

COMMISSION IMPLEMENTING REGULATION (EU) 2022/1305**of 25 July 2022****imposing a definitive anti-dumping duty on imports of molybdenum wire originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council**

THE EUROPEAN COMMISSION,

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

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

Whereas:

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

- (1) Anti-dumping measures on imports of molybdenum wire from the People's Republic of China (the 'PRC' or 'China' or 'the country concerned') were originally imposed in 2010 by Council Implementing Regulation (EU) No 511/2010 ⁽²⁾ ('the original measures'). The investigation leading to the original measures is referred to as 'the original investigation'. The original measures took the form of an ad valorem duty rate of 64,3 %.
- (2) In 2012 and 2013, following two anti-circumvention investigations, the original measures were first extended to imports of molybdenum wire consigned from Malaysia ⁽³⁾ and, secondly, to imports of molybdenum wire from the PRC containing by weight at least 97 % of molybdenum, of which the maximum cross-sectional dimension exceeds 1,35 mm but does not exceed 4,0 mm ⁽⁴⁾. On 30 October 2015, following a third anti-circumvention investigation, the measures were extended to molybdenum wire containing by weight at least 97 % of molybdenum, with a maximum cross-sectional dimension that exceeds 4,0 mm but does not exceed 11,0 mm ⁽⁵⁾.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Council Implementing Regulation (EU) No 511/2010 of 14 June 2010 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain molybdenum wires originating in the People's Republic of China (OJ L 150, 16.6.2010, p. 17).

⁽³⁾ Council Implementing Regulation (EU) No 14/2012 of 9 January 2012 extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) No 511/2010 on imports of certain molybdenum wires originating in the People's Republic of China to imports of certain molybdenum wires consigned from Malaysia, whether declared as originating in Malaysia or not and terminating the investigation in respect of imports consigned from Switzerland (OJ L 8, 12.1.2012, p. 22).

⁽⁴⁾ Council Implementing Regulation (EU) No 871/2013 of 2 September 2013 extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) No 511/2010 on imports of molybdenum wire, containing by weight at least 99,95 % of molybdenum, of which the maximum cross-sectional dimension exceeds 1,35 mm but does not exceed 4,0 mm, originating in the People's Republic of China to imports of molybdenum wire, containing by weight at least 97 % of molybdenum, of which the maximum cross-sectional dimension exceeds 1,35 mm but does not exceed 4,0 mm, originating in the People's Republic of China (OJ L 243, 12.9.2013, p. 2).

⁽⁵⁾ Commission Implementing Regulation (EU) 2015/1952 of 29 October 2015 extending the definitive anti-dumping duty imposed by Council Implementing Regulation (EU) No 511/2010 on imports of molybdenum wire, containing by weight at least 99,95 % of molybdenum, of which the maximum cross-sectional dimension exceeds 1,35 mm but does not exceed 4,0 mm, originating in the People's Republic of China to imports of molybdenum wire, containing by weight at least 97 % of molybdenum, of which the maximum cross-sectional dimension exceeds 4,0 mm but does not exceed 11,0 mm, originating in the People's Republic of China (OJ L 284, 30.10.2015, p. 100).

- (3) The measures currently in force were imposed on 30 June 2016, by Commission Implementing Regulation (EU) 2016/1046 ⁽⁶⁾ following an expiry review ('previous expiry review').

1.2. Request for an expiry review

- (4) Following the publication of a notice of impending expiry ⁽⁷⁾, the European Commission ('the Commission') received a request for a review pursuant to Article 11(2) of the basic Regulation.
- (5) The request was submitted on 23 March 2021 by Plansee SE ('the applicant'), that represents more than 25 % of the total Union production of certain molybdenum wires, on behalf of the Union industry of molybdenum wire, in the sense of Article 5(4) of the basic Regulation. The request for review was based on the grounds that the expiry of the measures would be likely to result in continuation or recurrence of dumping and recurrence of injury to the Union industry.

1.3. Initiation of an expiry review

- (6) Having determined, after consulting the Committee established by Article 15(1) of the basic Regulation, that sufficient evidence existed for the initiation of an expiry review, on 28 June 2021 the Commission initiated an expiry review with regard to imports into the Union of molybdenum wire originating in the PRC on the basis of Article 11(2) of the basic Regulation. It published a Notice of Initiation in the *Official Journal of the European Union* ⁽⁸⁾ ('the Notice of Initiation').

1.4. Review investigation period and period considered

- (7) The investigation of continuation or recurrence of dumping covered the period from 1 January 2020 to 31 December 2020 ('review investigation period'). The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2017 to the end of the review investigation period ('the period considered').

1.5. Interested parties

- (8) In the Notice of Initiation, interested parties were invited to contact the Commission in order to participate in the investigation. In addition, the Commission specifically informed the applicant as well as the second known Union producer, known users and the authorities of the PRC, about the initiation of the expiry review and invited them to participate.
- (9) Interested parties had an opportunity to comment on the initiation of the expiry review and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

1.6. Sampling

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

(a) *No sampling of Union producers*

- (11) In the Notice of Initiation, the Commission did not apply sampling but invited the two known Union producers, namely Plansee SE and Osram GmbH, to provide questionnaire replies within the specified period.

⁽⁶⁾ OJ L 170, 29.6.2016, p. 19.

⁽⁷⁾ OJ C 327, 5.10.2020, p. 18.

⁽⁸⁾ OJ C 251, 28.6.2021, p. 17.

(b) *Sampling of importers*

- (12) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation.
- (13) No importers came forward to provide the information requested in the Notice of Initiation.

(c) *Sampling of producers in China*

- (14) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known producers of molybdenum wire in the PRC to provide the information specified in the Notice of Initiation. In addition, it asked the Mission of the People's Republic of China to the European Union to identify other producers, if any, that could be interested in participating in the investigation. However, no response was provided.
- (15) Consequently, the Commission informed the authorities of the PRC that absent cooperation it intended to resort to the use of facts available under Article 18 of the basic Regulation when examining the continuation or recurrence of dumping. The authorities of the PRC did not respond.

1.7. Replies to the questionnaire

- (16) Questionnaires for Union producers, as well as those for importers, users and producers in the PRC were made available online on the day of the initiation.
- (17) The Commission sent a questionnaire concerning the existence of significant distortions in the PRC within the meaning of Article 2(6a)(b) of the basic Regulation to the Government of the People's Republic of China ('GOC').
- (18) A questionnaire reply was received from one Union producer, Plansee SE, which is also the applicant and represents [86-94 %] of the total sales of the Union industry on the Union market.
- (19) On 24 June 2021, the sole other Union producer expressed the wish to remain neutral in the investigation and did not provide a reply to the questionnaire.
- (20) Neither the GOC nor any producer in the PRC provided a questionnaire reply.
- (21) A macroeconomic questionnaire was also sent to Plansee SE on 15 November 2021, to which the reply was received by the Commission on 29 November 2021.

(a) *Verification*

- (22) The Commission sought and verified all the information deemed necessary for the determination of likelihood of continuation or recurrence of dumping and injury and of the Union interest. One verification visit pursuant to Article 16 of the basic Regulation was carried out at the premises of the Union producer Plansee SE, Austria.

(b) *Subsequent procedure*

- (23) On 9 June 2022, the Commission disclosed the essential facts and considerations on the basis of which it intended to maintain the anti-dumping duties in force.
- (24) All parties were granted a period within which they could make comments on the disclosure. No comments were received.

2. PRODUCT UNDER REVIEW AND LIKE PRODUCT

2.1. Product under review

- (25) The product under review is the same as in the original investigation and previous expiry review, namely molybdenum wire, containing by weight at least 99,95 % of molybdenum, of which the maximum cross-sectional dimension exceeds 1,35 mm but does not exceed 4,0 mm, falling under CN code ex 8102 96 00 ('product under review').
- (26) The product under review originating in the PRC, not consigned from Malaysia, currently falls under TARIC code 8102 96 00 19. The product under review consigned from Malaysia, whether declared as originating in Malaysia or not, currently falling under TARIC code 8102 96 00 11, was not investigated as it was not part of the product definition in the original investigation.
- (27) Molybdenum wire is mainly used in the automotive industry, for example in synchronising rings of cars with manual gearboxes.

2.2. Like product

- (28) As established in the original investigation, the product under review and the like product are identical in terms of physical, chemical and technical characteristics, as well as in the previous expiry review. This expiry review investigation confirmed that the following products have the same basic physical, chemical and technical characteristics as well as the same basic uses:
- the product under review, originating in China, not consigned from Malaysia;
 - the product produced and sold on the domestic market of China; and
 - the product produced and sold in the Union by the Union industry.
- (29) These products are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

3. DUMPING

3.1. Preliminary remarks

- (30) During the review investigation period, imports of molybdenum wires from the PRC continued albeit at lower levels than in the review investigation period of the previous expiry review.
- (31) As mentioned in recital (20), no producer from the PRC cooperated in the investigation.
- (32) Therefore, on 16 July 2021 the Commission informed the authorities of the PRC that due to the absence of cooperation, the Commission may apply Article 18 of the basic Regulation concerning the findings with regard to the PRC. The Commission did not receive any comments concerning its intention to resort to the use of facts available under Article 18 of the basic Regulation.
- (33) Consequently, in accordance with Article 18(1) of the basic Regulation, the findings in relation to the likelihood of continuation or recurrence of dumping were based on facts available, in particular the information contained in the request for the expiry review combined with other sources of information, such as statistics on imports and exports (Comext (Eurostat)), Dun & Bradstreet ⁽⁹⁾, Global Trade Atlas ('GTA') ⁽¹⁰⁾.

⁽⁹⁾ Dun & Bradstreet (D&B): <https://sso.dnb.com/>

⁽¹⁰⁾ <https://www.gtis.com/gta/>

3.2. Continuation of dumping of imports during the review investigation period

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

- (34) Given the sufficient evidence available at the initiation of the investigation tending to show with regard to the PRC the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation, the Commission initiated the investigation on the basis of Article 2(6a) of the basic Regulation.
- (35) In order to obtain information, it deemed necessary for its investigation with regard to the alleged significant distortions, the Commission sent a questionnaire to the GOC. In addition, in point 5.3.2 of the Notice of Initiation, the Commission invited all interested parties to make their views known, submit information and provide supporting evidence regarding the application of Article 2(6a) of the basic Regulation within 37 days of the date of publication of the Notice of Initiation in the *Official Journal of the European Union*.
- (36) No questionnaire reply was received from the GOC and no submission on the application of Article 2(6a) of the basic Regulation was received within the deadline. Subsequently, on 16 July 2021 the Commission informed the GOC that it would use facts available in accordance with Article 18 of the basic Regulation for the determination of the existence of the significant distortions in the PRC.
- (37) In point 5.3.2 of the Notice of Initiation, the Commission specified that, in view of evidence available at the time of initiation, a possible representative country for the purpose of determining the normal value based on undistorted prices or benchmarks pursuant to Article 2(6a)(a) of the basic Regulation for the PRC was Turkey. The Commission further stated that it would examine other possibly appropriate representative countries in accordance with the criteria set out in Article 2(6a)(a) first indent of the basic Regulation.
- (38) On 10 March 2021, the Commission issued the first note for the file ('the First Note') and informed interested parties on the relevant sources it intended to use for the determination of the normal value. In that note, the Commission provided a list of all factors of production such as raw materials, labour and energy used in the production of molybdenum wires. With regard to the choice of a representative country the Commission noted that the product under review was only produced in a handful of countries worldwide ⁽¹¹⁾ and that only Thailand was identified as a country with the same level of economic development as the PRC. However, with regard to Thailand, sufficient information on company level necessary to establish selling, general and administrative expenses (SG&A) and profit was not readily available.
- (39) Given that neither the Commission, nor the applicant, could identify a representative country with the same level of economic development as the PRC where the product under review was produced and for which all necessary information was readily available, the Commission attempted to find a suitable representative country with the same level of economic development as the PRC where there was production of a similar product, in the same general category or sector, but was unable to identify any such product. In addition, no interested party had suggested a suitable representative country with the same level of economic development as the PRC where there was production of the product under review, or production of a similar product. The Commission therefore exceptionally suggested in the First Note, in addition to Thailand, also India as a possible source to establish undistorted prices and costs and invited interested parties to comment. Only the applicant commented on this note.
- (40) On 29 October 2021, by a second note ('the Second Note'), the Commission informed the interested parties on the relevant sources it intended to use for the determination of the normal value, with India as an appropriate source and invited interested parties to comment. No comments were received.

⁽¹¹⁾ Austria, China, Germany, India, Thailand and USA.

3.2.2. Normal value

- (41) According to Article 2(1) of the basic Regulation, “the normal value shall normally be based on the prices paid or payable, in the ordinary course of trade, by independent customers in the exporting country”.
- (42) However, according to Article 2(6a)(a) of the basic Regulation, “in case it is determined [...] that it is not appropriate to use domestic prices and costs in the exporting country due to the existence in that country of significant distortions within the meaning of point (b), the normal value shall be constructed exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks”, and “shall include an undistorted and reasonable amount of administrative, selling and general costs and for profits”
- (43) As further explained below, the Commission concluded in the present investigation that, based on the evidence available, and in view of the lack of cooperation of the GOC and the producers, the application of Article 2(6a) of the basic Regulation was appropriate.

3.2.3. Existence of significant distortions

3.2.3.1. Normal Value

- (44) In recent investigations concerning the tungsten sector in the PRC ⁽¹²⁾, the Commission found that significant distortions in the sense of Article 2(6a)(b) of the basic Regulation were present. Most producers of molybdenum products also process tungsten in their plants. Moreover, tungsten and molybdenum have similar chemical properties and industrial uses. As further discussed below, in addition to the systemic significant distortions affecting all factors of production in the PRC, the investigation revealed that in the Chinese planning and guidance documents tungsten and molybdenum are usually mentioned together. The Commission concluded in this investigation that, based on the evidence available, the application of Article 2(6a) of the basic Regulation was appropriate.
- (45) In those recent investigations on tungsten, the Commission found that there is substantial government intervention in the PRC resulting in a distortion of the effective allocation of resources in line with market principles. ⁽¹³⁾ In particular, in addition to the systemic distortions affecting the Chinese economy, the Commission concluded that in the tungsten sector, not only does a substantial degree of ownership by the GOC persists in the sense of Article 2(6a)(b), first indent of the basic Regulation ⁽¹⁴⁾ but the GOC is also in a position to interfere with prices and costs through State presence in firms in the sense of Article 2(6a)(b), second indent of the basic Regulation. ⁽¹⁵⁾ The Commission further found that the State's presence and intervention in the financial markets, as well as in the provision of raw materials and inputs, have an additional distorting effect on the market. Indeed, overall, the system of planning in the PRC results in resources being concentrated in sectors designated as strategic or otherwise politically important by the GOC, rather than being allocated in line with market forces ⁽¹⁶⁾. Moreover, the

⁽¹²⁾ Commission Implementing Regulation (EU) 2019/1267 of 26 July 2019 imposing a definitive anti-dumping duty on imports of tungsten electrodes originating in the People's Republic of China following an expiry review under Article 11(2) of Regulation (EU) 2016/1036 (OJ L 200, 29.7.2019, p. 4).

⁽¹³⁾ Commission Implementing Regulation (EU) 2019/1267, recitals 95-96.

⁽¹⁴⁾ Commission Implementing Regulation (EU) 2019/1267, recitals 56-60.

⁽¹⁵⁾ Commission Implementing Regulation (EU) 2019/1267, recitals 61-64.: While the right to appoint and to remove key management personnel in SOEs by the relevant State authorities, as provided for in the Chinese legislation, can be considered to reflect the corresponding ownership rights, CCP cells in enterprises, state owned and private alike, represent another important channel through which the State can interfere with business decisions. According to the PRC's company law, a CCP organisation is to be established in every company (with at least three CCP members as specified in the CCP Constitution) and the company shall provide the necessary conditions for the activities of the party organisation. In the past, this requirement appears not to have always been followed or strictly enforced. However, since at least 2016 the CCP has reinforced its claims to control business decisions in SOEs as a matter of political principle. The CCP is also reported to exercise pressure on private companies to put 'patriotism' first and to follow party discipline. In 2017, it was reported that party cells existed in 70 % of some 1.86 million privately owned companies, with growing pressure for the CCP organisations to have a final say over the business decisions within their respective companies. These rules are of general application throughout the Chinese economy, across all sectors, including to the producers of [the product under review] and the suppliers of their inputs.

⁽¹⁶⁾ Commission Implementing Regulation (EU) 2019/1267, recitals 65-73.

Commission concluded that the Chinese bankruptcy and property laws do not work properly in the sense of Article 2(6a)(b), fourth indent of the basic Regulation, thus generating distortions in particular when maintaining insolvent firms afloat and when allocating land use rights in the PRC. ⁽¹⁷⁾ In the same vein, the Commission found distortions of wage costs in the tungsten sector in the sense of Article 2(6a)(b), fifth indent of the basic Regulation, ⁽¹⁸⁾ as well as distortions in the financial markets in the sense of Article 2(6a)(b), sixth indent of the basic Regulation, in particular concerning access to capital for corporate actors in the PRC. ⁽¹⁹⁾

- (46) Like in the previous investigation concerning the tungsten sector in the PRC, the Commission examined in the present investigation on molybdenum whether it was appropriate or not to use domestic prices and costs in the PRC, in view of the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation. The Commission did so on the basis of the evidence available on the file, including the evidence contained in the request, as well as in the Commission's report on significant distortions in China ⁽²⁰⁾ (the Report), which relies on publicly available sources. That analysis covered the examination of the substantial government interventions in the PRC's economy in general, but also the specific market situation in the relevant sector including the product under review. The Commission further supplemented these evidentiary elements with its own research on the various criteria relevant to confirm the existence of significant distortions in the PRC as also found by its previous investigations in this respect.
- (47) The request in this case referred to the Report, in particular to the influence of the Chinese state into the non-ferrous metals including the molybdenum industry via the 13th 5-Year Plan for the Economic and Social Development of the People's Republic of China (13th 5-Year General Plan) and the 13th 5-Year Plan for the Non-Ferrous Metals Industry (13th 5-Year Non-Ferrous Plan). Moreover, the request mentions that based on the Made in China 2025 initiative, the molybdenum industry is eligible to receive considerable state funding. The request mentions specific financial funds created by the Chinese state to support the molybdenum industry (China Development Bank, the National Integrated Circuit Fund, the Advanced Manufacturing Fund, different local funds established by the local governments and funding to support and restructure manufacturers provided by China Reform Holdings). The request further lists as an example two companies in the molybdenum industry that benefitted from state funding: Jiduicheng Molybdenum and Xiamen Tungsten, the mother company of Xiamen Honglu Tungsten.
- (48) In the molybdenum sector, a substantial degree of ownership and control by the GOC persists in the sense of Article 2(6a)(b), second indent of the basic Regulation. Many of the largest producers are owned by the State. Since there was no cooperation from Chinese producers of the product under review, the exact ratio of the private to state-owned molybdenum wire producers could not be determined. However, the investigation revealed that in the molybdenum wire sector a number of large producers are state owned enterprises ('SOEs'). These include Jinduicheng Molybdenum, Xiamen Honglu Tungsten, Chengdu Hongbo Industrial and Luoyang Hi-tech Molybdenum & Tungsten Material.
- (49) As to the GOC being in a position to interfere with prices and costs through State presence in firms in the sense of Article 2(6a)(b), second indent of the basic Regulation, the Commission established during the investigation the existence of personal connections between producers of the product under review and the Chinese Communist Party ('CCP'), such as CCP members among the senior management or members of the board of directors in a number of companies manufacturing the product under review. As an example, in Jinduicheng Molybdenum, the Chairman of the Board of Administrators is at the same time Party Committee Secretary, General Manager is also Party Committee Deputy Secretary and the Secretary to the Discipline Commission serves at the same time as Party Committee Deputy Secretary ⁽²¹⁾. In Xiamen Honglu Tungsten, the chairman of the board of the holding company SOE Xiamen Tungstene is a CCP member ⁽²²⁾. Both public and privately owned enterprises in the molybdenum wire sector are subject to policy supervision and guidance.

⁽¹⁷⁾ Commission Implementing Regulation (EU) 2019/1267, recitals 74-77.

⁽¹⁸⁾ Commission Implementing Regulation (EU) 2019/1267, recitals 78-80.

⁽¹⁹⁾ Commission Implementing Regulation (EU) 2019/1267, recitals 81-91.

⁽²⁰⁾ Commission staff working document SWD(2017) 483 final/2, 20.12.2017, available at: https://trade.ec.europa.eu/doclib/docs/2017/december/tradoc_156474.pdf

⁽²¹⁾ See company website for details: <http://www.jdcmmc.com/INFO-Single/010102.shtml>

⁽²²⁾ https://vip.stock.finance.sina.com.cn/corp/view/vCI_CorpManagerInfo.php?stockid=600549 &Pcode = 30011851&Name=%BB%C6%B3%A4%B8%FD

- (50) The following examples illustrate the above trend of an increasing level of intervention by the GOC in the molybdenum wire sector. Many producers of the product under review explicitly emphasise Party building activities on their websites, have party members in the company management and underline their affiliation to the CCP. The investigation revealed Party building activities in a number of molybdenum wire producers, including Chengdu Hongbo Industrial. Another manufacturer, Jinduicheng Molybdenum, states the following on their website on the subject of party building ⁽²³⁾: “The meeting pointed out that in 2019, the company’s Party committee conscientiously implemented the various requirements of the Party Committee of Shaanxi Non Ferrous Metals Group. (...) [the Company’s Party Committee] focussed on central work and the political leadership promoted high quality development; [and] continued to strictly control management.”
- (51) Xiamen Honglu Tungsten is another molybdenum wire producer with a Party Committee. According to the articles of association of the holding company SOE Xiamen Tungsten, Article 96: “[t]he Company establishes the Committee of the Communist Party of China of Xiamen Tungsten Industry Co., Ltd. (hereinafter referred to as the Party Committee of the Company) and the Disciplinary Inspection Committee of the Communist Party of China Xiamen Tungsten Industry Co., Ltd. (hereinafter referred to as the Disciplinary Committee of the Company).” According to Article 98 of the articles of association, “[t]he Party Committee of the company shall perform its duties in accordance with the “Party Constitution” and other intra-party regulations: (1) Ensure supervision of the principles and policies of the Party and the State, and implement the decisions and arrangements of the Party Central Committee, the State Council, the Provincial Party Committee and the Provincial Government in the company; (2) Further combine the principles of the Party’s management of cadres with the compliance with law of the selection of business managers by the board of directors [...]; (3) Study and discuss the company’s reform, development and stability, major business management matters and major issues concerning the personal interests of employees, and put forward opinions and suggestions; [...] (5) Strengthen the building of grass-roots Party organizations and Party members teams in the enterprise;” ⁽²⁴⁾.
- (52) Furthermore, policies discriminating in favour of domestic producers or otherwise influencing the market in the sense of Article 2(6a)(b), third indent of the basic Regulation are in place in the molybdenum sector. The molybdenum industry is mentioned in a number of guiding documents, demonstrating that the companies producing molybdenum wire are subject of GOC’s support ⁽²⁵⁾ This is confirmed in the numerous plans, directives and other documents focused on molybdenum, which are issued at national, regional and municipal level. Molybdenum is mentioned for example in the following documents:
- 13th five year plan (“FYP”) on mineral resources;
 - 13th FYP for the nonferrous metals industry;
 - National mineral resources plan 2016-2020;
 - 2016 *Catalogue of key high tech fields supported by the State* ⁽²⁶⁾, molybdenum is mentioned in Section IV.1.3 New materials – Rare earths;
 - 2019 version of the Guiding Catalogue for industry structural adjustment, molybdenum is mentioned in Part II: restricted industries, Section 7.1-non ferrous metals page 87;

Guiding Opinions on Expanding Investment in Strategic Emerging Industries and Cultivating and Strengthening New Growth Points and Growth Poles, No 1409 [2020] of the National Development and Reform Commission ⁽²⁷⁾, stipulating: “Implement an action plan for innovation and development of new materials, improve the technological level of mining, smelting and deep processing of rare earths, vanadium-titanium, tungsten-molybdenum, lithium, rubidium-caesium, graphite and other specific resources”.

⁽²³⁾ <http://www.jdcmmc.com/INFO/10282.shtml>

⁽²⁴⁾ Xiamen Tungsten articles of association: http://file.finance.sina.com.cn/211.154.219.97:9494/MRGG/CNSESH_STOCK/2021/2021-5/2021-05-29/7288169.PDF

⁽²⁵⁾ See China Report, chapters on 13th FYP for mineral resources and 13th FYP for the nonferrous metals industry, pages 267-282.

⁽²⁶⁾ http://kj.quanzhou.gov.cn/wsbs/xgxz/201703/t20170322_431820.htm

⁽²⁷⁾ https://www.ndrc.gov.cn/xxgk/zcfb/tz/202009/t20200925_1239582.html

Molybdenum is furthermore subject to local regulation, at the provincial or municipal level. For example:

- the 2017 Heilongjiang Province's Implementing Opinion on structural adjustments and efficiency gains in the non-ferrous metals industry ⁽²⁸⁾, provides the following: "Molybdenum industry chain: Focus on the large and small Xing'an Mountains, raise the level of development and utilization of Luming molybdenum mine and develop downstream smelting as well as refined and deep processing products as soon as possible. Promote the preliminary work of the Molybdenum Mine at Chalukou, Daxingan Mountains, and the early development and utilization of resources. Strengthen organization and coordination, focus on the construction of molybdenum smelting projects in Tieli Mineral Resources Intensive Processing Industry Park and Jiagedaqi Mining Economy Industry Park, and develop key technologies such as molybdenum powder preparations, nano-molybdenum trioxide preparations, molybdenum alloy metallurgy, welding, and industrial catalysts recovery and use; develop deep processed products such as molybdenum iron, molybdenum oxide, molybdenum acid plating, molybdenum bars, molybdenum wires, molybdenum metal ultra-fine powder coating products, ammonium molybdate; create molybdenum mining and dressing -molybdenum smelting-molybdenum processing industry chain. The Yichun Municipal Government and the Daxingan Regional Administration take the lead respectively."
- Shaanxi Province's 13th five-year plan on economic and social development ⁽²⁹⁾ states on page 31-32: "Reform and upgrade traditional industries: promote the deep processing of precious metals such as titanium, molybdenum, aluminium" and further: "Make Weinan (Shaanxi) the capital of molybdenum".
- NDRC 2020 catalogue of encouraged industries in the Western regions ⁽³⁰⁾ lists the following as encouraged industries in the Sichuan province: "tungsten and molybdenum products and tungsten and molybdenum wire materials".

- (53) As can be seen from the above examples, the GOC guides the development of the molybdenum sector in accordance with a broad range of policy tools and directives and controls virtually every aspect in the development and functioning of the sector. Thus, the molybdenum wire industry benefits from governmental guidance and intervention concerning the main raw material, namely molybdenum oxide.
- (54) In addition to the above, the molybdenum wire producers are also beneficiaries of state subsidies, which clearly indicates the interest of the state in this sector. During the investigation, the Commission established that a number of molybdenum wire producers benefited from direct state subsidies. These include Xiamen Honglu Tungsten ⁽³¹⁾ and Luoyang Hi-tech Molybdenum & Tungsten Material ⁽³²⁾.
- (55) In sum, the GOC has measures in place to induce operators to comply with the public policy objectives of supporting encouraged industries, including the production of molybdenum as the main raw materials used in the manufacturing of the product under review. Such measures impede market forces from operating freely.
- (56) The present investigation has not revealed any evidence that the discriminatory application or inadequate enforcement of bankruptcy and property laws according to Article 2(6a)(b), fourth indent of the basic Regulation in the sector referred to above in recital (45) would not affect the manufacturers of the product under review.
- (57) The molybdenum sector is also affected by the distortions of wage costs in the sense of Article 2(6a)(b), fifth indent of the basic Regulation, as also referred to above in recital (45). Those distortion affect the sector both directly (when producing the product under review or the main inputs), as well as indirectly (when having access to capital or inputs from companies subject to the same labour system in the PRC).

⁽²⁸⁾ <https://www.hlj.gov.cn/n200/2017/0525/c75-10829703.html>

⁽²⁹⁾ <https://www.ndrc.gov.cn/fggz/fzzlgh/dfzgh/201606/P020191104643472060002.pdf>

⁽³⁰⁾ http://www.gov.cn/gongbao/content/2021/content_5598119.htm

⁽³¹⁾ See page 238 of the 2020 annual report of the holding company Xiamen Tungsten <http://file.finance.sina.com.cn/211.154.219.97:9494/MRGG/CNSESHTOCK/2021/2021-3/2021-03-31/7001827.PDF> (accessed 16 May 2022).

⁽³²⁾ See page 139 of the 2020 annual report.

- (58) Moreover, no evidence was submitted in the present investigation demonstrating that the molybdenum sector is not affected by the government intervention in the financial system in the sense of Article 2(6a)(b), sixth indent of the basic Regulation, as also referred to above in recital (45). Therefore, the substantial government intervention in the financial system leads to the market conditions being severely affected at all levels.
- (59) Finally, the Commission recalls that in order to produce the product under review, a number of inputs is needed. When the producers of the product under review purchase or contract for these inputs, the prices paid (and which are recorded as their costs) are exposed to the same systemic distortions mentioned before. For instance, suppliers of inputs employ labour that is subject to the distortions; they may borrow money that is subject to the distortions on the financial sector/capital allocation; and they are subject to the planning system that applies across all levels of government and sectors.
- (60) As a consequence, not only the domestic sales prices of the product under review are not appropriate for use within the meaning of Article 2(6a)(a) of the basic Regulation, but all the input costs (including raw materials, energy, land, financing, labour, etc.) are also affected because their price formation is affected by substantial government intervention, as described in Parts A and B of the Report. Indeed, the government interventions described in relation to the allocation of capital, land, labour, energy and raw materials are present throughout the PRC. This means, for instance, that an input that in itself was produced in the PRC by combining a range of factors of production is exposed to significant distortions. The same applies for the input to the input and so forth.
- (61) No evidence or argument that would contradict the above-mentioned findings has been adduced by the GOC or the exporting producers in the present investigation.
- (62) In sum, the evidence available showed that prices or costs of the product under review, including the costs of raw materials, energy and labour, are not the result of free market forces because they are affected by substantial government intervention within the meaning of Article 2(6a)(b) of the basic Regulation as shown by the actual or potential impact of one or more of the relevant elements listed therein. On that basis, and in the absence of any cooperation from the GOC, the Commission concluded that it is not appropriate to use domestic prices and costs to establish the normal value in this case. Consequently, the Commission proceeded to construct the normal value exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks in accordance with Article 2(6a)(a) of the basic Regulation, as discussed in the following section.

3.2.4. Representative country

3.2.4.1. General remarks

- (63) The choice of the representative country shall, where appropriate, be based on the following criteria pursuant to Article 2(6a) of the basic Regulation:
- A level of economic development similar to China. For this purpose, the Commission used countries with a gross national income per capita similar to China on the basis of the database of the World Bank ⁽³³⁾;
 - Production of the product under review in that country ⁽³⁴⁾;
 - Availability of readily available data in the representative country.
 - Where there is more than one possible representative country, preference should be given, where appropriate, to the country with an adequate level of social and environmental protection.

⁽³³⁾ World Bank Open Data – Upper Middle Income, <https://data.worldbank.org/income-level/upper-middle-income>

⁽³⁴⁾ If there is no production of the product under review in any country with a similar level of development, production of a product in the same general category and/or sector of the product under review may be considered.

- (64) As explained in recitals (38)-(40) the Commission issued two notes for the file on the sources for the determination of the normal value. These notes described the facts and evidence underlying the relevant criteria, and addressed the comments received by the parties on these elements and on the relevant sources. In the Second Note, the Commission informed interested parties of its intention to consider India as an appropriate source in the present case if the existence of significant distortions pursuant to Article 2(6a) of the basic Regulation would be confirmed.

3.2.4.2. A level of economic development similar to the PRC

- (65) In the First Note on production factors, the Commission identified India and Thailand. Thailand is classified by the World Bank as an upper-middle income country and at the same level of economic development as the PRC according to the World Bank. However, the Commission could only identify one producer of molybdenum wire in Thailand and the necessary information on company level was not readily available. India is classified as a lower-middle income country by the World Bank. The Commission found at least 18 Indian companies with partial production of molybdenum wire and decided therefore to further assess whether, exceptionally, India could be used as a source for establishing undistorted cost and prices.
- (66) Only the applicant commented on that Note and, whilst not objecting to the use of India to establish undistorted costs and prices, claimed that also Austria, Germany and USA could be appropriate countries. However, the Commission noted that those countries are qualified by the World Bank as high-income countries. India, on the other hand is qualified as a low-middle income country and has thus a level of economic development inferior to the one of the PRC in low-middle income countries, such as India, factors of production are likely to be cheaper than in countries with a higher level of economic development, such as the PRC. This is likely to result in a normal value and therefore a dumping margin that is understated. However, since the current investigation is an expiry review where the question is whether dumping is likely to continue or recur irrespective of the actual level, the Commission considered that India could exceptionally be considered an appropriate source for the undistorted costs and prices although the ensuing calculation of normal value would likely be underestimated. In this respect, the Commission noted that the normal value established on the basis of this very conservative approach already showed significant dumping as concluded in recital (87) below. The Commission concluded that it was therefore not necessary to explore other alternatives.

3.2.4.3. Availability of relevant data in India

- (67) The Commission carefully analysed all relevant data available in the file for the factors of production in India and noted the following:
- There were imports of the input that, as established in the First and the Second Note, is necessary for the production of the product under review.
 - The industrial electricity tariff for the review investigation period was available in the form of data provided by the Maharashtra Electricity Regulatory Commission ⁽³⁵⁾.
 - The labour data in India published by its Labour Bureau (i.e. the report “Indian Labour Statistics 2017”) ⁽³⁶⁾, in Maharashtra, which is a representative State in India.
 - WebFill Ltd, producer of the product under review in India has readily available financial statements that could be used as a proxy to determine an undistorted and reasonable amount for selling, general and administrative expenses (SG&A) and profit.

3.2.4.4. Conclusion on India as an appropriate source

- (68) In view of the above analysis, India was exceptionally considered as an appropriate source within the meaning of Article 2(6a)(a) of the basic Regulation for undistorted costs and prices. The Company WebFill Ltd was selected as an appropriate source for the necessary financial data. Furthermore, the Commission decided that, in order to

⁽³⁵⁾ <https://www.merc.gov.in/>

⁽³⁶⁾ <http://www.labourbureaunew.gov.in/showdetail>

construct the normal value, to use GTA to establish the undistorted cost for molybdenum oxide, which is the raw material necessary to produce the product under review. In addition, the Commission stated that it would use the Indian official data for establishing undistorted costs of labour ⁽³⁷⁾ and energy ⁽³⁸⁾

3.2.5. Factors of production

- (69) Considering all the information based on the request and subsequent information submitted by the applicant and interested parties, the following factors of production and their sources have been identified in order to determine the normal value in accordance with Article 2(6a)(a) of the basic Regulation:

Table 1

Factors of production of molybdenum wires

Factor of Production	Commodity Code	Source of data	EUR/kg of produced Molybdenum wire
Raw materials			
Molybdenum oxide	28 25 70 10	Global Trade Alert (GTA) ⁽³⁹⁾	32,44
Consumables			
Tools, spare parts, supplies, maintenance, leasing costs, infrastructure and depreciation	[N/A]	Financial accounts	Percentage of manufacturing costs
Labour			
Labour	[N/A]	National statistics (Labour bureau of India data on Maharashtra) and cross-checked against World Bank data.	0,06
Energy			
Electricity	[N/A]	National/State-level statistics (Maharashtra Electricity Regulatory Commission).	2,71

3.2.5.1. Raw materials

- (70) In order to establish the undistorted price of raw materials as delivered at the gate of an Indian producer, the Commission used as a basis the weighted average import price to India as reported in the GTA. An import price in India was determined as a weighted average of unit prices of imports from all third countries excluding the PRC and countries that are not members of the WTO, listed in Annex 1 of Regulation (EU) 2015/755 of the European Parliament and the Council ⁽⁴⁰⁾. The Commission decided to exclude imports from the PRC into the appropriate country as it concluded that it is not appropriate to use domestic prices and costs in the PRC due to the existence of significant distortions in accordance with Article 2(6a)(b) of the basic Regulation. Given that there is no evidence showing that the same distortions do not equally affect products intended for export, the Commission considered that the same distortions affected export prices.

⁽³⁷⁾ <https://labour.gov.in/annual-reports> http://labourbureau.gov.in/Report_PBLS_2017.pdf

⁽³⁸⁾ <https://www.ciicovid19update.in/uploads/1/3/1/3/131362769/maharashtra.pdf>

⁽³⁹⁾ <http://www.gtis.com/gta/secure/default.cfm>

⁽⁴⁰⁾ Regulation (EU) 2015/755 of the European Parliament and of the Council of 29 April 2015 on common rules for imports from certain third countries (OJ L 123, 19.5.2015, p. 33).

- (71) Similarly, import data on imports in India from non-WTO members listed in Annex 1 of Regulation (EU) 2015/755 were also excluded. Article 2(7) of the basic Regulation considers that domestic prices in those countries cannot be used for the purpose of determining normal value and, in any event, such import data was negligible. After excluding the PRC, the imports from other third countries remained representative.
- (72) In order to establish the normal value according to the Commission's methodology, the import duties of the factors of production and other materials imported into India, as well as the domestic transport costs should normally be added to these import prices. Considering the nature of this expiry review investigation, which is focused on finding whether dumping continued during the review investigation period rather than finding its exact magnitude, the Commission decided that adjustments for import duties and domestic transport were unnecessary, as such adjustments would only result in increasing the normal value and hence of the dumping margin which is already significant.

3.2.5.2. Labour

- (73) The Indian Labour Bureau ⁽⁴¹⁾ publishes detailed information on wages in different economic sectors across India. The Commission used the available statistics and according to the latest available published analysis (2017) of labour data in India, the yearly minimum average earnings in Industrial sector NIC code 25 "Manufacture of fabricated metal products, except machinery and equipment" according to the Annexure-A of the report were 118 191 INR/year. The Periodic Labour Force Surveys by the Ministry of Statistics show that the yearly average wage in India during the closest period preceding the review investigation period was some 207 780 INR/year (see regular wage/salary employee data on page A-265 and A-266 (372-373) of the "Annual Report, PLFS, 2018-19" ⁽⁴²⁾). In light of the above, the Commission considered a labour cost of 207 780 INR/year as established above. This amount is equivalent to 2 800 USD/year and is higher than the average salary in India including the agricultural sector ⁽⁴³⁾, which holds around half of the employment, and is in which amounted to 2 130 USD/year in 2019 according to the World Bank data ⁽⁴⁴⁾.

3.2.5.3. Electricity

- (74) India is composed of 28 States and 8 Union Territories ⁽⁴⁵⁾, out of which seven States host more than 70 % of Indian factories and industrial manufacturing industry. Amongst the seven States with more industries, Maharashtra is a representative State for the purpose of this investigation because it is one of the States hosting overall a bigger share of factories. On this basis, the Commission used the electricity price statistics published by the Maharashtra Electricity Regulatory Commission ⁽⁴⁶⁾. During the review investigation period in Maharashtra, the industrial electricity tariff amounted to 8,50 INR/kWh, i.e. 0,10 EUR/kWh as shown in the Maharashtra Electricity Regulatory Commission's publication ⁽⁴⁷⁾.

3.2.5.4. Manufacturing overhead costs, SG&A, profits and depreciation

- (75) According to Article 2(6a)(a), second subparagraph of the basic Regulation, *'the constructed normal value shall include an undistorted and reasonable amount for administrative, selling and general costs and for profits'*. In addition, a value for manufacturing overhead costs needs to be established to cover costs not included in the factors of production referred to above.
- (76) In order to establish an undistorted value of the manufacturing overheads and given the absence of cooperation from the Chinese exporting producers, the Commission used facts available in accordance with Article 18 of the basic Regulation. Therefore, based on the data of the request, the Commission established the ratio of

⁽⁴¹⁾ <https://labour.gov.in/annual-reports>

⁽⁴²⁾ https://cse.azimpremjiuniversity.edu.in/wp-content/uploads/2019/06/Annual_Report_PLFS_2018_19_HL.pdf

⁽⁴³⁾ <http://datatopics.worldbank.org/jobs/country/india>

⁽⁴⁴⁾ <https://data.worldbank.org/indicator/>

⁽⁴⁵⁾ <https://www.india.gov.in/india-glance/profile>

⁽⁴⁶⁾ <https://www.merc.gov.in/>

⁽⁴⁷⁾ <https://www.ciicovid19update.in/uploads/1/3/1/3/131362769/maharashtra.pdf>

manufacturing overheads to the total manufacturing and labour costs. This percentage was then applied to the undistorted value of the cost of manufacturing to obtain the undistorted value of manufacturing overheads, depending on the model produced.

- (77) For establishing an undistorted and reasonable amount for manufacturing overheads, SG&A, profit and depreciation, the Commission relied on the financial data for 2020-2021 for WebFill Ltd as extracted from Dun & Bradstreet and details of financial statement available on the same company website ⁽⁴⁸⁾. According to Article 2(6a)(a) of the basic Regulation, “*the constructed normal value shall include an undistorted and reasonable amount for administrative, selling and general costs and for profits*”. In addition, a value for manufacturing overhead costs needs to be established to cover costs not included in the factors of production referred to above.

3.2.6. Calculation of the normal value

- (78) On the basis of the above, the Commission constructed the normal value of the product under review on an ex-works basis in accordance with Article 2(6a)(a) of the basic Regulation.
- (79) First, the Commission established the undistorted manufacturing costs. In the absence of cooperation by the exporting producers, the Commission relied on the information provided by the applicant in the review request on the usage of each factor (materials and labour) for the production of molybdenum wire. These consumption rates provided by the applicant were verified during the verification. The Commission then multiplied the usage factors by the undistorted costs per unit as observed in India as the source for determining the normal value under Article 2(6)(a) of the basic Regulation.
- (80) Once the undistorted manufacturing cost established, the Commission applied the manufacturing overheads, SG&A, profit and depreciation. They were determined based on the financial statements of WebFill Ltd (see Section 3.2.3.1). The Commission added the following items to the undistorted cost of manufacturing:
- Manufacturing overheads and depreciation, (see recitals (75) and (76)), which accounted in total for 17 % of the costs of materials based on the data in the request;
 - SG&A and other costs, which accounted for 16,3 % of the cost of materials for WebFill Ltd; and
 - Profits amounting to 4,8 % of the total cost of production based on the profits achieved by WebFill Ltd.

3.2.7. Export price

- (81) As a consequence of non-cooperation, export prices were established on the basis of the facts available in accordance with Article 18 of the basic Regulation. The Commission used import data on Chinese imports reported in the database established pursuant to Article 14(6) of the basic Regulation (‘Article 14(6) database’) to determine export prices.
- (82) Given the relatively low volumes of Chinese imports (less than 1 % of Union consumption) the Commission analysed whether those prices could be considered reliable and representative. In this respect the Commission noted that the Chinese average export price to the Union was within the same price range as Chinese exports to other main third country destinations (see recital (92) below). Furthermore, whilst prices to the Union were at the lower end of the price range, the Commission considered that those prices, albeit based on low volumes, were sufficiently reliable and representative to form the basis for establishing an export price for the purpose of a dumping calculation.

⁽⁴⁸⁾ WebFill Limited Annual Report 2021 (WebFillindia.com)

- (83) As these prices are reported on a Cost, Insurance, Freight ('CIF') basis, they were adjusted to an ex-works level by deducting an appropriate amount for transportation and insurance costs between the PRC and the Union border. In the absence of cooperation from the Chinese exporting producers, the Commission used the same percentage for adjustment as in the original anti-dumping investigation ⁽⁴⁹⁾ (1,84 %).

3.2.8. Comparison

- (84) The Commission compared the constructed normal value established in accordance with Article 2(6a)(a) of the basic Regulation and the export price on an ex-works basis as established above.
- (85) Given the lack of cooperation from the Chinese exporting producers, the product types exported from the PRC could not be determined. Therefore, a comparison per product type was not possible.

3.2.9. Dumping margin

- (86) The Commission recalled that the dumping margin was established by comparing a constructed normal value based on data from India as appropriate source under Article 2(6a) of the basic Regulation with the average statistical Chinese export prices to the Union, adjusted back to ex-works level.
- (87) The Commission calculated a dumping margin based on the data available of 44,98 %.
- (88) The Commission therefore concluded that dumping continued during the review investigation period.

4. LIKELIHOOD OF CONTINUATION OF DUMPING

- (89) Further to the finding of the existence of dumping during the review investigation period, the Commission investigated, in accordance with Article 11(2) of the basic Regulation, the likelihood of continuation of dumping, should the measures be allowed to lapse. The following additional elements were analysed:

- (1) production capacity and spare capacity in China;
- (2) the attractiveness of the Union market;
- (3) the relationship between export prices to third countries and the price level in the Union; and
- (4) circumvention practices.

4.1. Production capacity and spare capacity in China

- (90) According to the request Chinese producers have production capacity of approximately 3 500 tonnes per year, i.e. over 19 times the entire Union consumption.
- (91) In the absence of cooperation from the PRC the Commission estimated the spare production capacity in China on the basis of its finding in the previous expiry review investigation. In that investigation the Commission found that the capacity utilisation rate was approximately 20-25 %. In the absence of any indication to the contrary the Commission assumed that the capacity utilisation remains similar for this review investigation period. Given that the estimated production capacity of molybdenum wire in the PRC is around 3 500 tonnes, the Commission estimated that the spare capacity amounts to at least 2 500 tonnes which is more than fifteen times the consumption in the Union.

⁽⁴⁹⁾ Commission Regulation (EU) No 1247/2009 of 17 December 2009 imposing a provisional anti-dumping duty on imports of certain molybdenum wires originating in the People's Republic of China (OJ L 336, 18.12.2009, p. 16).

4.2. Relation between export prices to third countries and the price level in the Union

- (92) Absent cooperation from Chinese producers the Commission analysed Chinese pricing behaviour on the basis of trade statistics. The Chinese prices to the main export destinations, other than the Union, i.e., India, Korea and Vietnam, ranged from 28 to 41 euro/kg, whilst Chinese export prices to the EU was 33,80 euro/kg during the review investigation period (see recital (107) below). These prices are significantly lower than the prices on the Union market during charged by the Union industry the review investigation period. In fact, the average sales price of Chinese exporting producers to all countries other than the Union was 40 euro/kg, which is around [25-35]% lower than the average price on the Union market.

4.3. Attractiveness of the Union market

- (93) As explained in recitals (150) – (152) the Union market is attractive in terms of size and prices.

4.4. Circumvention practices

- (94) In 2012 and 2013 two anti-circumvention investigations found circumvention being carried out either by transshipment or by a slight modification to the product. First, imports of molybdenum wire consigned from Malaysia ⁽⁵⁰⁾ and, secondly, imports of molybdenum wire from the PRC containing by weight at least 97 % of molybdenum, of which the maximum cross-sectional dimension exceeds 1,35 mm but does not exceed 4,0 mm ⁽⁵¹⁾. On 30 October 2015, following a third anti-circumvention investigation, the measures were extended to molybdenum wire containing by weight at least 97 % of molybdenum, with a maximum cross-sectional dimension that exceeds 4,0 mm but does not exceed 11,0 mm ⁽⁵²⁾. These efforts to circumvent the measures in force show how attractive the Union market is for the Chinese producers of the product under review.

4.5. Conclusion

- (95) The investigation has shown dumping in the review investigation period and that this dumping is likely to continue if the measures are allowed to lapse. If the measures lapse, dumped imports would likely enter the Union market in significant quantities given the available spare capacities in China and possible re-direction of sales from other third countries to the Union given the higher prices on the Union market.

⁽⁵⁰⁾ Council Implementing Regulation (EU) No 14/2012 of 9 January 2012 extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) No 511/2010 on imports of certain molybdenum wires originating in the People's Republic of China to imports of certain molybdenum wires consigned from Malaysia, whether declared as originating in Malaysia or not and terminating the investigation in respect of imports consigned from Switzerland (OJ L 8, 12.1.2012, p. 22).

⁽⁵¹⁾ Council Implementing Regulation (EU) No 871/2013 of 2 September 2013 extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) No 511/2010 on imports of molybdenum wire, containing by weight at least 99,95 % of molybdenum, of which the maximum cross-sectional dimension exceeds 1,35 mm but does not exceed 4,0 mm, originating in the People's Republic of China to imports of molybdenum wire, containing by weight at least 97 % of molybdenum, of which the maximum cross-sectional dimension exceeds 1,35 mm but does not exceed 4,0 mm, originating in the People's Republic of China (OJ L 243, 12.9.2013, p. 2).

⁽⁵²⁾ Commission Implementing Regulation (EU) 2015/1952 of 29 October 2015 extending the definitive anti-dumping duty imposed by Council Implementing Regulation (EU) No 511/2010 on imports of molybdenum wire, containing by weight at least 99,95 % of molybdenum, of which the maximum cross-sectional dimension exceeds 1,35 mm but does not exceed 4,0 mm, originating in the People's Republic of China to imports of molybdenum wire, containing by weight at least 97 % of molybdenum, of which the maximum cross-sectional dimension exceeds 4,0 mm but does not exceed 11,0 mm, originating in the People's Republic of China (OJ L 284, 30.10.2015, p. 100).

5. INJURY

5.1. Definition of the Union industry (UI) and Union production

- (96) The Union industry did not undergo major structural changes since the original investigation and the last expiry review. The like product was manufactured by two producers in the Union during the period considered. They constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.
- (97) The total Union production during the review investigation period was established at around [198 000-232 000] kg. The Commission established the figure based on the macroeconomic questionnaire filled in by the applicant.
- (98) As the data relating to the injury assessment was primarily derived from the sole cooperating Union producer, or, where applicable, estimated by it for the non-cooperating other Union producer, some figures are given in an indexed form or as ranges due to the confidential nature of the data that they are based on.

5.2. Union consumption

- (99) The total Union consumption during the review investigation period was established at [148 000-174 000] kg. The Commission established the figure on the basis of all the available information concerning the Union industry: i) taking into account the total EU sales of the Union Industry as given by the applicant in its response to the macroeconomic questionnaire and ii) adding the import volumes into the EU as shown in Article 14(6) database.
- (100) Union consumption developed as follows:

Table 2

Union consumption (in kg)

	2017	2018	2019	Review investigation period
Total Union consumption	[208 000-243 000]	[207 000-242 000]	[157 000-184 000]	[148 000-174 000]
Index	100	99	76	72

Source: verified macro- and microeconomic questionnaire replies and Article 14(6) database.

- (101) Throughout the period considered the Union consumption recorded a pronounced drop of 28 % in comparison with 2017. More specifically, it dropped 1 percentage point in 2018 and then lost 23 percentage points in 2019 and a further 4 percentage points in the review investigation period.
- (102) The decrease in Union consumption of molybdenum wire, noted since the original investigation as well as during the period considered, can be mainly explained by the technological developments in the automotive industry and the gradual domination of automatic gears over manual gears, which is the main application for molybdenum wires.

5.3. Imports from the country concerned

5.3.1. Volume and market share of the imports from the country concerned

- (103) The Commission established the volume of imports from the PRC into the Union on the basis of data available in the Article 14(6) database. The market share of the imports was established on the basis of said volume of imports as percentage of the total Union consumption.

(104) Imports into the Union from the country concerned developed as follows:

Table 3

Import volume (kg) and market share

	2017	2018	2019	Review Investigation period
Volume of imports from the country concerned (kg)	[190-220]	[160-190]	[250-290]	[520-610]
<i>Index</i>	100	84	130	271
Market share	0,1 %	0,1 %	0,2 %	0,4 %
<i>Index</i>	100	84	172	380

Source: Article 14(6) database and verified macroeconomic questionnaire reply.

(105) Although the import volumes from the PRC into the EU increased by 171 % throughout the period considered, the volumes of the product under review are low and the market share of Chinese imports remained below 1 % in the review investigation period.

5.3.2. Prices of the imports from the country concerned and price undercutting

(106) Due to the non-cooperation of the Chinese exporting producers, the Commission established the prices of imports on the basis of the volumes and values of the product under review concerning the PRC as reported in the Article 14(6) database.

(107) The average price of imports into the Union from the country concerned developed as follows:

Table 4

Import prices (EUR/kg)

	2017	2018	2019	Review investigation period
PRC	79,05	60,40	33,65	33,80
<i>Index</i>	100	76	43	43

Source: Art. 14.6 database.

(108) Between 2017 and 2019, the average import price of the product under review from the PRC into the Union decreased continuously and sharply, dropping by 57 %, then remaining at the same level for the review investigation period. Though the volumes are low, the trend is consistent through a number of years and also contrary to the trend of the raw material price, the increasing prices of molybdenum oxide especially between 2017 and 2018-2019 ⁽³³⁾.

(109) The average import price undercut the Union industry average price by [52-67 %] during the review investigation period.

(110) Due to the lack of cooperation from the Chinese exporting producers, the product types exported from the PRC to the Union could however not be determined, therefore, a comparison on a per-type basis was not possible.

⁽³³⁾ As shown in Annex 25 of the request of the expiry review and in the following source: <https://tradingeconomics.com/commodity/molybden>

5.4. Imports from third countries other than the PRC

- (111) The (aggregated) volume of imports into the Union as well as the market share and price trends for imports of molybdenum wire from other third countries developed as follows:

Table 5

Imports from third countries

Country		2017	2018	2019	Review investigation period
Total of all third countries except the PRC	Volume (kg)	[340-400]	[240-280]	[90-110]	[380-450]
	<i>Index</i>	100	69	27	112
	Market share	0,2 %	0,1 %	0,1 %	0,3 %
	<i>Index</i>	100	70	36	157
	Average price (EUR/kg)	134,40	96,23	96,14	147,59
	<i>Index</i>	100	72	72	110

Source: Article 14(6) database and verified macroeconomic questionnaire reply.

- (112) Throughout the period considered, the volume of imports of molybdenum wire from third countries other than the PRC combined were lower than the volume of imports of molybdenum wire from the PRC alone during the same period and remained far below 1 % market share. Very small quantities came from India and from Hong Kong, Ukraine and the USA. Import prices from all third countries were much higher than the ones charged by the exporting producers in the PRC and by the Union industry. This is likely due to these being specialised niche products sold in small quantities.

5.5. Economic situation of the Union industry

5.5.1. General remarks

- (113) The assessment of the economic situation of the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.
- (114) The datasets available to the Commission for the injury determination differed for the macroeconomic and the microeconomic injury indicators. For the macroeconomic indicators, the Commission relied on data contained in the questionnaire reply of Plansee SE and estimated by it for the other Union producer in the macro questionnaire reply. For the microeconomic indicators, the Commission relied on the data contained in the questionnaire reply of Plansee SE. Given that Plansee SE represented in the review investigation period around [86-94] % of total Union sales, the Commission considered that both sets of data are representative of the economic situation of the Union industry.
- (115) 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.

- (116) The microeconomic indicators are: average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital.

5.5.2. Macroeconomic indicators

5.5.2.1. Production, production capacity and capacity utilisation

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

Table 6

Production, production capacity and capacity utilisation

	2017	2018	2019	Review investigation period
Production volume (kg) (index)	100	111	75	70
Production capacity (kg) (index)	100	100	85	80
Capacity utilisation (index)	100	111	88	87

Source: verified macro- and microeconomic questionnaire replies.

- (118) The production volume decreased by 30 % during the period considered. More specifically, it increased by 11 percentage points in 2018, then decreased by 36 percentage points in 2019 and by a further 5 percentage points in the review investigation period. This decrease was the result of the decrease in Union consumption as explained in recital (102) above.
- (119) The production capacity also decreased overall by 20 % over the period considered, mainly because of the decrease in market demand and the subsequent switch of the production lines to different products, as the same production line is used for different product types, including the product under review.
- (120) The parallel decrease of the production volume and the production capacity during the period considered resulted in a moderate decrease in the capacity utilisation, that is by 13 % during the period considered.

5.5.2.2. Sales volume and market share

- (121) The Union industry's sales volume and market share developed over the period considered as follow

Table 7

Sales volume (in kg) and market share

	2017	2018	2019	Review investigation period
Sales (index)	100	99	76	71
Market share	99,7 %	99,8 %	99,8 %	99,4 %
Index	100	100	100	100
Captive market sales	0	0	0	0

Source: verified macro- and microeconomic questionnaire replies.

- (122) Total sales of the Union industry on the Union market decreased considerably, by 29 %, during the period considered. In particular, sales remained relatively stable from 2017 through to 2018 and then declined by 23 percentage points in 2019 and by a further 5 percentage points in the review investigation period. The reason for this drop was the contraction of the market demand in the Union, as explained in recital (102) above.
- (123) Due to the effects of the anti-dumping measures in place against the PRC imports of the product under review, and of the fact that no other country except the EU and the PRC have a considerable production of the product under review, the Union industry's market share remained dominant through the period considered at 99,4 %.

5.5.2.3. Growth

- (124) As both the Union consumption and the sales volume of the Union industry decreased by 29 % during the period considered, market share remained unchanged.

5.5.2.4. Employment and productivity

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

Table 8

Employment and productivity

	2017	2018	2019	Review investigation period
Number of employees (<i>index</i>)	100	133	125	125
Productivity (<i>index</i>)	100	94	67	64

Source: verified macro- and microeconomic questionnaire replies.

- (126) Employment of the Union industry increased by 25 % in the period considered. However, productivity decreased by 36 % over the same period, because of the drop in the market demand and the subsequent drop in production.

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

- (127) As explained in recitals from (86) to (88), the dumping margin established was just below 45 %. Therefore, the Commission concluded that dumping continued during the review investigation period. In the previous expiry review the Union industry showed signs of recovery from the effects of past dumping. During the period considered of the current expiry review investigation, the recovery process continued as demonstrated in particular by the fact that profits were at healthy levels throughout the whole period, as set out below, even though the market was shrinking.

5.5.3. Microeconomic indicators

5.5.3.1. Prices and factors affecting prices

- (128) The average unit sales prices of Plansee SE to unrelated customers in the Union developed over the period considered as follows:

Table 9

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

	2017	2018	2019	Review investigation period
Average unit sales price in the Union on the total market (<i>index</i>)	100	99	108	100
Unit cost of production (<i>index</i>)	100	107	118	100

Source: Verified questionnaire reply.

- (129) The Union industry's average unit sales price to unrelated customers in the Union remained stable over the period considered, with the exception of 2019 when the average price went up by 8 percentage points in comparison with 2017.
- (130) The average cost of production of the Union industry remained relatively stable over the period considered, although intermittently, in 2018, the unit cost increased by 7 percentage points and in 2019 by another 11 percentage points in comparison with 2017.

5.5.3.2. Labour costs

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

Table 10

Average labour costs per employee

	2017	2018	2019	Review investigation period
Average labour costs per employee – <i>index (EUR)</i>	100	142	114	115

Source: Verified questionnaire reply.

- (132) The average labour costs per employee increased by 15 % over the period considered, however with a sharp intermittent increase of 42 % in 2018.

5.5.3.3. Inventories

- (133) Stock levels of the Union industry developed over the period considered as follows:

Table 11

Inventories

	2017	2018	2019	Review investigation period
Closing stocks – <i>index (kg)</i>	100	72	142	115
Closing stocks as a percentage of production – <i>index</i>	100	57	171	144

Source: Verified questionnaire reply.

- (134) Inventories represented only a very small percentage of total production during the period considered. This factor was therefore not considered meaningful for the assessment of the economic situation of the Union industry.

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

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

Table 12

Profitability, cash flow, investments and return on investments

	2017	2018	2019	Review investigation period
Profitability of sales in the Union to unrelated customers – index (% of sales turnover)	100	56	45	83
Cash flow index (EUR)	100	87	61	112
Investments index (EUR)	100	728	2 772	4 901
Return on investments – index	100	30	38	60

Source: Verified questionnaire reply.

- (136) The Commission established the profitability of the Union industry by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales.
- (137) The profitability of the Union industry dropped from 2017 to 2018 by 44 percentage points, then in 2019 decreased a further 9 percentage points and finally increased during the review investigation period 38 percentage points. All in all, profitability decreased by 17 % during the period considered.
- (138) Although the profitability dropped during the period considered, it remained at high levels.
- (139) The net cash flow is the ability of the Union producers to self-finance their activities. The trend in net cash flow developed positively during the period considered, however in comparison with 2017, in 2018 it was 13 % lower, in 2019 39 % lower and in the review investigation period it ended up 12 % higher.
- (140) The investments increased substantially in comparison with 2017 and especially during 2019 and the review investigation period, mainly because of the upgrade of a production line of Plansee SE.
- (141) The return on investments is the profit in percentage of the net book value of investments. The return on investment from the production and sale of the like product decreased over the period considered. However, there was a more pronounced decrease through the years 2018 and 2019 and the indicator recovered considerably ending up 40 % lower than in 2017.

5.6. Conclusion on injury

- (142) During the period considered, the Union consumption decreased by 29 % and, although the market share of the Union industry was close to 100 %, this decline in demand had a negative impact on a number of injury indicators.

- (143) Although profitability remained at healthy levels in the review investigation period, it fell by 17 % during the period considered and some of the other injury indicators like production, production capacity, capacity utilization and sales volume experienced a negative development during the period considered. Specifically, the production volume dropped by 30 %, the production capacity by 20 %, the capacity utilisation by 13 % and the sales volume by 29 %, all of which due to the contracting market demand in the Union. Other indicators, such as number of employees (by 25 %) and cash flow (by 12 %), improved over the period considered.
- (144) The volume of imports from the PRC or from other countries into the Union were very low. In the previous expiry review the market share of the imports from China increased mainly due to circumvention practices that had stopped in the meantime following the imposition of anti-circumvention measures in 2013 and 2015.
- (145) On the basis of the above, the Commission concluded that the Union industry did not suffer material injury within the meaning of Article 3(5) of the basic Regulation during the review investigation period.
- (146) Therefore, the Commission further examined the likelihood of recurrence of injury originally caused by dumped imports from the PRC if the measures were repealed.

6. LIKELIHOOD OF RECURRENCE OF INJURY

- (147) The Commission concluded in recitals (145) that the Union industry did not suffer material injury during the review investigation period. Therefore, the Commission assessed, in accordance with Article 11(2) of the basic Regulation, whether there would be a likelihood of recurrence of injury if the measures were allowed to lapse.
- (148) In this regard, the Commission examined the production capacity and spare capacity in the PRC, the attractiveness of the Union market as well as the likely price levels of imports from the PRC in the absence of anti-dumping measures and their possible impact on the Union industry.

6.1. Production capacity and spare capacity in the PRC

- (149) Based on the request, the PRC producers have a production capacity of approximately 3 500 tonnes per year, over 19 times higher than the Union consumption.

6.2. Attractiveness of the Union market and pricing behaviour in third countries

- (150) The Union market is attractive in terms of its size and prices as well as due to the importance of the EU automotive industry. In the past Chinese producers repeatedly showed their interest in the Union market by attempting to circumvent the anti-dumping measures. Also, average import prices from the PRC to the Union were lower than the export prices from the PRC to other countries during the review investigation period.
- (151) In the absence of significant quantities sold by Chinese exporting producers to the Union, the Commission also analysed their pricing behaviour when exporting to third countries. The PRC producers sell on average at prices which are [28-37] % lower than the average price charged by the Union industry. Consequently, exporting producers have strong incentive to redirect their sales to the Union market should the measures be allowed to lapse.
- (152) The Union market is hence considered very attractive for Chinese producers, and it can be concluded that available spare capacities in China would, at least partially, be used to significantly increase exports to the Union market at dumped prices should the measures expire.

6.3. Possible scenarios in the case of lapsing of measures

- (153) The attractiveness of the Union market, as described in recitals (93) and (150), would probably lead to a significant increase of dumped imports from the PRC. As molybdenum wire is a rather homogenous product in terms of quality, the price level is the most important factor when deciding on whether to buy from the Union producers or from the Chinese exporting producers. Furthermore, and as analysed in the previous expiry review, the sudden decrease in Chinese imports in response to the anti-dumping and anti-circumvention measures indicates that customers can easily switch to the supplier with the most competitive price (i.e. from the Chinese exporting producers to the Union producers or vice-versa in case the measure lapse).
- (154) For these reasons, the Union industry will then be likely forced to either reduce its sales prices at the expense of their profitability or to keep the sales prices level and most likely lose sales volume and market share to the Chinese exporters. A combination of these scenarios seems even more realistic. Ultimately, this would lead to downward price pressure, losses and the imports from the PRC likely regaining their pre-measures market share.
- (155) To assess quantitatively the likely impact of imports from the PRC on the financial situation of the Union industry, the Commission performed a simulation. Two scenarios were modelled, namely a surge of imports from the PRC (i) at the level of the PRC import volumes during the investigation period of the original case in 2009 (i.e. from 1 April 2008 to 31 March 2009), but at the same price level as charged to unrelated customers by the Union industry and (ii) at the level of the PRC exporting producers' market share during the investigation period of the original case back in 2009, while undercutting the Union industry's prices by 15 %. Given that the exporting producers' prices to third countries were on average [28-37] % lower than the prices charged by the Union industry during the review investigation period, the figure chosen for undercutting (15 %) is very conservative since the actual undercutting found was [52-67] % during the review investigation period. Moreover, for the determination of the hypothetical cost of production, the Commission took into account the share of the fixed costs to the total costs of production of the sampled Union producers.
- (156) In the first scenario, the profitability of the Union industry would fall to – [15 – 24] %.
- In the second scenario, the profitability of the Union Industry would even fall to –[25 – 33] %.
- (157) In both conservative scenarios, the impact of Chinese imports would render the Union industry highly unprofitable.
- (158) On this basis, the Commission concluded that the absence of measures would in all likelihood result in a significant increase of dumped imports from the PRC at injurious prices, which will lead to recurrence of material injury.

7. UNION INTEREST

- (159) In accordance with Article 21 of the basic Regulation, the Commission examined whether maintaining the existing anti-dumping measures would be against the interest of the Union as a whole. The determination of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, importers and users.
- (160) All interested parties were given the opportunity to make their views known pursuant to Article 21(2) of the basic Regulation.
- (161) On this basis, the Commission examined whether, despite the conclusions on the likelihood of continuation of dumping and recurrence of injury, compelling reasons existed which would lead to the conclusion that it was not in the Union interest to maintain the existing measures.

7.1. Interest of the Union industry

- (162) The anti-dumping measures in force had a positive effect on the Union industry and allowed it to recover from the past dumping during the review investigation period.

- (163) However, should the measures be allowed to lapse, the Commission concluded that there is a strong likelihood of recurrence of injury given the attractiveness of the Union market, the spare capacities available in the PRC, the pricing behaviour of the exporting producers in the PRC and the history of circumvention.
- (164) The Commission thus concluded that maintaining the anti-dumping measures on imports of the product under review originating in the PRC is in the interest of the Union industry.

7.2. Interest of unrelated importers, traders and users

- (165) The Commission invited unrelated importers, traders and users to come forward but did not receive any questionnaire reply.
- (166) The Commission did not receive any comments indicating that maintaining the measures would have a significant negative impact on the importers and users, outweighing the positive impact of the measures on the Union industry.
- (167) Therefore, the Commission concluded that maintaining the measures would not have any important impact on importers, traders and users of the Union.

7.3. Conclusion on Union interest

- (168) In view of the above, the Commission concluded that there are no compelling reasons of Union interest against maintaining the existing measures on imports of the product under review originating in the PRC. Maintaining measures would be in the interest of the Union industry and would not harm the situation of users and importers in the Union.

8. FINAL PROVISIONS

- (169) It follows from the above considerations that, under Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of certain molybdenum wires originating in the PRC, imposed by Regulation (EU) 2016/1046 should be maintained. As a consequence, the extension of the measures following anti-circumvention investigations mentioned in recital (2) should also be maintained.
- (170) In view of Article 109 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽⁵⁴⁾, when an amount is to be reimbursed following a judgment of the Court of Justice of the European Union, the interest to be paid should be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union* on the first calendar day of each month.
- (171) The measures provided for in this regulation are in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of molybdenum wire, containing by weight at least 99,95 % of molybdenum, of which the maximum cross-sectional dimension exceeds 1,35 mm but does not exceed 4,0 mm, originating in the People's Republic of China, not consigned from Malaysia, currently falling under CN code ex 8102 96 00 (TARIC code 8102 96 00 19).

⁽⁵⁴⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

2. The rate of the definitive anti-dumping duty applicable to the net, free-at-Union-frontier price, before duty, of the product described in paragraph 1 shall be 64,3 %.

Article 2

The duty set out in Article 1(2) is hereby extended to imports of molybdenum wire, containing by weight at least 99,95 % of molybdenum, of which the maximum cross-sectional dimension exceeds 1,35 mm but does not exceed 4,0 mm, currently falling under CN code ex 8102 96 00 (TARIC code 8102 96 00 11), consigned from Malaysia, whether declared as originating in Malaysia or not.

Article 3

The duty set out in Article 1(2) is hereby extended to imports into the Union of molybdenum wire, containing by weight at least 97 % but less than 99,95 % of molybdenum, of which the maximum cross-sectional dimension exceeds 1,35 mm but does not exceed 4,0 mm, originating in the People's Republic of China, currently falling within CN code ex 8102 96 00 (TARIC code 8102 96 00 30).

Article 4

The duty set out in Article 1(2) is hereby extended to imports of molybdenum wire, containing by weight at least 97 % of molybdenum, of which the maximum cross-sectional dimension exceeds 4,0 mm but does not exceed 11,0 mm originating in the People's Republic of China, currently falling under CN code ex 8102 96 00 (TARIC codes 8102 96 00 20 and 8102 96 00 40).

Article 5

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

Article 6

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, 25 July 2022.

For the Commission
The President
Ursula VON DER LEYEN