaning of Article 5(7) of the basic Regulation. The PRC and Taiwan held, in the investigation period, a market share of 22,9 % and 7,8 % respectively, as mentioned in recital 181.
- (169) The conditions of competition between the dumped imports from the countries concerned and the like product were also similar. Indeed, the imported products competed with each other and with the product concerned produced in the Union. The products are interchangeable and were marketed in the Union through comparable sales channels, being sold to similar categories of end customers.
- (170) Therefore, all criteria set out in Article 3(4) of the basic Regulation were met and imports from the countries concerned were examined cumulatively for the purposes of the injury determination.

- (171) Following the definitive disclosure, several parties claimed that the Commission had insufficiently examined the conditions of competition both between Chinese and Taiwanese fittings when imported into the Union, and between imported fittings and the Union production.
- (172) These parties claimed on the basis of their market knowledge that there are important differences between the fittings produced and exported from China and from Taiwan to the Union. These parties considered that there was no competition between exported products due to the physical properties of the products, the extent to which the products are capable of serving the same or similar end-uses and the extent to which consumers perceive and treat the products as alternative means of performing particular functions in order to satisfy a particular demand.
- (173) These parties claimed that the extensive adjustments made by the Commission to achieve some resemblance of price comparability between Chinese and Taiwanese products show there are major differences in characteristics relating to raw materials (seamless tubes and welded tubes), grades of steel and manufacturing process. This has an impact on the price which precludes their interchangeability on the market. Moreover, the price trend shows a price disparity between the two origins.
- (174) First, the Commission takes the view that the question of competition between different product types is not decisive for the injury assessment. As long as all product types form one product, for the reason set out above in recitals 43 to 50, there is no need to split the injury assessment on the basis of the fact that allegedly, different product types constitute separate product markets from the point of view of competition law.
- (175) Second, even if the question of actual competition between product types was relevant, the Commission notes that the assertion of the absence of competition is not underpinned by the evidence on file. In fact, the Commission found that the product concerned exported by the Chinese exporting producer and the Taiwanese exporting producers are indeed in competition in the Union market. These products are to a large extent interchangeable. This conclusion was supported by the average price of the product concerned. There is a clear overlap where the product concerned produced from seamless pipes is similarly priced as the product concerned produced from welded pipes⁽¹⁾. With regard to the competition with the Union industry, the investigation confirmed that the sampled Union producers produced or could produce from both raw materials and all product types. Therefore, these claims were rejected and the cumulative analysis of the effects of the imports was confirmed.
- (176) Following the additional disclosure, these interested parties reiterated their claim that the imports from the countries concerned should not have been cumulatively assessed. In this regard the Commission notes that even if competition between imports from the countries concerned are analysed on PCN basis the results are the same, i.e. there is a clear price competition. Therefore, this claim was rejected.
- (177) Furthermore, these parties claimed that the production of one Union producer is primarily producing fittings from special stainless steel grades, while 70 % of Chinese production is mainly 304 or 316 austenitic, standard grades, meaning that these products are not competing.
- (178) Regarding these claims, the Commission noted that the competitive relationship between the product concerned and the like product was confirmed by the investigation as stated in recital 174 above in the cumulation analysis. Moreover, with regard to the steel grade one of the sampled Union producers was indeed producing the like product from standard stainless steel grades representing around 90 % of its production. It follows that Chinese products are in direct competition with the products of this Union producer. Therefore, the claim was rejected.
- (179) In absence of any further comments concerning Article 3(4) of the basic Regulation, the cumulative assessment of the imports from the countries concerned was confirmed.

⁽¹⁾ The comparison between similar product types sold by Chinese exporting producers and Taiwanese exporting producer, i.e. 45 product types, shows that the average seamless Chinese fittings prices is around 15 % higher compared to the average welded Taiwanese fittings. Given the much higher quality of seamless steel and the influence of that quality on the purchase decision, the products are hence in competition, even if applying a competition-law based test.

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

- (180) The Commission established the volume of imports on the basis of the Eurostat database, the market knowledge of the complainant and other information available to the Commission (see recitals 156 to 164). The market share of the imports was established by comparing import volumes with the Union consumption as reported in Table 1 above.

Table 2

Import volume (tonnes) and market share

	2012	2013	2014	IP
Volume of dumped imports from the countries concerned	3 395	3 877	4 508	4 340
<i>Index (2012 = 100)</i>	100	114	133	128
Market Share countries concerned (excluding non-dumped imports) (%)	24,7	27,0	30,7	30,7
<i>Index (2012 = 100)</i>	100	110	124	124
Volume of imports from the PRC	2 686	2 759	3 248	3 238
<i>Index (2012 = 100)</i>	100	103	121	121
PRC Market Share (%)	19,5	19,2	22,1	22,9
<i>Index (2012 = 100)</i>	100	99	113	117
Volume of dumped imports from Taiwan	709	1 118	1 260	1 102
<i>Index (2012 = 100)</i>	100	158	178	155
Taiwan Market Share (excluding non-dumped imports) (%)	5,2	7,8	8,6	7,8
<i>Index (2012 = 100)</i>	100	151	167	151

Source: Eurostat, verified questionnaire replies and information provided by the complainant.

- (181) Imports into the Union from the countries concerned developed as follows:
- (182) The above table shows that, in absolute figures, the imports from the countries concerned have increased significantly during the period considered (by 28 %). The corresponding market share of the dumped imports into the Union increased by 6 percentage points during the period considered.

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

- (183) For the evolution of the import prices, in absence of alternative source, the Commission had to rely on Eurostat to establish average prices of imports. The average price of imports into the Union from the countries concerned developed as follows:

Table 3

Import prices (EUR/tonnes)

	2012	2013	2014	IP
PRC	8 285	8 078	6 916	6 936
<i>Index (2012 = 100)</i>	100	98	83	84
Taiwan	7 543	5 189	4 653	5 840
<i>Index (2012 = 100)</i>	100	69	62	77

Source: Eurostat.

- (184) The average prices of the Chinese dumped imports decreased from 8 285 EUR/tonne in 2012 to 6 936 EUR/tonne during the investigation period. During the period considered (2012-IP), the decrease of the average unit price of the dumped Chinese imports was around 16 %. In the same period, the average prices of the Taiwanese dumped imports decreased from 7 543 EUR/tonne, in 2012, to 5 840 EUR/tonne during the investigation period. During the period considered, the decrease of the average unit price of the dumped Taiwanese imports was around 23 %.
- (185) Following the definitive disclosure, one interested party claimed that the Commission should have assessed the effect of the decrease in nickel price on the price of the product concerned during the investigation period as the evolution of nickel price is a major factor of stainless steel price. While it is true that nickel is one of the main cost driver for the production of pipes (raw material of the product concerned), there is no direct relationship with the product concerned. Moreover, the Commission found that the price of the product concerned does not correlate with the nickel price. ⁽¹⁾ Therefore, the claim was rejected.
- (186) The Commission assessed the price undercutting during the investigation period by comparing:
- the weighted average sales prices per product type of the three Union producers charged to unrelated customers in the 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 countries concerned to the first independent customer on the Union market, with appropriate adjustments for post-importation costs 2 % and import duties 3,7 %.
- (187) The price comparison was made on a type-by-type basis for transactions at the same level of trade, duly adjusted on the basis of the actual costs where necessary, and after deduction of rebates and discounts as reported by the sampled Union producers. The result of the comparison was expressed as a percentage of the Union producers' turnover during the investigation period.
- (188) On the basis of the above, the dumped imports from the PRC and Taiwan were found to undercut the Union industry prices by 59,4 % and 76,1 % respectively.

⁽¹⁾ Please refer to the web site of the London Metal Exchange, <https://www.lme.com/en-gb/metals/non-ferrous/nickel/>

4.4. Economic situation of the Union industry

4.4.1. General remarks

- (189) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Union industry includes an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.
- (190) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators on the basis of data and information contained in the complaint and Eurostat statistics, where appropriate, so that the data relates to all Union producers. The Commission evaluated the microeconomic indicators on the basis of data contained in the questionnaire replies, duly verified, from the sampled Union producers.
- (191) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity, magnitude of the dumping margin, and recovery from past dumping.
- (192) The microeconomics indicators are: average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital.

4.4.2. Macroeconomic indicators

4.4.2.1. Production, production capacity and capacity utilisation

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

Table 4

Production, production capacity and capacity utilisation

	2012	2013	2014	IP
Production volume	8 967	8 780	8 304	8 272
<i>Index (2012 = 100)</i>	100	98	93	92
Production capacity	22 779	21 194	21 163	19 721
<i>Index (2012 = 100)</i>	100	93	93	87
Capacity utilisation (%)	39	41	39	42
<i>Index (2012 = 100)</i>	100	105	100	106

Source: Verified questionnaire replies and information provided by the complainant.

- (194) The production volume remained rather stable between 2012 and 2013. Between 2013 and the investigation period, the Union industry's production volume decreased by 6 %. During the period considered, there was an overall decrease of 8 % in the production volume.
- (195) At the same time, the production capacity sharply decreased by 13 %. This can be mainly attributed to the closure of one Union producer, and to a decrease in the production of another Union producer, which resulted in the decrease of around 3 600 tonnes of production capacity.
- (196) 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. However, this is the theoretical production capacity of the Union industry.
- (197) It is difficult to assess capacity utilisation for this particular industry as it can differ depending on the type of the equipment and the volume produced. One of the sampled Union producers considered that 60 % of capacity utilisation was the maximum achieved in the past. Therefore, the above theoretical production capacity is clearly overstated as compared to the real production capacity.
- (198) It follows that the capacity utilisation remained low during the period considered, at around 42 %. Due to the restructuring of one of the sampled Union producers and the closure of one Union producer, the capacity utilisation increased by 3 percentage points throughout the period considered. Low capacity utilisation deteriorates the absorption of fixed costs, which is one of the causes of the low profitability of the Union industry during the period considered.

4.4.2.2. Sales volume and market share

- (199) The Union industry's volume of sales in the Union to unrelated customers and its market share developed as follows:

Table 5

Sales volume and market share

	2012	2013	2014	IP
Sales volume on the Union market in tonnes	7 856	7 717	7 401	7 302
<i>Index (2012 = 100)</i>	100	95	91	89
Market share (%)	57,1	53,8	50,4	51,6
<i>Index (2012 = 100)</i>	100	94	88	90

Source: Eurostat, the complaint and verified questionnaire replies and information provided by the complainant.

- (200) Over the period considered, Union industry sales volume dropped overall by 11 %, while Union consumption increased by 3 %. Sales volume of Chinese and Taiwanese dumped products increased by 945 tonnes (21 % and 55 % respectively) while the Union consumption increased by 379 tonnes. In the context of increasing consumption on the Union market, the decrease in sales and market share of the Union industry coincides with an increase of imports from the countries concerned. Moreover, due to the continuous price pressure by the dumped imports, the Union industry was forced to lower its production to avoid selling at loss-making prices.

4.4.2.3. Employment and productivity

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

Table 6

Employment and productivity

	2012	2013	2014	IP
Number of employees	581	526	532	484
<i>Index (2012 = 100)</i>	100	91	92	83
Productivity (tonne per employee)	15,4	16,7	15,6	17,0
<i>Index (2012 = 100)</i>	100	108	101	110

Source: The complaint and verified questionnaire replies and information provided by the complainant.

(202) In line with the decline in production and sales, it was also observed that the level of the Union industry's employment decreased significantly. The laying-off of employees was done in order to reduce the workforce, which represented a reduction thereto of 17 %. As a consequence, the 10 % increase in productivity of the Union industry's workforce, measured as output per person employed per year, is much higher than the increase of 3 percentage points in the capacity utilisation (see recital 193). This suggests that the Union industry tried to adapt to the changing market conditions (increasing volume of dumped imports) in order to remain competitive.

4.4.2.4. Inventories

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

Table 7

Inventories

	2012	2013	2014	IP
Closing stocks (tonnes)	2 191	1 850	2 002	1 697
<i>Index (2012 = 100)</i>	100	84	91	77
Closing stocks as a percentage of production (%)	24,4	21,1	24,1	20,6
<i>Index (2012 = 100)</i>	100	86	99	84

Source: Verified questionnaire replies and information provided by the complainant.

(204) During the period considered, the level of closing stocks decreased by 23 %. Most types of the like product produced by the Union industry are based on specific orders from users. However, the industry also has to maintain stocks of a various range of products in order to be able to compete with other producers' fast delivery time. This is also confirmed by analysing the evolution of the closing stocks as a percentage of production. This indicator remained relatively stable at 20 %-24 % of the production volume.

- (205) It was concluded that the reduction in the level of stocks was mainly caused by more stringent working capital requirements imposed by the Union industry's management.

4.4.2.5. Magnitude of the dumping margin

- (206) With the exception of one minor Taiwanese exporter, 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 countries concerned.

4.4.2.6. Growth

- (207) The Union consumption increased by 3 % during the period considered, while the sales volumes of the Union industry decreased by 11 %. Regardless this increase in consumption, the Union industry lost market share. On the other hand, the market share of the imports from the countries concerned increased during the period considered.

4.4.3. Microeconomic indicators

4.4.3.1. Prices and factors affecting prices

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

Table 8

Sales prices in the Union

	2012	2013	2014	IP
Sales price <i>Index (2012 = 100)</i>	100	95	96	95
Unit cost of production <i>Index (2012 = 100)</i>	100	101	103	98

Source: Verified questionnaire replies.

- (209) The table above shows the evolution of the unit sales price in the Union as compared to the corresponding cost of production. The average unit selling price evolved broadly in line with the cost of production. There is 2 % decrease in the cost of production from 2014 to the investigation period, affected by the reduction in the price of the main raw material, but the unit sales price decreased by 5 %.
- (210) Following the definitive disclosure, one interested party claimed that the Commission failed to take into account the general market situation. In particular, there was a drop of oil prices, decreasing the product costs. However, the party did not submit any evidence supporting its claim. In particular, it remained unclear how precisely the drop in the worldwide oil price would relate to the cost of production of this particular like product. Furthermore, the Commission's injury analysis covered a period between 2012 and IP during which all raw materials, including energy, were taken in consideration. Therefore, the claim was rejected.

4.4.3.2. Labour costs

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

Table 9

Average labour costs per employee

	2012	2013	2014	IP
Average labour costs per employee <i>Index (2012 = 100)</i>	100	111	110	110

Source: Verified questionnaire replies.

- (212) During the period considered, the average wage per employee went up by 10 % which is slightly above the overall increase in prices in the Union due to inflation. This should however be considered in the context of the severe cuts in employment, as explained in recitals 201 and 202.

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

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

Table 10

Profitability, cash flow, investments and return on investments

	2012	2013	2014	IP
Profitability of sales in the Union to unrelated customers (% of sales turnover) <i>Index (2012 = 100)</i>	100	33	23	66
Cash flow Index <i>(2012 = 100)</i>	100	61	33	57
Investments <i>Index (2012 = 100)</i>	100	178	128	122
Return on investment <i>Index (2012 = 100)</i>	100	28	19	48

Source: Verified questionnaire replies.

- (214) The Commission established the profitability of the Union producers by expressing the pre-tax net loss of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales.
- (215) Profitability developed negatively from [8 %-10 %] in 2012 to [2 %-4 %] in 2013 and 2014 and improved in the IP to reach [4 %-6 %]. Over the period considered, the sampled companies lost sales volume and market share, and decided to concentrate on high-price segments where dumped imports were less present. This strategy enabled them to increase their profitability during the IP.
- (216) As a result, while in 2013 and 2014, the sampled companies were not able to pass on increases of cost of production to clients, during the IP the profitability of sampled companies could benefit from the decrease of its cost of production due to a higher capacity utilisation and less competitive pressure in the high-price segments of the market.

- (217) The net cash flow is the ability of the Union producers to self-finance their activities. The trend in net cash flow followed a downward trend (– 43 %), mainly due to a reduction in inventories.
- (218) The return on investment decreased between 2012 and 2014, and recovered in the IP following the profitability trend. The Union industry increased the level of its investments by 22 % between 2012 and the investigation period. However, this increase of 22 % should be considered in light of the absolute figures. The level of investment for the sample of the Union industry was less than one million euro in 2012 and reached one million during IP mainly for expenses related to normal maintenance and safety equipment.
- (219) Several parties claimed that the drop in profitability from 2012 to 2013 should be interpreted in the light of the substantial increase in investments in the Union industry. They observed investments had increased by 78 % between 2012 and 2013. Following the second disclosure, these parties reiterated their claim and stated that the increase of 78 % should be considered as a ‘huge’ investment expense.
- (220) In this regard, the Commission noted that the Union producers did not invest in order to improve their product method but into obligatory safety equipment and maintenance as stated above. While indeed investment increased, at the same time the return on investment decreased substantially. Furthermore investment should be compared to total sales of the like product and the investment in question represented only between 2-4 % of the total sales of the like product. Finally, investment is only one of the injury indicators and should not be analysed in isolation.

5. CONCLUSION ON INJURY

- (221) It is concluded that most of injury indicators show a negative trend during the period considered. In particular, the injury indicators related to the production and market share of the Union producers expose the serious difficulties of the Union industry, as well as the existence of sustained undercutting. The only positive indicator, namely the slight improvement of the profitability during the IP was achieved at the expense of sales volume and market share by moving into the high-price segment. It may not be of duration, if dumped imports also enter high-price segments. Accordingly, an assessment of all macro and micro indicators reveals an overall negative trend. Therefore, it can be concluded that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.

6. CAUSATION

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

6.1. Effects of the dumped imports

- (224) Sales prices of the exporting producers decreased on average from 8 129 EUR/tonne in 2012 to 6 658 EUR/tonne during the investigation period (– 18,1 %). By continuously lowering their unit sales price during the period considered, the exporting producers from the countries concerned were able to significantly increase their market share from 2012 (24,7 %) to the investigation period (30,7 %).
- (225) Since 2012, the continuous increase in imports from the countries concerned at prices that undercut those of the Union industry had a clear negative impact on the financial performance of the Union industry. Indeed, while the Union industry was cutting its costs by reducing employment and closing plants, the volume of dumped imports increased at constantly lowering prices, which forced the Union industry to decrease its sales volume. As a consequence, the Union industry lost market share and was not able to benefit from the increase in consumption.

- (226) In view of the clearly established 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 sales volume, it is concluded that the dumped imports were responsible for the injurious situation of the Union industry.
- (227) Following the definitive disclosure, one interested party claimed that the decrease of sales prices of exporting producers is explained by the drop of nickel price. However, as explained above in recital 185, there is no direct correlation between nickel price and the import prices. Therefore, the claim was rejected.
- (228) Several parties claimed that the injury suffered by the Union industry cannot be attributed to the dumped imports from the countries concerned as only one of the sampled Union producer's prices decreased during the period considered and the other sampled Union producers were able to maintain their sales prices. This claim is rejected for the following reasons. The intra-EU statistics are not reliable in this case as they contain not only the product concerned but other also other type of fittings. Moreover the Union industry did not substantially decrease during the period considered (- 5 %), however at the expense of its sales volume, which decreased by 11 %, as well as its market share which decreased by 5,5 % during the same period.
- (229) Following the second disclosure the interested parties claimed that, contrary to the Commission statement in recital 228 above, the data reported in Eurostat is indicative of the pricing behaviour of the Union producers and therefore, it is correct to state the Union producers' prices remained stable during the period considered. In this respect the Commission notes the following. As explained above the definition of the relevant CN code is wider than the definition of the product concerned and the like product (see recital 158 above). Furthermore, these interested parties are mistaken when they state that the Union producers are producing only the like product falling under the two CN codes in question. Indeed, the Union industry is also producing products falling outside of the product definition of this regulation and falling under the two CN codes in question. Therefore, this claim was rejected.
- (230) In the absence of any further comments the Commission confirmed that dumped imports of the product concerned caused material injury to the Union industry.

6.2. Effects of other factors

6.2.1. Imports from third countries

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

Table 11

Import volume from other countries (tonnes) and market share

	2012	2013	2014	IP
Volume of imports from third countries	2 515	2 755	2 762	2 503
Index (2012 = 100)	100	110	110	100
Market Share (%)	18,3	19,2	18,8	17,7
Volume of imports from Switzerland	1 217	1 340	1 476	1 503
Index (2012 = 100)	100	110	121	123
Market Share (%)	8,8	9,3	10,1	10,6

	2012	2013	2014	IP
Volume of imports from Brazil	339	350	229	278
<i>Index (2012 = 100)</i>	100	103	68	82
Market Share (%)	2,5	2,4	1,6	2,0
Volume of imports from India	120	146	204	201
<i>Index (2012 = 100)</i>	100	121	169	167
Market Share (%)	0,9	1,0	1,4	1,4
Volume of imports from Malaysia	195	322	297	314
<i>Index (2012 = 100)</i>	100	165	152	161
Market Share (%)	1,4	2,2	2,0	2,2
Volume of imports from other third countries	642	595	554	205
<i>Index (2012 = 100)</i>	100	93	86	32
Market Share (%)	4,7	4,2	3,8	1,5

Source: Eurostat, the complaint and verified questionnaire replies and information provided by the complainant.

- (232) The largest exporter of the product concerned to the Union after PRC is Switzerland with a 10 % market share, compared with PRC/Taiwan's 30,7 %. Prices of these imports were similar to the Union industry prices, i.e. 10 300 EUR/tonne.
- (233) The volume and the market share of imports from all other origins remained stable during the period considered; i.e. respectively around 2 500 tonnes and 37 %. It can therefore be concluded that the impact of these imports did not break the causal link between Chinese/Taiwanese dumped imports and the material injury suffered by the Union industry.
- (234) Several interested parties claimed that the Commission should have analysed the price effect of the import originating from India. Following the second disclosure, this claim was reiterated and parties further stated that average Indian prices were in free fall during the period considered. The Commission observed Indian imports have a market share of 1,4 %. The average price of the like product originating in India was around 9 500 EUR/tonne during the investigation period. While it is true that the average price of the product originating in India decreased from around 13 700 EUR/tonne in 2012 to around 9 500 EUR/tonne in the IP, they were still 27 % higher than the average price of the product concerned originating in China, and 61 % higher when compared to Taiwanese prices. Therefore, these imports did not break the causal link.
- (235) Several interested parties claimed that the Commission should have analysed imports of the like product from Russia. In contrast, the complainant claimed that these imports should not be taken into consideration for the causation analysis as the products declared under the CN codes concerned are not like products.

- (236) The Commission found that the import prices of Russia, reported by Eurostat for the CN codes concerned stood around 1 000 EUR/tonne for the investigation period. Hence, the Russian imports are related to different product more 7 times cheaper compared to the Chinese imports. Therefore, these imports were considered irrelevant for the causality analysis.
- (237) Following the second disclosure, several interested parties claimed that the effect of imports originating in Russia and India should be cumulatively assessed. As stated in recital 236 above, imports originating in Russia were not taken into consideration during the causation analysis because the Commission found that the products originating in Russia are not covered by the definition of the product concerned and therefore are not captured by this investigation. For this reason, these imports cannot be cumulatively assessed with the imports originating in India. Therefore, this claim was rejected.

6.2.2. Export sales performance of the Union industry

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

Table 12

Export performance

	2012	2013	2014	IP
Export volume to unrelated customers	645	553	530	596
<i>Index (2012 = 100)</i>	100	86	82	92
Average price (EUR/tonne)	13 567	12 386	11 890	11 619
<i>Index (2012 = 100)</i>	100	91	88	86

Source: Verified questionnaire replies.

- (239) According to data from the sampled Union producers, the export prices have decreased by 14 % during the period considered and export volume to unrelated customers in third countries decreased by less than 1 % of the total sales of the Union industry. However, the loss suffered during the IP was not significant, representing less than 0,8 % of the total turnover of the Union industry.
- (240) It can be therefore concluded that the export activity of the Union industry does not break the causal link.

6.2.3. Low capacity utilisation of the Union industry

- (241) In view of the low capacity utilisation of the sampled companies throughout the period considered, the Commission has also investigated whether overcapacity may have contributed to injury or even broken the causal link. At this stage, the Commission considers that this is not the case. First, as explained above in recital 197, the companies need to have an important theoretical capacity in order to be able to meet all customer demands, but it is unrealistic to use that theoretical capacity completely. Second, the Union industry has been profitable with a lower capacity utilisation rate in 2012, indicating that the injury is not caused by overcapacity. Therefore, it is concluded that the impact of such low capacity utilisation is immaterial and thus could not sever the causal link.

6.2.4. Non-dumped imports from Taiwan

- (242) The volume of the non-dumped imports was insignificant, 300 kg during the IP, compared to the total Union consumption, 14 145 tonnes. Therefore, it is concluded that the impact of such imports on the Union industry is immaterial and thus could not sever the causal link.

6.3. Conclusion on causation

- (243) A causal link was established between the injury suffered by the Union producers and the dumped imports from the countries concerned.
- (244) The considerable price and volume pressure exerted on the Union industry by the increasing dumped imports from the countries concerned over the period considered have not allowed the Union industry to benefit from the slow recovery of the EU market. The analysis of the injury indicators above shows that the economic situation of the Union industry as a whole has been affected by an increase of low-priced dumped imports from PRC and Taiwan that undercut the Union prices. Chinese/Taiwanese exporters managed to gain significant market share (30,7 % during the IP compared to 24,7 % market share in 2012) at the expense of the Union industry. The Union industry lost 5,5 percentage points of its market share between 2012 and the IP, and 11 % of the sales volumes, while the consumption increased in the Union market.
- (245) The Commission distinguished and separated the effects of all known factors on the situation of the Union industry from the injurious effects of the dumped imports. The other identified factors, i.e. the imports from third countries, the export sales performance of the Union producers, the low capacity utilisation of the Union industry and the non-dumped imports from Taiwan, were not found to break the causal link. Even when their combined effect was considered, the Commission's conclusion was not different: in the absence of the dumped imports, the Union industry would not have been negatively affected to such a significant extent. In particular, the market share would not have dropped to such levels and reasonable profitability would have been achieved.
- (246) On the basis of the above, the Commission concluded at this stage that the material injury to the Union industry was caused by the dumped imports from the countries concerned and that the other factors, considered individually or collectively, did not break the causal link.

7. UNION INTEREST

- (247) In accordance with Article 21 of the basic Regulation, the Commission examined whether there was a compelling reason to conclude that it was not in the Union interest to adopt measures in this case, despite the determination of injurious dumping. The determination of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, importers and users.

7.1. Interest of the union industry

- (248) The Union industry is located in 10 Member States (Austria, Czech Republic, Denmark, Finland, France, Germany, Italy, Poland, Spain and Sweden), and employs directly around 500 employees in relation to stainless steel tube and pipe butt-welding fittings.
- (249) None of the known producers opposed the initiation of the investigation. As shown above, when analysing the injury indicators, the whole Union industry experienced a deterioration of its situation and was negatively affected by the dumped imports.
- (250) It is expected that the imposition of definitive anti-dumping duties will restore fair trade conditions on the Union market 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. The Union industry has suffered material injury caused by the dumped imports from the countries concerned. It is recalled that most of the injury indicators showed a negative trend during the period considered.
- (251) In particular, injury indicators related to the production, production capacity and market share of the Union producers were seriously affected. The imposition of measure is therefore important to restore the market to non-dumped and a non-injurious levels, and in order to allow all producers to operate in the Union market under fair trade conditions. In contrast, in the absence of measures, a further deterioration of the Union industry's economic and financial situation would be very likely.

- (252) Following the claim set out in recital 35 above the Commission verified the request (including an on-spot verification visit to the Union industry's headquarters). The Commission concluded that contrary to the claim submitted: (i) the products imported under the outward processing scheme are in direct competition with other Union producers' products; (ii) the imposed duty, which is the duty of 41,9 % applicable to the Chinese producer which whom the EU company has the outward-processing arrangement, should have a limited financial impact (10 %-15 %) on the Union producer's revenue generated by outward processing business; (iii) the viability of the Union producer outward processing business should not be jeopardised by the imposition of measures and, as a result, the number of employees should not decrease, and the purpose of the EU funds should not be endangered. Therefore, the claim was rejected. The Commission also recalls in that context that the Union Customs Code foresees that as a rule, trade defence duties do apply to outward processing schemes where the operation performed outside the Union confers non-preferential origin to the good, as seems to be the case here. No duty would apply, on the contrary, if and to the extent that the non-preferential origin of the goods remains the Union.
- (253) It is concluded that the imposition of anti-dumping duties would be in the interest of the Union industry. The imposition of anti-dumping measures would allow the Union industry to recover from the effects of injurious dumping found.

7.2. Interest of unrelated importers

- (254) As indicated in recital 18, only one importer submitted detailed information regarding the impact of anti-dumping duties. This importer considered that the initial effect will be a price rise with a negative impact on its performance in terms of delivery time and competitiveness. This importer further stated that it would start focusing more on other countries producing fittings like i.e. Malaysia, Vietnam and Korea. However, the process of selecting new partners elsewhere would cost time and money. In addition, it would bring discontinuity in their stock level and product quality, which in turn would have a negative impact on the quality of the service provided to customers.
- (255) However, it was found that importers are able switch to other sources of supply, and thus the negative impact of the measures can be mitigated.
- (256) Following the definitive disclosure, one interested party contested that finding. It claimed that the Union producers will not be able to serve the Union market. Moreover, the existing fittings producers established, for example in Malaysia and Thailand would not be able to provide the quantity and the quality to serve the Union importers.
- (257) The Commission rejected that claim. The Union producers currently operate on average by using 42 % of their capacity. Hence, it is probable that they will be able to increase their production and to supply the Union market more than today. Furthermore, fittings are also produced in several other third countries such as India, Malaysia, Thailand, Korea or Japan. Therefore, the Commission considers that there is no risk of shortage of the product on the Union market.
- (258) On this basis, it is concluded that the imposition of anti-dumping measures will not have substantially negative effects on importers.

7.3. Interest of users

- (259) Users of the product concerned and the like product are found in various industrial domains. The crucial factor for the users is the availability of the product in the requested quantity and quality.
- (260) As only one user cooperated in the investigation, the Commission could not quantify the impact of the measure on users broadly. However, from the reply of this cooperating user, the impact of any anti-dumping in the costs of this company will be insignificant (less than 1 % of its turnover). In any event, the EU industry has the capacity to satisfy the EU demand and that there are also other third countries that can supply the EU, if fair conditions prevail.

- (261) For the reasons above, it was concluded that the imposition of anti-dumping measures will not have a substantial impact on users.

7.4. Conclusion on Union interest

- (262) In view of the above, the Commission concluded that there are no compelling reasons against the imposition of measures on imports of the product concerned from the countries concerned.
- (263) Any negative effects on the unrelated importers and users are mitigated by the availability of alternative sources of supply.
- (264) Moreover, when considering the overall impact of the anti-dumping measures on the Union market, the positive effects, in particular on the Union industry, appear to outweigh the potential negative impacts on the other interest groups.

8. DEFINITIVE ANTI-DUMPING MEASURES

- (265) On the basis of the conclusions reached by the Commission on dumping, injury, causation and Union interest, definitive measures should be imposed to allow the Union industry to recover from the injury being caused by the dumped imports.

8.1. Injury elimination level (injury margin)

- (266) In order to determine the level of the measures, the Commission first established the amount of duty necessary to eliminate the injury suffered by the Union industry.
- (267) The injury would be eliminated if the Union industry was able to cover its costs of production and to obtain a profit before tax on sales of the like product in the Union market that could be reasonably achieved under normal conditions of competition by an industry of this type in the sector, namely in the absence of dumped imports.
- (268) In order to determine the target profit, the Commission considered the profits made in the unrelated sales which are used for the purpose of determining the injury elimination level.
- (269) The target profit margin was provisionally set at [7-12 %], in line with profits reached from the unrelated sales of the sampled Union producers in 2012. While the Chinese and Taiwanese imports were already present in the Union market, in 2012 the prices of the dumped imports had not yet decreased substantially. Therefore, the Commission consider the profitability reached in 2012 as having been achieved under normal market conditions.
- (270) The Commission calculated a non-injurious price of the like product for the Union industry by adding the above-mentioned profit margin of [7-12 %] to the cost of production of the sampled Union producers during the investigation period. The cost of manufacturing reported by one of the three Union producers was recalculated on the basis of standard costs (cost of raw material plus conversion cost plus SG&A) since the actual costs were unrepresentative due to the very low quantity produced for certain PCNs sold in the IP.
- (271) The Commission determined the injury elimination level on the basis of a comparison of the weighted average import price of the cooperating exporting producers in the countries concerned, duly adjusted for importation costs and customs duties, as established for the price undercutting calculations, with the weighted average non-injurious price of the like product sold by the sampled Union producers on the Union market during the investigation period. Any difference resulting from this comparison was expressed as a percentage of the weighted average import CIF value.
- (272) As a result, the underselling margins range from 75,4 % to 127,1 %, when comparing Chinese CIF prices with the Union industry's EXW prices and 104,4 % to 110,0 % when comparing Taiwanese CIF prices with the Union industry's EXW prices.

- (273) Following the definitive disclosure several parties requested a more detailed injury calculation. The Commission was of the opinion that all interested parties had already received a detailed injury calculation. It had followed its standard practise to disclose all relevant findings duly taking into account the confidentiality of the source data.
- (274) Several parties claimed that it is inappropriate to base the non-injurious price on the cost of production of the three sampled Union producers as there is no evidence that their cost of production is representative at the level of the whole Union industry. These parties failed to explain why the Commission should deviate from its normal practice of using the cost of production of the sampled Union producers in this particular case. Furthermore contrary to the claim the investigation established that the costs of production of the three sampled Union producer are indeed representative of the Union industry. The Commission during the investigation did not identify any issue or problem that would have indicated that the cost of production of the sampled Union producers were not representative of the like product.
- (275) These interested parties further claimed that the calculation of the underselling margins is flawed as statistics show that the average price of one of the three sampled Union producer is significantly higher than the other ones. While the Commission acknowledges the fact that one of the Union producers' prices are higher than the other ones, it noted that analysing prices at CN Code level is misleading as it does not take into consideration of the underlying product mix and the fact that certain products were excluded from the product scope. Furthermore as stated above underselling calculation were performed on the basis of cost of production by product type. Thus, only the cost production of matching product types was used.
- (276) Furthermore even if the Commission was to remove the cost data of this particular Union producer and would only use the cost data of the other sampled Union producers, the results would be in the same ball park. The underselling margins based on this methodology range from 60 % to 95 % when comparing Chinese CIF prices with the Union industry's EXW target prices. However granting this claim would have no effect on the final measures. Furthermore would entail comparing product types based on a completely different raw material. Therefore this claim was rejected.
- (277) Several parties claimed that using standard cost instead of actual cost had led to a distorted target price as several product characteristics had not been taken into consideration. In this regard, the Commission noted that it had disregarded the manufacturing cost as reported by one sampled Union producer because — contrary to what the interested parties claim — using the actual cost of manufacturing would have led a distorted result. By using standard cost methodology the Commission was able to eliminate the distortion caused by unrepresentatively low quantities. Therefore, the Commission confirmed the appropriateness of the methodology used.
- (278) Several parties claimed that the methodology used for the underselling calculation should be applied in an even manner, i.e. the same grouping of product types should be used for the product concerned and the like product. The Commission acknowledged the shortcoming of the methodology initially used and revised the underselling calculation accordingly. The Commission noted that this change only affected product types using seamless tubes or pipes as a raw material and affected only those exporting producers which use the above raw material. Therefore the new underselling margins range from 75,7 % to 112,2 % when comparing Chinese CIF prices with the Union industry's EXW target prices.
- (279) Following the second disclosure, several interested parties claimed that it was inappropriate to compare the price of the exporting producers with the target price established on the basis of material grade for fittings produced from seamless tubes. Moreover, the parties reiterated that the target price should have been established for each product type instead of for each material grade.
- (280) The Commission states that it try to perform the calculation as requested by the interested parties, i.e. a PCN to PCN analysis. However, it found that the results were unreliable for certain PCNs due to the significantly different quantities imported to the Union and produced by the Union producers. Therefore, it found that the methodology described in recitals 270 and 271 was more adequate and, as a result, this claim was rejected.
- (281) In absence of any further comments the Commission confirmed that the underselling margins concerning Taiwan as stated in recital 272 above.

8.2. Definitive measures

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

Company	Injury margin (%)	Dumping margin (%)	Definitive anti-dumping duty rate (%)
Taiwan:			
King Lai Hygienic Materials Co., Ltd	—	0,0	0,0
Ta Chen Stainless Pipes Co., Ltd	104,4	5,1	5,1
Residual Duty	110,0	12,1	12,1

The People's Republic of China

Zhejiang Good Fittings Co., Ltd	112,2	55,3	55,3
Zhejiang Jndia Pipeline Industry Co., Ltd	105,9	48,9	48,9
Suzhou Yuli Pipeline Industry Co., Ltd (*)	75,7	30,7	30,7
Jiangsu Judd Pipeline Industry Co., Ltd (*)	75,7	30,7	30,7
Weighted Average (**)	93,1	41,9	41,9
Residual Duty (***)	127,1	64,9	64,9

(*) Part of Yuli-Judd Group.

(**) Shall be applied to cooperating not sampled companies: ALFA Laval Flow Equipment (Kunshan) Co., Ltd, Kunshan Kinglai Hygienic Materials Co.,Ltd, Wifang Huoda Pipe Fittings. Manufacture Co., Ltd, Yada Piping Solutions Co., Ltd, Jiangsu Huayang Metal Pipes Co., Ltd.

(***) Shall be applied to non-cooperating companies and Shanghai Max Fittings Co., Ltd (originally sampled company which withdrew its cooperation).

- (283) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of this investigation. Therefore, they reflected the situation found during this investigation with respect to these companies. These duty rates are exclusively applicable to imports of the product concerned originating in the countries concerned and produced by the named legal entities. Imports of product concerned produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other companies'. They should not be subject to any of the individual anti-dumping duty rates.
- (284) 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. 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.
- (285) To minimise the risks of circumvention due to a difference in duty rates, special measures are needed to ensure the application of the individual anti-dumping duties. The companies with individual anti-dumping duties must present a valid commercial invoice to the customs authorities of the Member States. The invoice must conform to the requirements set out in Article 1(3) hereof. Imports not accompanied by that invoice should be subject to the anti-dumping duty applicable to 'all other companies'.

(286) 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.

9. FINAL PROVISIONS

(287) In the interests of sound administration, the Commission has invited 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.

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

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is imposed on imports of tube and pipe butt-welding fittings, of austenitic stainless steel grades, corresponding to AISI types 304, 304L, 316, 316L, 316Ti, 321 and 321H and their equivalent in the other norms, with a greatest external diameter not exceeding 406,4 mm and a wall thickness of 16 mm or less, with a roughness average (Ra) of the surface finish not less than 0,8 micrometres, not flanged, whether or not finished, originating in the PRC and Taiwan. The product falls under CN codes ex 7307 23 10 and ex 7307 23 90 (Taric codes 7307 23 10 15, 7307 23 10 25, 7307 23 90 15, 7307 23 90 25).

2. The rates of the definitive anti-dumping duty applicable to the product described in paragraph 1 and produced by the companies listed below shall be as follows:

Company	Definitive anti-dumping duty rate (%)	TARIC additional code
Taiwan		
King Lai Hygienic Materials Co., Ltd	0,0	C175
Ta Chen Stainless Pipes Co., Ltd	5,1	C176
All other companies	12,1	C999
The People's Republic of China		
Zhejiang Good Fittings Co., Ltd	55,3	C177
Zhejiang India Pipeline Industry Co., Ltd	48,9	C178
Suzhou Yuli Pipeline Industry Co., Ltd	30,7	C179
Jiangsu Judd Pipeline Industry Co., Ltd	30,7	C180
All other cooperating companies:		
ALFA Laval Flow Equipment (Kunshan) Co., Ltd	41,9	C182
Kunshan Kinglai Hygienic Materials Co., Ltd	41,9	C184

Company	Definitive anti-dumping duty rate (%)	TARIC additional code
Wifang Huoda Pipe Fittings Manufacture Co., Ltd	41,9	C186
Yada Piping Solutions Co., Ltd	41,9	C187
Jiangsu Huayang Metal Pipes Co., Ltd	41,9	C188
All other companies	64,9	C999

3. Where any exporting producer in the People's Republic of China provides sufficient evidence to the Commission that:

- (a) it did not export to the Union the product described in Article 1(1) during the investigation period (1 October 2014 to 30 September 2015);
- (b) it is not related to any of the exporters or producers in the People's Republic of China which are subject to the measures imposed by this Regulation; and
- (c) it has actually exported to the Union the product concerned after the investigation period or it has entered into an irrevocable contractual obligation to export a significant quantity to the Union, the Table in Article 1(2) may be amended by adding the new exporting producer to the cooperating companies not included in the sample and thus subject to the weighted average duty rate of the companies in the sample.

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

Article 2

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

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

Done at Brussels, 26 January 2017.

For the Commission
The President
Jean-Claude JUNCKER