

## II

(Non-legislative acts)

## REGULATIONS

## COMMISSION IMPLEMENTING REGULATION (EU) 2016/181

of 10 February 2016

**imposing a provisional anti-dumping duty on imports of certain cold-rolled flat steel products originating in the People's Republic of China and the Russian Federation**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community <sup>(1)</sup>, and in particular Article 7 thereof,

After consulting the Member States,

Whereas:

## 1. PROCEDURE

## 1.1. INITIATION

- (1) On 14 May 2015, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports into the Union of certain flat-rolled products of iron or non-alloy steel, or other alloy steel but excluding of stainless steel, of all widths, cold-rolled (cold-reduced), not clad, plated or coated and not further worked than cold-rolled (cold-reduced) ('cold-rolled flat steel products') originating in the People's Republic of China ('PRC') and the Russia Federation ('Russia') (together, referred to as 'the countries concerned') on the basis of Article 5 of Regulation (EC) No 1225/2009 ('the basic Regulation'). It published a Notice of Initiation in the *Official Journal of the European Union* <sup>(2)</sup> ('the Notice of Initiation').
- (2) The Commission initiated the investigation following a complaint lodged on 1 April 2015 by the European Steel Association ('Eurofer' or 'the complainant') on behalf of producers representing more than 25 % of the total Union production of certain cold-rolled flat steel products. The complaint contained evidence of dumping of the said product and of resulting material injury that was sufficient to justify the initiation of the investigation.

## 1.2. REGISTRATION

- (3) Following a request by the complainant supported by the required evidence, the Commission published on 12 December 2015 Implementing Regulation (EU) 2015/2325 <sup>(3)</sup> making imports of certain cold-rolled flat steel products originating in the PRC and Russia ('the Registration Regulation') subject to registration as of 13 December 2015.

<sup>(1)</sup> OJ L 343, 22.12.2009, p. 51.

<sup>(2)</sup> OJ C 161, 14.5.2015, p. 9.

<sup>(3)</sup> Commission Implementing Regulation (EU) 2015/2325 of 11 December 2015 making imports of certain cold-rolled flat steel products originating in the People's Republic of China and the Russian Federation subject to registration (OJ L 328, 12.12.2015, p. 104).

- (4) Some interested parties claimed that the request for registration of imports was unfounded, as the conditions pursuant to Article 14(5) of the basic Regulation were not met. They alleged that the conditions for the retroactive collection of duties are not fulfilled as the request would be based on arbitrarily selected time periods, would neglect the cyclical nature of imports and, as to the registration of imports, as well as the retroactive application of measures, would be against the Union interest. However, at the time when the decision was taken the Commission had sufficient prima facie evidence justifying the need to register imports: imports and market shares from the countries concerned had sharply increased. The claim in this regard was therefore rejected.

### 1.3. INTERESTED PARTIES

- (5) In the Notice of Initiation, the Commission invited interested parties to come forward in order to participate in the investigation. In addition, the Commission specifically informed the complainant, other known Union producers, the known exporting producers, the Chinese and Russian authorities, known importers, suppliers and users, traders and associations known to be concerned about the initiation and invited them to participate.
- (6) Interested parties were given the opportunity to make their views known in writing and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings. All interested parties who so requested and showed that there were particular reasons why they should be heard were granted a hearing.

### 1.4. ANALOGUE COUNTRY PRODUCERS

- (7) The Commission also informed producers in Brazil, Canada, India, Japan, South Korea, Taiwan, Turkey, Ukraine and the USA about the initiation and invited them to participate. In the Notice of Initiation, the Commission informed interested parties that it provisionally chose Canada as a third market economy country ('analogue country') within the meaning of Article 2(7)(a) of the basic Regulation.

### 1.5. SAMPLING

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

#### 1.5.1. Sampling of Union producers

- (9) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. The Commission had selected the sample on the basis of the highest representative production and sales volumes whilst ensuring a geographical spread. This provisional sample consisted of five Union producers located in five different Member States and accounted for over 35 % of Union production of cold-rolled flat steel products. The Commission invited interested parties to comment on the provisional sample.
- (10) Eurofer submitted comments and for various reasons suggested a change in the proposed sample. However, after analysing these comments the Commission concluded that changing the sample as proposed by Eurofer would not improve its overall representativity. The Commission therefore confirmed the sample and received no further comments in this regard.

#### 1.5.2. Sampling of importers

- (11) The Commission asked unrelated importers to provide the information specified in the Notice of Initiation in order to decide whether sampling was necessary and, if so, to select a sample.
- (12) Thirteen importers provided the requested information and agreed to be included in the sample. Four of them were sampled, but only one of them submitted an importers questionnaire reply. In order to base its findings on a greater number of unrelated importers, the Commission contacted the remaining unrelated importers which had come forward in the sampling exercise but none of them confirmed their willingness to complete the importers questionnaire.

### 1.5.3. Sampling of exporting producers in the PRC and Russia

- (13) To decide whether sampling is necessary and, if so, to select a sample for the PRC and Russia respectively, the Commission asked all exporting producers in the PRC and Russia to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the People's Republic of China to the European Union and the Permanent Mission of the Russian Federation to the European Union to identify and/or contact exporting producers that could be interested in participating in the investigation.
- (14) Ten groups of exporting producers in the PRC and three in Russia provided the requested information and agreed to be included in the samples for the PRC and Russia respectively. With regard to the PRC and in accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of two groups of companies on the basis of the largest representative volume of exports to the Union which could reasonably be investigated within the time available. In accordance with Article 17(2) of the basic Regulation, all known exporting producers concerned, and the authorities of the PRC, were consulted on the selection of the sample. Having examined the comments received from one exporting producer, the Commission confirmed its proposed sample.
- (15) In view of the limited number of exporting producers in Russia the Commission decided not to select a sample for Russia but to investigate all the three groups of companies concerned. The companies in question and the authorities of Russia were informed accordingly.

### 1.6. INDIVIDUAL EXAMINATION

- (16) Six groups of exporting producers in the PRC indicated that they wish to request individual examination under Article 17(3) of the basic Regulation. However, none of them replied to the questionnaire and, thus, no individual examination could be considered.

### 1.7. REPLIES TO THE QUESTIONNAIRE

- (17) The Commission sent questionnaires to all parties known to be concerned and to all other companies that made themselves known within the deadlines set out in the Notice of Initiation. Questionnaire replies were received from five Union producers, three users, a group of related steel service centres, one steel service centre not related to an exporting producer in the countries concerned, three exporting producers in Russia, two groups of exporting producers in the PRC, and one producer in an analogue country.

### 1.8. VERIFICATION VISITS

- (18) The Commission sought and verified all the information deemed necessary for a provisional 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:

— Association:

— Eurofer, Brussels, Belgium.

— Union producers:

— ThyssenKrupp Germany, Duisburg, Germany

— Tata Steel UK Limited, Port Talbot, United Kingdom

— ArcelorMittal Belgium NV, Ghent, Belgium

— ArcelorMittal Sagunto S.L., Puerto de Sagunto, Spain

— U. S. Steel Košice, s.r.o., Košice, Slovak Republic.

— Unrelated importers in the Union:

— S. Polo Lamiere, San Polo di Torrile (PR), Italy.

- Users and/or steel service centres in the Union:
  - Valpro Ltd, Valmiera, Latvia
  - Dinex Latvia Ltd, Ozolnieku Novads, Latvia
  - Gonvarri I. Centro De Servicios, S.L., Madrid, Spain
  - Industrial Ferrodistribuidora, S.L., Puerto de Sagunto, Spain
  - Steel & Alloy processing limited, West Bromwich, United Kingdom.
- Exporting producers in the PRC:
  - Angang Group:
    - Angang Steel Company Limited, Anshan
    - Tianjin Angang Tiantie Cold Rolled Sheets Co. Ltd, Tianjin.
  - Shougang Group:
    - Beijing Shougang Cold Rolling Co. Ltd, Beijing
    - Shougang Jintang United Iron & Steel Co. Ltd, Tagshan.
- Related importer in the Union:
  - Ansteel Spain S.L., Alcobendas, Spain.
- Exporting producers in Russia:
  - Magnitogorsk Iron & Steel Works OJSC, Magnitogorsk
  - OJSC Novolipetsk Steel, Lipetsk
  - PAO Severstal, Cherepovets.
- Related steel service centre/trader/importer in the Union:
  - SIA Severstal Distribution, Riga, Latvia
- Related traders/importers outside the Union:
  - NOVEX Trading (Swiss) SA, Lugano, Switzerland
  - MMK Steel Trade AG, Lugano, Switzerland
  - Severstal Export GmbH, Stansstad, Switzerland.
- Producer in the analogue country:
  - ArcelorMittal Dofasco, Hamilton, Canada.

#### 1.9. INVESTIGATION PERIOD AND PERIOD CONSIDERED

- (19) The investigation of dumping and injury covered the period from 1 April 2014 to 31 March 2015 ('the investigation period' or 'IP').
- (20) The examination of trends relevant for the assessment of injury covered the period from 1 January 2011 to the end of the investigation period ('the period considered').

## 2. PRODUCT CONCERNED AND LIKE PRODUCT

### 2.1. PRODUCT CONCERNED

- (21) The product concerned is flat-rolled products of iron or non-alloy steel, or other alloy steel but excluding of stainless steel, of all widths, cold-rolled (cold-reduced), not clad, plated or coated and not further worked than cold-rolled (cold-reduced), currently falling within CN codes ex 7209 15 00, 7209 16 90, 7209 17 90, 7209 18 91, ex 7209 18 99, ex 7209 25 00, 7209 26 90, 7209 27 90, 7209 28 90, 7211 23 30, ex 7211 23 80, ex 7211 29 00, 7225 50 80, 7226 92 00 and originating in the PRC and Russia.

The following product types are excluded from the definition of the product concerned:

- flat-rolled products of iron or non-alloy steel, of all width, cold-rolled (cold-reduced), not clad, plated or coated, not further worked than cold-rolled, whether or not in coils, of all thickness, electrical,
  - flat-rolled products of iron or non-alloy steel, of all width, cold-rolled (cold-reduced), not clad, plated or coated, in coils, of a thickness of less than 0,35 mm, annealed (known as 'black plates'),
  - flat-rolled products of other alloy steel, of all width, of silicon-electrical steel, and
  - flat-rolled products of alloy steel, not further worked than cold-rolled (cold-reduced), of high-speed steel.
- (22) Cold-rolled flat steel products are produced from hot-rolled coils. The cold-rolling process is defined by passing a sheet or strip — that has previously been hot rolled and pickled — through cold rolls, i.e. below the softening temperature of the metal. Cold-rolled flat steel products are manufactured to meet certain specifications or proprietary end-user specifications. They can be delivered in various forms: in coils (oiled or not oiled), in cut lengths (sheet) or narrow strips. Cold-rolled flat steel products are an industrial input purchased by end-users for a variety of applications, mainly in manufacturing (general industry, packaging, automotive, etc.) but also in construction.

### 2.2. LIKE PRODUCT

- (23) 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 Russia, the PRC and Canada;
  - (c) the product produced and sold in the Union by the Union industry.
- (24) The Commission therefore provisionally decided that these products are like products within the meaning of Article 1(4) of the basic Regulation.

## 3. DUMPING

### 3.1. THE PRC

#### 3.1.1. Normal value

##### 3.1.1.1. Market economy treatment ('MET')

- (25) Pursuant to Article 2(7)(b) of the basic Regulation the Commission determines normal value in accordance with Article 2(1) to (6) of that Regulation for the exporting producers in the PRC which comply with the criteria in Article 2(7)(c) of the basic Regulation and could therefore be granted MET.
- (26) For the determination of whether the criteria in Article 2(7)(c) of the basic Regulation are met, the Commission sought the necessary information by asking the exporting producers to fill in the MET claim form. None of them claimed MET.

### 3.1.1.2. *Analogue country*

- (27) According to Article 2(7)(a) of the basic Regulation normal value was determined on the basis of the price or constructed value in a market economy third country for the exporting producers not granted MET. For this purpose, an analogue country had to be selected.
- (28) In the Notice of Initiation, the Commission indicated that it provisionally chose Canada as an appropriate analogue country and invited interested parties to comment. One exporting producer and the China Iron and Steel Association ('CISA') opposed the choice of Canada and claimed that Russia would constitute an appropriate choice.
- (29) The situation of Russia was examined in accordance with Article 2(7)(a) of the basic Regulation which provides that 'where appropriate, a market economy third country which is subject to the same investigation shall be used'. However, the Commission considers that Russia is not an appropriate analogue country for two reasons:
- Due to the imposition of international sanctions, prolonged geopolitical tensions in Ukraine and falling oil prices, the Russian economy was in an exceptional situation during the investigation period. Its gross domestic product had contracted for three quarters in a row and the Russian rouble had significantly lost value against major currencies, in particular 40 % against the Chinese currency, reaching its lowest level in 10 years. The Commission considers that the normal value which can be determined in such a rapidly deteriorating economy is only relevant for domestic producers and cannot serve as a reasonable analogue for the normal value in the PRC. Indeed, in a rapidly deteriorating economic situation prevailing in Russia during the IP, the prices for the like product could not and were not formed in circumstances which are as similar as possible to those in the PRC.
  - The Russian market is relatively closed and there is hence no genuine competition on this market. The market share of imports is not insignificant (10 % during the investigation period) but these imports originate almost exclusively from the Commonwealth of Independent States Free Trade Area. There are import duties in place (5 %) and the deteriorating value of the rouble during the investigation period further limits the ability of international suppliers to compete on the Russian market.
- (30) Subsequently, the Commission therefore examined whether any other market economy third country in which the like product is produced, could constitute an appropriate analogue country. In addition to India, South Korea and Ukraine, which were mentioned in the Notice of Initiation, the Commission contacted producers in Brazil, Japan, Taiwan, Turkey, and the USA. On the basis of the information received and of its own research, the Commission asked 35 known and potential producers of the like product in these countries to provide information. None of them replied to the analogue country producers' questionnaire. In addition, the Commission contacted three producers in Canada. Only one replied to the analogue country producers' questionnaire.
- (31) On the basis of the information collected and verified, Canada appears to be an appropriate analogue country for the following reasons:
- The product sold in the PRC and the product produced in Canada are identical in their physical characteristics, production process and applications. The Canadian market is sufficiently large. The cooperating producer is a large player with representative domestic sales.
  - The Canadian market is an open and competitive market. There are three Canadian producers of the like product. If the Canadian cooperating producer is by far the largest, it competes with a large amount of imports (59 % of market share during the investigation period) which enter Canada without duty. Most of these imports originate from three producers located in the USA. However, Canada also attracts a diversified base of other international suppliers which together account for a market share of approximately 15 % and includes the PRC, Japan, Russia, Turkey and South-Korea.
- (32) One exporting producer and the China Iron and Steel Association ('CISA') claimed that Canada was not an appropriate choice in so far as:
- The only Canadian producer that submitted an analogue country questionnaire in Canada is a company related to one of the complainants.

- The level of economic development of Canada is substantially different than that of the PRC.
  - The Canadian market is dominated by a single domestic producer; even if Canada has a large proportion of imports, they do not exert a competitive pressure because they mostly originate from the USA.
  - Contrary to the Chinese market where production exceeds the apparent consumption, the domestic production in Canada cannot meet the demand for cold-rolled steel on the Canadian market even with the highest capacity utilisation.
- (33) With regards to these claims, the Commission notes that:
- The existence of a relationship between the analogue country producer and an EU producer does not invalidate or affect the determination of the normal value which is based on duly verified data. In addition, the party has failed to produce any evidence capable of proving that those data are incorrect, or even to explain how the link in question could have affected their reliability.
  - The different level of overall economic development is, in itself, not a relevant factor when selecting an analogue country. As recently confirmed by the Court of Justice, high competitiveness, which is present in Canada, and technological development can offset the fact that a country has a higher level of costs.
  - It cannot be sustained that the cooperating producer holds a dominant position since the Canadian market is open to a large amount of imports. Regardless of their origins, these imports compete with the products sold by Canadian producers. In addition, the origin of these imports is not limited to the USA and includes a significant proportion of imports from other countries.
  - The choice of an analogue country cannot seek to replicate economic imbalances, such as over-capacity, which reflect a distortion in the allocation of assets in a non-market economy context. On the contrary, the fact that a large part of the Canadian consumption is not met by the domestic production but by imports shows that the decision to invest in production capacities is made on the basis of an open and competitive environment.
- (34) The Commission thus concluded at this stage that Canada is an appropriate analogue country under Article 2(7)(a) of the basic Regulation.

#### 3.1.1.3. Normal value (analogue country)

- (35) The information received from the cooperating producer in the analogue country was used as a basis for the determination of the normal value for the exporting producers not granted MET, pursuant to Article 2(7)(a) of the basic Regulation.
- (36) The Commission first examined whether the total volume of domestic sales of the cooperating producer in the analogue country was representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales are representative if the total domestic sales volume of the like product to independent customers on the domestic market represented at least 5 % of total export sales volume of the product concerned to the Union of each sampled Chinese exporting producer group during the investigation period. On this basis, the total sales of the cooperating producer of the like product on the domestic market of the analogue country were representative.
- (37) The Commission subsequently identified the product types sold domestically that were identical or comparable with the product types sold for export to the Union for the sampled groups of exporting producers.
- (38) The Commission then examined whether the domestic sales by the analogue country producer on its domestic market for each product type that is identical or comparable with a product type sold for export to the Union were representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales of a product type are representative if the total volume of domestic sales of that product type to independent customers during the investigation period represents at least 5 % of the total volume of export sales of the identical or comparable product type to the Union. The Commission established for both Chinese groups of exporting producers that domestic sales were representative for the majority of product types.

- (39) The Commission next defined the proportion of profitable sales to independent customers on the domestic market for each product type during the investigation period in order to decide whether to use actual domestic sales for the calculation of the normal value, in accordance with Article 2(4) of the basic Regulation.
- (40) The normal value is based on the actual domestic price per product type, irrespective of whether those sales are profitable or not, if:
- (1) the sales volume of the product type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of this product type; and
  - (2) the weighted average sales price of that product type is equal to or higher than the unit cost of production.
- (41) In this case, the normal value is the weighted average of the prices of all domestic sales of that product type during the investigation period.
- (42) The normal value is the actual domestic price per product type of only the profitable domestic sales of the product types during the investigation period, if:
- (1) the volume of profitable sales of the product type represents 80 % or less of the total sales volume of this type; or
  - (2) the weighted average price of this product type is below the unit cost of production.
- (43) The Commission's analysis of domestic sales showed that for most exported product types more than 80 % of all domestic sales were profitable and that the weighted average sales price was higher than the cost of production. Accordingly, for these product types the normal value was calculated as a weighted average of the prices of all domestic sales during the investigation period.
- (44) When a product type was not sold in representative quantities on the domestic market by the analogue country producer, the Commission constructed the normal value in accordance with Article 2(3) and (6) of the basic Regulation.
- (45) For the product type not sold in representative quantities on the domestic market, normal value was constructed by adding the average selling, general and administrative ('SG&A') expenses and profit of transactions made in the ordinary course of trade on the domestic market for those types to the average cost of production of the like product of the cooperating analogue country producer during the investigation period.

### 3.1.2. Export price

- (46) One sampled group of exporting producers exported to the Union both directly to independent customers and through related importers.
- (47) If the groups of exporting producers export the product concerned directly to independent customers in the Union, the export price was the price actually paid or payable for the product concerned when sold for export to the Union, in accordance with Article 2(8) of the basic Regulation.
- (48) If the group of exporting producers export the product concerned to the Union through related companies acting as an importer, the export price was established on the basis of the price at which the imported product was first resold to independent customers in the Union, in accordance with Article 2(9) of the basic Regulation. In this case, adjustments to the price were made for all costs incurred between importation and resale, including SG&A expenses, and for profits accruing.

### 3.1.3. Comparison

- (49) The Commission compared the normal value and the export price of the sampled groups of exporting producers on an ex-works basis.

- (50) Where justified by the need to ensure a fair comparison, the Commission adjusted the normal value and/or the export price for differences affecting prices and price comparability, in accordance with Article 2(10) of the basic Regulation. Adjustments were made for transport related costs, handling, loading and ancillary charges, indirect taxes, commissions, credit costs and bank charges.

#### 3.1.4. Dumping margins

- (51) For the sampled cooperating exporting producers, the Commission compared the weighted average normal value of each type of the like product with the weighted average export price of the corresponding type of the product concerned, in accordance with Article 2(11) and (12) of the basic Regulation.
- (52) On this basis, the provisional weighted average dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Table 1

#### Dumping margins, the PRC

Company	Provisional dumping margin (%)
Angang Group	59,1
Shougang Group	52,7

- (53) For the cooperating exporting producers outside the sample, the Commission calculated the weighted average dumping margin, in accordance with Article 9(6) of the basic Regulation. Therefore, that margin was established on the basis of the margins of the sampled groups of exporting producers.
- (54) On this basis, the provisional dumping margin of the cooperating exporting producers outside the sample is 56,9 %.
- (55) For all other exporting producers in the PRC, the Commission established the dumping margin on the basis of the facts available, in accordance with Article 18 of the basic Regulation. To this end, the Commission determined the level of cooperation of the exporting producers. The level of cooperation is the volume of exports of the cooperating exporting producers to the Union expressed as proportion of the total export volume — as reported in Eurostat import statistics — from the country concerned to the Union.
- (56) The level of cooperation in this case is high because the exports of the cooperating exporting producers constituted around 87 % of the total exports to the Union during the investigation period. On this basis, the Commission decided to base the residual dumping margin at the level of the sampled company with the highest dumping margin.
- (57) The provisional dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Table 2

#### Dumping margins, the PRC

Company	Provisional dumping margin (%)
Angang Group	59,1
Shougang Group	52,7

Company	Provisional dumping margin (%)
Other cooperating companies	56,9
All other companies	59,1

### 3.2. RUSSIA

#### 3.2.1. Introduction

- (58) The Commission investigated three Russian exporting producers representing almost all exports from Russia to the Union during the investigation period. As set out below, a number of issues emerged which led the Commission to provisionally consider the application of Article 18 of the basic Regulation for two of them.
- (59) For one exporting producer the Commission adjusted the costs of production reported in the reply to the questionnaire as set out in recital 76.
- (60) For the other exporting producer, the on-the-spot verification revealed that this company did not report to the Commission the totality of its production volume and capacity of the product concerned. The Commission found also on-the-spot that the company did not submit full information on its product coding system used for the production and sales of the product concerned, thereby making it impossible for the Commission to link information on sales per product type with information on production per product type. The Commission found further that during the on-the-spot verification the company did not have readily available information per product type on the quantities sold or used captively in further production. This information would have allowed the Commission to verify on-the-spot the deduction of captive use from the total cost of production reported, which the company claimed should be made to arrive at the cost of production of the reported quantity of the product concerned sold. The company provided the information necessary for the reconciliation of production, sales and captive use, which was requested at the verification, only after the verification visit of the Commission. The Commission analysed this new information by performing a stock reconciliation between the quantities of the product concerned produced, as reported after the verification visit, and the quantity sold or transferred for processing to other products. This stock reconciliation demonstrated that the company reported an overall higher quantity sold than what production made physically possible, taking into account stock variations, rejects and waste as reported by the company.
- (61) The Commission considered that for the reasons mentioned in recital 60 the information provided by the exporting producer, both before and after the on-the-spot verification visit, did not enable it to ascertain the accuracy and reliability of the information on sales volumes and costs of the product concerned provided by that exporting producer. The Commission concluded that the exporting producer failed to cooperate by not providing the information which it requested in order to assess and verify the sales volume and the production cost of the product concerned. This prevented the Commission from reliably establishing the export price and the normal value. Furthermore, given that the lack of reliability affected the entire data set provided at various stages by the exporting producer, the Commission was not in a position to rely on specific sub-sets of data provided concerning the different components of the dumping margin. Therefore, the Commission had to determine the dumping margin of that exporting producer on the basis of facts available and had to disregard the information provided by the exporting producer, because it could not arrive at reasonably accurate findings and because the information was not verifiable.
- (62) The Commission informed the exporting producer concerned on 30 October 2015 that for the reasons set out under recitals 60 and 61, it considered that the company had not provided the necessary information concerning export prices and cost of production of the product concerned within the time limits set in the basic Regulation and that it intended to apply facts available in accordance with Article 18 of the basic Regulation for the establishment of possible dumping for the company in question.
- (63) The company commented on the intention of the Commission to use facts available on 13 November 2015 and stated that it cooperated with the investigation to the best of its abilities. The company submitted that it had provided all information that would allow the Commission to arrive at reasonably accurate findings but that it could not be asked to report information that would impose an unreasonable, excessive investigative burden on it. The company further requested an exceptional second verification visit before the imposition of any provisional duty.

- (64) The Commission examined the comments of the company and concluded that these comments did not put forward any new, yet verifiable elements that could alter its intention to use, at this stage of the investigation, facts available in the determination of possible dumping for the company concerned. The Commission also considers that it has not imposed any unreasonable burden on the company by insisting on a proper reconciliation of its production and sales data which is necessary for the verification of such data for the product concerned. Furthermore, the Commission considers that in light of the deficiencies already identified in the information reported by the company itself, a second on-the-spot verification visit would not be meaningful. Thus, in line with Article 18 of the basic Regulation the Commission provisionally established the dumping margin for this company on the basis of facts available.

### 3.2.2. Normal value

- (65) The Commission first examined whether the total volume of domestic sales for each of the two exporting producers was representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales are representative if the total domestic sales volume of the like product to independent customers on the domestic market per exporting producer represented at least 5 % of its total export sales volume of the product concerned to the Union during the investigation period. On this basis, the total sales by each exporting producer of the like product on the domestic market were representative.
- (66) The Commission subsequently identified the product types sold domestically that were identical or comparable with the product types sold for export to the Union for the exporting producers with representative domestic sales.
- (67) The Commission then examined whether the domestic sales by each of the two exporting producers on its domestic market for each product type that is identical or comparable with a product type sold for export to the Union were representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales of a product type are representative if the total volume of domestic sales of that product type to independent customers during the investigation period represents at least 5 % of the total volume of export sales of the identical or comparable product type to the Union.
- (68) The Commission next defined the proportion of profitable sales to independent customers on the domestic market for each product type during the investigation period in order to decide whether to use actual domestic sales for the calculation of the normal value, in accordance with Article 2(4) of the basic Regulation.
- (69) The normal value is based on the actual domestic price per product type, irrespective of whether those sales are profitable or not, if:
- (1) the sales volume of the product type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of this product type; and
  - (2) the weighted average sales price of that product type is equal to or higher than the unit cost of production.
- (70) In this case, the normal value is the weighted average of the prices of all domestic sales of that product type during the investigation period.
- (71) The normal value is the actual domestic price per product type of only the profitable domestic sales of the product types during the investigation period, if:
- (1) the volume of profitable sales of the product type represents 80 % or less of the total sales volume of this type; or
  - (2) the weighted average price of this product type is below the unit cost of production.
- (72) The analysis of domestic sales showed that for some product types, some domestic sales were profitable and that the weighted average sales price was higher than the cost of production. Accordingly, the normal value was

calculated as a weighted average of prices of all domestic sales during the investigation period where conditions set under recital 69 above were met, or as a weighted average of the profitable sales only, where those conditions were not met. Where there were no or insufficient sales of certain product types of the like product or where no sales were found in the ordinary course of trade, the Commission constructed the normal value in accordance with Article 2(3) and (6) of the basic Regulation.

- (73) Normal value was constructed by adding the following to the average cost of production of the like product of the two exporting producers during the investigation period:
- (1) the weighted average selling, general and administrative ('SG&A') expenses incurred by the cooperating exporting producers on domestic sales of the like product, in the ordinary course of trade, during the investigation period; and
  - (2) the weighted average profit realised by the cooperating exporting producers on domestic sales of the like product, in the ordinary course of trade, during the investigation period.
- (74) For the product types not sold in representative quantities on the domestic market, the average SG&A expenses and profit of transactions made in the ordinary course of trade on the domestic market for those types were added. For the product types not sold at all on the domestic market, the weighted average SG&A expenses and profit of all transactions made in the ordinary course of trade on the domestic market were added.
- (75) All exporting producers acknowledged in their financial statements significant losses due to the foreign currency exchange differences arising on translation of transactions not denominated in Russian roubles. The Commission considered those as being part of the company's SG&A expenses and included those in the normal value calculation.
- (76) In the light of the findings of the on-the-spot verifications, the Commission adjusted the cost of production for one of the exporting producers. The Commission found that the exporting producer in question had not properly and accurately reflected the actual costs of materials and related purchase costs in its cost reported. The Commission was not able to reconcile the quantities, values and related costs of certain raw material purchased to the accounts of the company, as the company failed to report these costs in the purchase listings of the raw materials that it submitted to the Commission in its replies to the questionnaire and deficiency letter. The Commission found also that the company in question did not report the purchases of raw materials, as amended with its reply to the deficiency letter, in the format requested in the questionnaire, thereby making it impossible for the Commission to verify stock variations and material consumption during the investigation period. Furthermore, the Commission has evidence which it collected during the on-the-spot verification showing that the manufacturing costs in the accounts of the company differ from the manufacturing costs shown for the same accounts in the automated cost allocation module used for the allocation of costs to the different products.
- (77) The Commission informed the exporting producer concerned on 30 October 2015 that for the reasons set out under recital 76, it considered that the company had not provided the necessary information concerning the manufacturing cost of the product concerned within the time limits set in the basic Regulation and that it intended to make use of facts available in accordance with Article 18 of the basic Regulation for establishing the normal value.
- (78) The exporting producer commented on 13 November 2015 on the intention of the Commission to use the facts available and submitted additional explanations regarding differences between the expenses accounted in its general ledger accounts and costs identified in its cost calculation report. The company further admitted on 13 November 2015 the existence of discrepancies the Commission found during the on-the-spot verification visit and which pertain to purchase costs of raw materials, but it claimed that it could immediately identify the reasons for these discrepancies that it considered to be clerical mistakes.
- (79) The Commission examined the comments and explanations of the company and considered that the accuracy of the additional information submitted could no longer be verified and reconciled to the accounts of the company. The Commission further considered that the discrepancies that it found on-the-spot concerning purchase costs of raw materials were not clerical mistakes and noted that the company has not contested the Commission finding that the information on raw material purchase related costs, on stocks of raw material and on raw material consumption was missing from its replies to the questionnaire and deficiency letter. The Commission concluded that the comments and additional explanations of the company had not brought forward any new, yet verifiable

elements that could alter its intention to use, at this stage of the investigation, facts available in the determination of the normal value.

- (80) The Commission found also during the on-the-spot verification that the material consumption ratios that it obtained from the company's controlling department during the verification differed significantly from the material consumption ratios that the company reported on 24 September 2015 in its reply to the deficiency letter of the Commission. The Commission requested information from the company on-the-spot on this anomaly. The company clarified that for the reporting of its material expenses it had not used the consumption ratios from its controlling department but rather calculated the consumption ratios by dividing the material expenses that it reported to the Commission by the cost of the goods sold. For this reason, the Commission considered that the material consumption ratios that the company reported did not enable the Commission to make an accurate assessment of its material expenses. Consequently, as set out above, the Commission decided to modify the cost of production reported by the company to bring it in line with the factual evidence on costs of raw material that it collected during the on-the-spot verification.

### 3.2.3. Export price

- (81) The exporting producers exported to the Union either directly, via related companies acting as importers in the Union, or via related or unrelated traders/importers based in Switzerland. Those Swiss related companies, owned by the Russian exporting producers, purchased the product concerned from the exporting producers and further sold it to the Union and other countries.
- (82) When the exporting producer exported the product concerned directly to independent customers in the Union, the export price was established on the basis of prices actually paid or payable for the product concerned when sold for export to the Union, in accordance with Article 2(8) of the basic Regulation.
- (83) When the exporting producers exported the product concerned to the Union through a related company acting as an importer, the export price was constructed on the basis of the price at which the imported product was first resold to independent customers in the Union, in accordance with Article 2(9) of the basic Regulation. The export price was also, in accordance with the same Article, constructed when the product concerned was not resold in the condition in which it was imported. In such cases, adjustments to the price were made for all costs incurred between importation and resale, including SG&A expenses, and for profits.
- (84) The verification of one exporting producer showed that 20 % of the export sales to the Union were made to an unrelated trader based in Switzerland. The exporting producer reported those sales as sales to an independent party in the Union, claiming it has no relationship with this trader. Customs export declarations were used to prove the goods destination. Despite the sales currency agreed in the contracts between the exporting producer and trader being euros or US dollars, the exporting producer reported those sales as done in Russian roubles with corresponding invoices in Russian roubles. The Commission will continue investigating this matter, in particular whether the sales were actually made to an independent buyer for consumption in the Union and reported in the appropriate currency. The Commission provisionally included those sales in the determination of the export price.

### 3.2.4. Comparison

- (85) The Commission compared the normal value and the export price of the cooperating exporting producers on an ex-works basis.
- (86) Where justified by the need to ensure a fair comparison, the Commission adjusted the normal value and/or the export price for differences affecting prices and price comparability, in accordance with Article 2(10) of the basic Regulation.
- (87) As regards export prices, adjustments were made for transport related costs, handling, loading and ancillary charges, import charges, sales commissions, credit costs and bank charges. Concerning domestic prices, adjustments were made for domestic transportation costs, packing costs, credit costs, handling and commissions.

- (88) For price comparison involving foreign currencies, the Commission used, under Article (2)(10)(j) of the basic Regulation the exchange rate applicable at the date of purchase order or sales contract which more appropriately establishes the material terms of sale than the invoice date as the price negotiation resulting in establishing the price was made in the period close to the purchase order or sales contract date. The corresponding invoice was issued when the product has been shipped, which was generally one or two months later.
- (89) The Commission compared the weighted average normal value of each type of the like product with the weighted average export price of the corresponding type of the product concerned, in accordance with Article 2(11) and (12) of the basic Regulation.
- (90) For the determination of the provisional dumping margin of the exporting producer referred to in recitals 60 to 64, the Commission used as a fact available, the level of the dumping margin of the most exported product type that was found to be just above the overall dumping margin of one of the others exporting producers. The Commission based the selection of the suitable exporting producer on the sounder comparableness of the sales volumes on the domestic market and Union exports, geographical proximity, structure of the essential raw material inputs and reported capacity utilisation. On this basis, the provisional weighted average dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Table 3

**Dumping margins, Russia**

Company	Provisional dumping margin (%)
Magnitogorsk Iron & Steel Works OJSC	19,8
PAO Severstal	25,4
OJSC Novolipetsk Steel	26,2

- (91) For all other exporting producers in Russia, the Commission established the dumping margin on the basis of the facts available, in accordance with Article 18 of the basic Regulation.
- (92) As set out in recital 58, the investigated companies represented almost all exports from Russia to the Union. On this basis, the Commission decided to base the dumping margin for all other companies at the level of the company with the highest dumping margin.
- (93) The provisional dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Table 4

**Dumping margins, Russia**

Company	Provisional dumping margin (%)
Magnitogorsk Iron & Steel Works OJSC	19,8
PAO Severstal	25,4

Company	Provisional dumping margin (%)
OJSC Novolipetsk Steel	26,2
All other companies	26,2

#### 4. INJURY

##### 4.1. DEFINITION OF THE UNION INDUSTRY AND UNION PRODUCTION

- (94) Within the Union, 13 companies provided production and sales data in the standing exercise and indicated that they produced the like product during the investigation period. Based on the available information from the complaint, there are 15 other Union producers of the like product in the Union.
- (95) The total Union production during the investigation period was established at around 37 million tonnes. The Commission established the figure on the basis of all the available information concerning the Union industry, such as information from the complainant and from all known producers in the Union.
- (96) 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' within the meaning of Article 4(1) of the basic Regulation.
- (97) The cooperating Union producers represent 89 % of the total Union production of the like product.
- (98) The business model of the Union producers and their degree of vertical integration varies. 'Re-rollers', which have to source their pre-material needs from other producers, represent a minor share.

##### 4.2. UNION CONSUMPTION

- (99) As mentioned in recital 21, cold-rolled flat steel products fall within a number of CN codes including certain ex codes. In order not to underestimate Union consumption, and in view of the apparent marginal impact of such codes on total consumption, import volumes of CN ex codes have been fully accounted for the purpose of calculating Union consumption.
- (100) As the Union industry is mostly vertically integrated and cold-rolled flat steel products are regarded as a primary material for the production of various value added downstream products, captive and free market consumptions were analysed separately.
- (101) The distinction between captive and free market is relevant for the injury analysis because products destined for captive use are not exposed to direct competition from imports, and transfer prices are set within the groups according to various price policies and are therefore not reliable. By contrast, production destined for the free market is in direct competition with imports of the product concerned, and prices are free market prices.
- (102) To provide a picture of the Union industry that is as complete as possible, the Commission obtained data for the entire activity of cold-rolled flat steel products and determined whether the production was destined for captive use or for the free market. The Commission found that around 82 % of the total Union producers' production was destined for captive use.

#### 4.2.1. Captive consumption

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

Table 5

#### Captive consumption (tonnes)

	2011	2012	2013	2014	IP
Captive consumption	29 121 785	27 555 796	28 900 235	30 309 067	30 183 620
<i>Index (2011 = 100)</i>	100	95	99	104	104

Source: Verified Eurofer questionnaire reply.

- (104) During the period considered, the Union captive consumption increased by around 4 %. This increase is mainly due to a growth of the captive markets, such as for the automotive industry.

#### 4.2.2. Free market consumption

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

Table 6

#### Free market consumption (tonnes)

	2011	2012	2013	2014	IP
Free market consumption	7 839 959	6 819 677	7 376 829	7 152 193	7 122 682
<i>Index (2011 = 100)</i>	100	87	94	91	91

Source: Verified Eurofer questionnaire reply and Eurostat.

- (106) During the period considered, the Union free market consumption decreased by around 9 %. The drop is mainly due to a slow or lack of economic recovery for the downstream industry.

### 4.3. IMPORTS FROM THE COUNTRIES CONCERNED

#### 4.3.1. Cumulative assessment of the effects of imports from the countries concerned

- (107) 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.

- (108) The margins of dumping established in relation to the imports from the PRC and Russia are summarised under recital 57 and recital 93 above. All these margins are well above the *de minimis* threshold laid down in Article 9(3) of the basic Regulation.
- (109) 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 Russia held, in the investigation period, an EU market share of 10,3 % and 9,8 % respectively.
- (110) 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 because they were sold to similar categories of end customers.
- (111) Therefore and contrary to the claim made by one interested party, 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.

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

- (112) The Commission established the volume of imports on the basis of the Eurostat database. The market share of the imports was established by comparing import volumes with the Union free market consumption as reported in Table 6 above.
- (113) Imports into the Union from the countries concerned developed as follows:

Table 7

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

	2011	2012	2013	2014	IP
Volume of imports from the countries concerned	1 117 820	917 610	1 380 382	1 344 898	1 430 044
<i>Index (2011 = 100)</i>	100	82	123	120	128
Market share countries concerned	14,3 %	13,5 %	18,7 %	18,8 %	20,1 %
<i>Index (2011 = 100)</i>	100	94	131	132	141
Volume of imports from the PRC	651 654	406 811	653 366	620 140	732 383
<i>Index (2011 = 100)</i>	100	62	100	95	112
Market share PRC	8,3 %	6 %	8,9 %	8,7 %	10,3 %
<i>Index (2011 = 100)</i>	100	72	107	104	124
Volume of imports from Russia	466 165	510 800	727 016	724 758	697 661
<i>Index (2011 = 100)</i>	100	110	156	155	150

	2011	2012	2013	2014	IP
Market share Russia	5,9 %	7,5 %	9,9 %	10,1 %	9,8 %
<i>Index (2011 = 100)</i>	100	126	166	170	165

Source: Eurostat.

- (114) The above table shows that in absolute figures the imports from the countries concerned have increased significantly during the period considered. In parallel, the total market share of the dumped imports into the Union increased by 5,8 percentage points during the period considered.

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

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

Table 8

#### Import prices (EUR/tonne)

	2011	2012	2013	2014	IP
PRC	619	589	533	510	505
<i>Index (2011 = 100)</i>	100	95	86	82	82
Russia	630	574	518	499	489
<i>Index (2011 = 100)</i>	100	91	82	79	78
Average price of dumped imports	624	581	525	504	497
<i>Index (2011 = 100)</i>	100	93	84	81	80

Source: Eurostat.

- (116) The average prices of the dumped imports decreased from 624 EUR/tonne in 2011 to 497 EUR/tonne during the investigation period. During the period considered, the decrease of the average unit price of the dumped imports was around 20 %.
- (117) The Commission assessed the price undercutting during the investigation period by comparing:
- the weighted average sales prices per product type of the five Union producers charged to unrelated customers on the 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.

- (118) The price comparison was made on a type-by-type basis for transactions at the same level of trade, duly adjusted where necessary, and after deduction of rebates and discounts. The result of the comparison was expressed as a percentage of the Union producers' turnover during the investigation period.
- (119) On the basis of the above, the dumped imports from the countries concerned were found to undercut the Union industry prices by respectively 8,1 % and 14,4 % for the PRC and Russia.

#### 4.4. ECONOMIC SITUATION OF THE UNION INDUSTRY

##### 4.4.1. General remarks

- (120) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.
- (121) The macroeconomic indicators (production, production capacity, capacity utilisation, sales volume, stock, growth, market share, employment, productivity and magnitude of dumping margins) were assessed at the level of the whole Union industry. The assessment was based on the information provided by the complainant, cross-checked with data provided by Union producers and available official statistics (Eurostat).
- (122) The analysis of microeconomic indicators (sale prices, profitability, cash flow, investments, return on investments, ability to raise capital, wages and cost of production) was carried out at the level of the sampled Union producers. The assessment was based on their information, duly verified.
- (123) For some injury indicators relating to the Union industry, the Commission analysed separately data related to the free and the captive market and made a comparative analysis. These factors are: sales and market share, unit prices, unit cost and profitability. However, other economic indicators could meaningfully be examined only by referring to the whole activity, including the captive use of the Union industry because they depend on the whole activity, whether the production is captive or sold on the free market. These factors are: production, capacity, capacity utilisation, cash flow, investments, return on investments, employment, productivity, stocks and labour costs. For these factors, analysis of the whole Union industry is warranted in order to establish a complete injury picture of the Union industry, as the data in question cannot be separated out between captive sales and free sales.

##### 4.4.2. Macroeconomic indicators

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

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

Table 9

#### Production, production capacity and capacity utilisation

	2011	2012	2013	2014	IP
Production volume (tonnes)	36 296 343	34 174 111	35 788 676	36 912 062	36 633 691
<i>Index (2011 = 100)</i>	100	94	99	102	101

	2011	2012	2013	2014	IP
Production capacity (tonnes)	53 566 734	51 657 090	52 658 719	51 628 090	51 693 593
<i>Index (2011 = 100)</i>	100	96	98	96	97
Capacity utilisation	68 %	66 %	68 %	71 %	71 %

Source: Verified Eurofer questionnaire reply.

- (125) During the period considered, the Union industry's production volume increased by 1 %. 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. On this basis, the capacity decreased by 3 % during the period considered in an effort by the Union industry to contribute to the global overcapacity reduction.
- (126) The increase in capacity utilisation rate resulted from a slight increase in the production volume mainly driven by the increase in captive consumption and a capacity reduction.

#### 4.4.2.2. Sales volume and market share

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

Table 10

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

	2011	2012	2013	2014	IP
Sales volume (tonnes)	5 867 858	5 521 017	5 518 202	5 220 466	5 044 928
<i>Index (2011 = 100)</i>	100	94	94	89	86
Market share	74,8 %	81,0 %	74,8 %	73,0 %	70,8 %
<i>Index (2011 = 100)</i>	100	108	100	98	95

Source: Verified Eurofer questionnaire reply and Eurostat.

- (128) The Union industry sales volume on the Union market decreased by 14 % during the period considered, from about 5,9 million tonnes in 2011 to 5 million tonnes during the investigation period.
- (129) During the period considered, the Union industry's market share decreased from 74,8 % to 70,8 %. The decrease of Union industry's sales volume exceeded significantly the decrease in the Union free market consumption. Moreover, to avoid an even stronger shrinking of its market share, the Union industry was forced to lower its sales prices due to the continuous price pressure exerted by the imports concerned.

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

Table 11

**Captive volume and market share**

	2011	2012	2013	2014	IP
Captive volume	29 121 785	27 555 796	28 900 235	30 309 067	30 183 620
<i>Index (2011 = 100)</i>	100	95	99	104	104
Market share (out of total captive and free markets)	79 %	80 %	80 %	81 %	81 %
<i>Index (2011 = 100)</i>	100	100	102	101	103

Source: Verified Eurofer questionnaire reply and Eurostat.

- (131) The Union industry captive volume (composed of captive use and captive sales) on the Union market increased by 4 % during the period considered, from about 29,1 million tonnes in 2011 to 30,2 million tonnes during the investigation period.
- (132) As a consequence, the Union industry's captive market share expressed as a percentage of total consumption (both captive and free market) increased from 79 % to 81 % over the period considered.

4.4.2.3. *Employment and productivity*

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

Table 12

**Employment and productivity**

	2011	2012	2013	2014	IP
Number of employees (Full time employment/FTE)	21 598	21 292	20 331	19 781	19 513
<i>Index (2011 = 100)</i>	100	99	94	92	90
Productivity (tonne/FTE)	1 681	1 605	1 760	1 866	1 877
<i>Index (2011 = 100)</i>	100	96	105	111	112

Source: Verified Eurofer questionnaire reply.

- (134) The level of the Union industry employment decreased significantly in the period considered in order to reduce production costs and gain efficiency in view of the increasing competition from dumped imports on the market. This resulted in a reduction of workforce by 10 % during the period considered. As a consequence and in view of the slightly increasing production volume (+ 1 %) over the period considered, the productivity of the Union industry's workforce, measured as output per person employed per year, increased much more than the decrease in actual production. This shows that the Union industry was willing to adapt to the changing market conditions in order to remain competitive.

#### 4.4.2.4. Inventories

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

Table 13

#### Inventories

	2011	2012	2013	2014	IP
Closing stocks (tonnes)	1 270 093	1 119 887	1 201 229	1 190 252	1 075 152
<i>Index (2011 = 100)</i>	100	88	95	94	85
Closing stocks as a percentage of production	3,5 %	3,3 %	3,4 %	3,2 %	2,9 %
<i>Index (2011 = 100)</i>	100	94	96	92	84

Source: Verified Eurofer questionnaire reply.

- (136) During the period considered the level of closing stocks decreased by 15 %. Most types of the like product are produced by the Union industry based on specific orders of the users. Therefore, stocks are not considered to be an important injury indicator for this industry. This is also confirmed by analysing the evolution of the closing stocks as a percentage of production. As can be seen above, this indicator remained relatively stable at ca. 3 % of the production volume.

#### 4.4.2.5. Magnitude of the dumping margin

- (137) 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

- (138) The Union consumption decreased by around 9 % during the period considered, while the sales volume of the Union Industry on the Union market decreased by 14 %. The Union industry thus lost market share, contrary to the market share of the imports from the countries concerned which increased during the period considered.

#### 4.4.3. Microeconomic indicators

##### 4.4.3.1. Prices and factors affecting prices

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

Table 14

#### Sales prices in the Union

	2011	2012	2013	2014	IP
Sales price (EUR/tonne)	657	619	571	545	534
<i>Index (2011 = 100)</i>	100	94	87	83	81
Unit cost of production (EUR/tonne)	654	655	587	552	548
<i>Index (2011 = 100)</i>	100	100	90	84	84

Source: Verified questionnaire reply of sampled Union producers.

- (140) The table above shows the evolution of the unit sales price in the Union free market as compared to the corresponding cost of production. During the period considered, sales prices have on average decreased more (– 19 %) than their corresponding cost (– 16 %). Moreover, sales prices have on average been lower than the unit cost of production during the period considered, with the exception of 2011.
- (141) In order to limit the loss in market share, the Union producers were forced to follow the downward price spiral and reduce their sales price significantly. On the other hand, the decrease in cost of production can be explained by the decrease in raw material prices and the productivity gains obtained namely through workforce reductions as explained in Table 12 above.
- (142) Among the sampled producers, cold-rolled flat steel products for captive consumption were transferred or delivered at transfer prices for further downstream processing using different pricing policies (cost, cost plus, market price). Therefore, no meaningful conclusion can be drawn from captive use price evolution. In the same respect, the cost of production of the captive volume was not analysed either.

##### 4.4.3.2. Labour costs

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

Table 15

#### Average labour costs per FTE

	2011	2012	2013	2014	IP
Average labour costs per FTE (EUR)	60 184	61 231	64 819	65 849	66 825
<i>Index (2011 = 100)</i>	100	102	108	109	111

Source: Verified questionnaire reply of sampled Union producers.

- (144) During the period considered, the average wage per employee went up by 11 % which is slightly above the overall increase in prices in the EU due to inflation. This should however be considered in the context of the severe cuts in employment, as explained in recital 134.

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

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

Table 16

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

	2011	2012	2013	2014	IP
Profitability of sales in the Union to unrelated customers (% of sales turnover)	0,5 %	- 5,7 %	- 2,9 %	- 1,5 %	- 2,7 %
<i>Index (2011 = 100)</i>	100	- 1 200	- 621	- 317	- 561
Cash flow ('000 EUR)	18 943	- 41 751	1 074	24 409	25 941
<i>Index (2011 = 100)</i>	100	- 220	6	129	137
Investments ('000 EUR)	32 617	18 548	16 878	23 049	28 136
<i>Index (2011 = 100)</i>	100	57	52	71	86
Return on investment	- 3,09 %	- 8,63 %	- 6,42 %	- 3,54 %	- 3,35 %

Source: Verified questionnaire reply of sampled Union producers.

- (146) 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.
- (147) Profitability developed negatively over the period considered from a slight profit situation in 2011 to continuous losses from 2012 (- 5,7 %) to the investigation period (- 2,7 %). While the heavy losses in the year 2012 are partly linked to the European debt crisis and subsequent economic crisis, the considerable price and volume pressure exerted on the Union industry by the increasing imports from the countries concerned over the period 2013-investigation period have not allowed the Union industry to benefit from the slow recovery of the European economy.
- (148) As mentioned above, in view of the wide variety of pricing policies (e.g. cost, cost plus, market price) among the sampled EU producers for captive volumes, no meaningful conclusion can be drawn from captive use price evolution, nor from captive use profitability evolution.
- (149) According to an interested party, there is a risk that integrated mills like many EU producers may manipulate individual production unit profitability data for the purpose of the investigation. However, the Commission verified the data submitted by the producers and was satisfied by the figures eventually obtained.

- (150) The net cash flow is the ability of the Union producers to self-finance their activities. The trend in net cash flow followed an upward trend (+ 37 %), mainly due to a reduction in inventories.
- (151) As return on investment remained negative overall (ca. - 3 %), the Union industry reduced the level of its investments by 14 % between 2011 and the investigation period. The ability to raise capital has been affected by the losses incurred during the period considered as can be seen from the decrease in investments.

#### 4.4.4. Conclusion on injury

- (152) The Union industry as a whole could slightly increase its production volumes and improve its capacity utilisation rate due to the strong increase in captive consumption. It also took concrete actions to improve efficiency by reducing labour force and production capacity and by keeping a tight grip on costs of manufacturing.
- (153) Despite these concrete actions by the Union industry during the period considered to improve its overall performance, the situation of the Union industry in the free market deteriorated significantly during the period considered as losses started to accumulate from 2012 onwards. Indeed, sales volumes on the Union free market decreased by 14 %, sales unit prices dropped by 19 % while cost of production only decreased by 16 %. Moreover the Union industry lost market share to imports from the countries concerned and had to reduce investments in the light of the continuously negative return on investment.
- (154) According to the Russian authorities, the fact that some complainants envisage to invest in non-EU countries undermines the allegation of injury. However nothing on file shows that such investments are for cold-rolled flat steel products. Moreover, the investments seem to concern rather companies that, although they might be within the same group as the Union producers, are active in other parts of the world.
- (155) On the basis of the above, it can be concluded that the Union industry, analysed in its two segments and as a whole, suffered material injury in the main injury indicators, such as negative profitability and loss of sales volume and market share.

### 5. CAUSATION

- (156) 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. These factors are: the economic crises, Union producers not being sufficiently competitive/efficient, imports by Union producers, imports from third countries, the export sales performance of the Union producers, certain quotas, the performance of non-complainants and some capacity issues.

#### 5.1. EFFECTS OF THE DUMPED IMPORTS

- (157) Sales prices of the exporting producers decreased on average from 624 EUR/tonne in 2011 to 497 EUR/tonne during the investigation period (- 20 %). By continuously lowering their unit sales price during the period considered, the producers from the countries concerned were able to significantly increase their market share from 2011 (14,3 %) to the investigation period (20,1 %).
- (158) While the drop in demand caused by the financial crisis affected negatively the performance of the Union industry in 2012, the subsequent almost continuous increase in imports from the countries concerned at undercutting prices has had a clear negative impact on the performance of the Union industry. Indeed, while the Union industry was cutting its costs by reducing employment and benefitting from the decrease in raw material prices, dumped imports kept on increasing and forced the Union industry to decrease its Union sales prices even more to limit its loss of market share. Further, while the Union industry's profitability showed slight

improvement by reducing losses in 2014, the volume of imports increased further and prices decreased even more in the investigation period bringing the Union industry prices and profitability further down.

- (159) 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 and price depression resulting in a loss-making situation, it is concluded that the dumped imports were responsible for the injurious situation of the Union industry.
- (160) Moreover, the progressive slowing down of the Chinese economy and the, according to the file, very significant overcapacity of the Chinese steel industry has pushed Chinese steel producers to redirect their excess production towards export markets and the Union market is an attractive export destination. Indeed, a large number of other traditionally important export markets imposed or are considering imposing measures against Chinese and also Russian steel products, including cold-rolled flat steel products, because prices are artificially driven down by unfair imports leading to unhealthy competition. With the growing imposition of trade defence measures across the globe, the Union market has become one of the most attractive destinations for Chinese and Russian dumped imports, to the detriment of Union industry. This conclusion is corroborated by the most recent Eurostat import statistics which show that Chinese and Russian imports have increased even more since the end of the investigation period. Import volumes in September 2015 were 48 % higher than in April 2015 while average prices of these imports continued to decrease.

## 5.2. EFFECTS OF OTHER FACTORS

### 5.2.1. The economic crises

- (161) The world economic crisis caused a contraction of demand in the Union and declining sales prices.
- (162) A party raised a number of arguments highlighting the specificities of the year 2012 ('Eurozone crisis') for the cold-rolled flat steel products Union market and contested that the Union industry was impacted by Chinese imports during that period. Similarly, Russian producers suggested that the 2012 market downturn was at the origin of the injury incurred by the Union industry.
- (163) The investigation could not confirm such allegations. On the one hand, even if the Union cold-rolled flat steel products market has been impacted by the crises, namely during the years 2008-2009 and in 2012, the market was recovering slightly from their effects with a relatively stable, yet stagnating market demand. The Russian authorities acknowledged the slow recovery of the largest consumer of steel products in the Union, the construction industry. On the other hand, whereas between 2012 and 2013 the Union industry could have benefited from the recovery of the market, it was prevented from doing so by a further increase in imports from the PRC and Russia. Cheap imports gradually increased and captured market shares to the detriment of the Union industry. In addition, the particular situation in 2012 should not bear a crucial impact on the trend during the longer period of analysis and it is in any event clear that the continuous pressure of imports started to be fully felt in 2012.
- (164) The exclusion of 2012 from the volume-effect analysis requested by the party was found not to be justified. Trends would be missing one key element, thus distorted.
- (165) It can be provisionally concluded that the economic crises are not the root cause of the Union industry's injury and do not break the causal link between the dumped imports and the injury of the Union industry.

### 5.2.2. Union producers are not sufficiently competitive/efficient

- (166) Some interested parties alleged that the Union producers were not sufficiently competitive due to comparatively higher costs and that alleged injury stems from the inefficiency of the complainants.

- (167) The Russian authorities referred to the high production costs of the European steel companies, in particular, from the environmental modernisation of metallurgy production in the Union. They notably blamed the establishment of sectoral limits on greenhouse gas emissions and increasing fees for carbon dioxide emissions and costs of compliance with regulatory requirements in the area of environmental and climate policy for the European companies.
- (168) In reply to this allegation, however, Eurofer emphasised that, based on the complaint, the costs of goods sold of the complainants decreased in the year for which the costs of compliance with regulatory requirements should have allegedly incurred. In addition, it is important to mention that the numerous environmental regulations implemented in the Union are in general not recent and the investigation showed that the share of environmental compliance costs is moderate and had thus no significant impact on the operations of the Union steel mills during the period considered.
- (169) The Russian producers challenged the soundness of the investments made by the complainants in 2011-2012 and the capacity increase in 2011. They attributed the decreased profitability to the Union industry's own business decisions and the injury to the inability of complainants to reposition themselves in the face of global competition. However the investigation showed that business decisions made during the period considered were carefully assessed. Investments, upstream and downstream, were made in order to increase efficiency, improve the product quality, develop high technological products and satisfy the increasing customer requirements. Indeed, the capacity of the Union industry decreased by 3 % during the period considered (see Table 5). In addition, the cold-rolled flat steel products production capacity is not entirely dedicated to the cold-rolled flat steel products market per se as the cold-rolled flat steel production is also used for downstream activities, as pinpointed in Section 4.2. The impact of the export performance of the Union industry is explained below.

#### 5.2.3. Decrease in raw materials and cold-rolled flat steel products prices on the global market

- (170) In the view of several parties, cold-rolled flat steel products prices of the Union producers and of the countries concerned would follow a sole worldwide price trend and basically reflect the decreasing prices of raw materials. One party also alleged that the complainants failed to take the advantage of decreasing raw material costs and reduce their average costs of goods sold.
- (171) However, if a general decreasing trend in cold-rolled flat steel products prices may have played a certain role, the decreasing prices on the Union market cannot be attributed solely to such a general worldwide situation.
- (172) First, the price development of cold-rolled flat steel products in the international context shows regional differences. Countries with limited installed capacities, such as Brazil or Argentina, have a relatively low impact on the global price setting process and price development is less volatile. By contrast, in established steel markets, domestic producers compete with many import sources, leading to a growing price pressure and, consequently, to price erosions. This situation gets exacerbated by dumped prices.
- (173) Second, even if the PRC and Russia are amongst the most steel-consuming countries in the world, both countries have a significant excess capacity. Producers from the PRC and Russia are thus incentivised to export their surplus of production at low prices, thereby impacting and distorting global prices.
- (174) Third, as noted by Eurofer, import prices from the countries concerned have decreased more than the decrease in raw material prices/upstream material over the same period. This observation is corroborated by the comparison between the cost of production of the Union industry, which decreased altogether by 16 % over the period considered, whereas the average import prices decreased by 20 % over the same period. Or, although the decrease in cost of production was not only due to a lower cost for the raw materials used but also efficiency gains achieved by Union producers (see recital 134), it was still inferior to the decrease in import prices from the PRC and Russia.
- (175) Under fair market conditions, the Union industry could have maintained its sales price levels so as to reap the benefits of a reduction in costs and reach profitability again. However Union producers had to continue to depress their sales price and after the investigation period prices continued to fall down to historically low levels.

#### 5.2.4. Imports from third countries

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

Table 17

#### Import volume from other countries (tonnes) and market share

	2011	2012	2013	2014	IP
Volume of imports from third countries	854 281	381 049	478 244	586 829	647 710
<i>Index (2011 = 100)</i>	100	45	56	69	76
Market share	10,9 %	5,6 %	6,5 %	8,2 %	9,1 %
Volume of imports from Ukraine	228 125	134 423	156 809	158 265	174 020
<i>Index (2011 = 100)</i>	100	59	69	69	76
Market share	2,9 %	2,0 %	2,1 %	2,2 %	2,4 %
Volume of imports from the India	87 071	58 993	68 136	101 873	138 038
<i>Index (2011 = 100)</i>	100	68	78	117	159
Market share	1,1 %	0,9 %	0,9 %	1,4 %	1,9 %
Volume of imports from Iran	2 343	1 271	521	82 072	70 782
<i>Index (2011 = 100)</i>	100	54	22	3 503	3 021
Market share	0,0 %	0,0 %	0,0 %	1,1 %	1,0 %

Source: Eurostat.

- (177) Imports from the countries concerned constitute the vast majority of all imports in the Union. Other imports decreased by – 24 % during the period considered; i.e. more than the decrease in Union free market consumption. The market share of such imports has thus decreased from 10,9 % in 2011 to 9,1 % in the investigation period.
- (178) Numerous interested parties argued that the effects of imports from third countries have been allegedly underestimated, namely in terms of their performance and growth rates. In particular, the Russian authorities and the Russian producers considered that the complainant undervalued the factor of growing imports from other countries, especially from India and Ukraine. One interested party highlighted that imports of cold-rolled flat steel products from Iran and Ukraine were made at prices even lower than that of imports from the PRC and Russia, and together they account for 12,3 % of total imports into the Union.
- (179) First, at the current time there is no evidence that imports from India, Iran or Ukraine would be dumped on the Union market.

- (180) Moreover, based on figures available through Eurostat, and calculated consumption on the Union market, the market share of the aforementioned imports is low. Although the market share of imports from India, Iran and Ukraine together increased from 4,1 % in 2011 to 5,4 % in the investigation period, their individual market shares ranged between 1 % and 2,4 % only. Such import sources are thus unlikely to have had the impact alleged by interested parties and do not break the causal link.
- (181) Nevertheless, the Commission will be closely monitoring the evolution of the market situation and may, if necessary, take appropriate measures to tackle dumping from the aforementioned countries.

#### 5.2.5. Export sales performance of the Union industry

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

Table 18

#### Export performance

	2011	2012	2013	2014	IP
Export volume to unrelated customers	767 756	784 562	755 574	766 223	799 362
<i>Index (2011 = 100)</i>	100	102	98	100	104
Average price (EUR/t)	639	606	565	553	557
<i>Index (2011 = 100)</i>	100	95	88	87	87

Source: Verified questionnaire reply of Eurofer and sampled Union producers.

- (183) The volume of exports to unrelated customers remained stable between 2011 and 2014 before increasing by 4 % in the investigation period. As far as prices are concerned, they dropped significantly by – 13 % over the period considered; i.e. less than the price on the Union market (– 19 %).
- (184) A party stated that the increasing export sales show the competitiveness of the EU-origin cold-rolled flat steel products on the global market and illustrates that the complainants are performing well.
- (185) However, any increase in export sales should be seen as a self-defence measure by Union producers looking for profitable niches in export markets so as to maintain sufficient capacity utilisation and safeguard jobs in the Union. The increase is also related to the fact that certain Union producers are global players that need to follow their customers when they invest in new markets before local subsidiaries take over the supply to such customers.
- (186) In this respect it is noted that exports to unrelated customers remained stable between 2011 and 2014, and only started to increase in the investigation period (+ 4 %). Such increased exports mainly concerned specific markets, such as the United States, the PRC and Algeria, and mainly consist in high added value and specialties products, for which the Union industry has a competitive advantage in terms of quality and reliability of supply. By contrast, according to Eurofer, exports towards countries which are more commodities-oriented decreased.
- (187) Based on data in the complaint, one interested party also alleged that the increasing export quantities were sold at a loss and therefore had a negative impact on the profitability of the Union industry as a whole. This allegation is ill-founded. As mentioned above, the increase in export sales to unrelated customers took place mostly in the

investigation period. It is also noted that export sales accounted for not more than 12 % to 14 % of total sales to unrelated customers and that export prices decreased less than prices in the Union and were significantly higher than those at the end of the period considered.

#### 5.2.6. Capacity issues affecting the Union steel industry

- (188) Some interested parties claimed that structural problems of the Union steel industry such as overcapacity have been the cause of injury to the Union industry. In the same vein, the Russian authorities noted that according to the OECD publication 'Excess capacity in the global steel industry and the implications of new investment projects' (2014), excess capacity is hurting the global steel industry, resulting, among others, in low prices.
- (189) However, the Union industry undertook steps to tackle any potential excess in its overall steel capacity and output so as to adapt to the recent market developments. Based on OECD data <sup>(1)</sup>, steel capacity is expected to increase worldwide, except for the Union. Table 9 above shows that the capacity of the Union industry decreased by 3 % over the period considered. On the contrary, the production capacity of most of the cooperating exporting producers in the countries concerned increased over the same period.

#### 5.2.7. Imports by the Union industry

- (190) The Russian producers argued that complainants' imports from the PRC and Russia strongly suggest self-inflicted injury and that complainants cannot be allowed to take advantage of the situation rendered by their own hands.
- (191) In this regard, the complainants claim to be integrated steel groups with trading arms that operate independently from the producing mills. Trading arms, free to purchase their cold-rolled flat steel products needs from multiple sources, were occasionally confronted with a roaring pressure from customers to obtain the cheapest material possible and, allegedly, compelled to source a very limited part of their needs from imports, including from the PRC and Russia, so as to secure and maintain their commercial relationships. This issue was already acknowledged in the complaint as regards some of the Union producers.
- (192) However, it cannot reasonably be held that the injury suffered by the Union industry was self-inflicted due to these imports. Such imports were made by only some of the Union producers, represent low volumes (between 0-5 % of the sales of the complainants, made by trading arms of the Union producers) and were made as a matter of temporary self-defence as a reaction against low-priced dumped imports from the PRC and Russia.

#### 5.2.8. The existence of previously applicable agreement on trade in certain steel products between Russia and the Union

- (193) The Russian authorities referred to the previously applicable Union-Russia trade agreements in the steel sector to assert that 'the volume of Russian imports set under the said Agreement was considered non-injurious and (the current) volume remains in line with the volume under the Agreement'. Similarly, Russian producers contend that the quotas included in these subsequent agreements were deemed non-injurious and that the safeguard mechanism provided for in the agreements was never sought, much less implemented.
- (194) These claims are however unfounded. On the one hand, information on file shows that the quotas were too high further to the economic crisis due to the fact that they had not been revised. The agreements in question, which date back to October 1997, were frequently negotiated (e.g. in the context of the Union enlargements) but the quotas were never substantially adjusted downwards in order to take into account new market developments. Moreover, the relevant quotas covered a much broader product range than cold-rolled flat steel products, including downstream products. The full quotas were never foreseen for cold-rolled flat steel products only.
- (195) The reasons why Russian imports are now more a problem for the Union market than in the past is simply based on the fact that the substantial increase in imports from Russia, coupled with the low, dumped prices are now disturbing the Union market to an extent that cannot be compared to the periods before.

<sup>(1)</sup> <http://www.oecd-ilibrary.org/docserver/download/5js65x46nxhj.pdf?expires=1450430707&id=id&accname=guest&checksum=E0DE6D6E5A5D07EAEAF9326A72404>

### 5.2.9. Non-complainants are potentially causing injury to the Union industry

- (196) Certain interested parties claimed that non-complainants were not incurring any injury and that they were actually potentially causing injury to the Union industry. They stated that the Union industry is divided into successful forward-thinking producers (i.e. the non-complainants) and others (the complainants). They argued that the predicament of the complainants cannot be attributed to Russian imports since the non-complainants, representing 24 % of Union production of cold-rolled flat steel products, vastly outperform the complainants with respect to a number of injury indicators.
- (197) These allegations are unfounded. First of all, it is a core principle of any trade defence proceeding that the participation to said proceeding is made on a voluntary basis. Secondly, some of the injury findings are based on sampled Union producers, which are representative of the entire Union industry in light of Section 1.5.1.
- (198) Thirdly, while it is true that non-complaining producers appear to have increased their production levels, this should be seen in light of the fact that certain of these producing mills are also producers active in the downstream sector, such as hot-dip galvanised cold-rolled flat steel. Higher production volumes do not necessarily imply higher profitability and a better position on the Union market. To the contrary, this may hint towards the fact that these producing mills have preferred to focus their activities on more niche, high added value products, rather than competing with dumped Chinese and Russian exports on the cold-rolled flat steel products market.
- (199) Fourthly, complaining producers accounted for 89 % of the total production of Union mills, excluding re-rollers, in the Union during the investigation period. As a result, the complaining mills are significantly representative of the Union industry as a whole and the fact, whether established or not, that certain producers in the Union are managing to perform better on the Union market may be the result of a variety of factors that does not cast doubt as to the fact that, as a general manner, the Union industry is suffering from dumped imports. Fifthly, in terms of sales, although non-complaining producers may have performed slightly better, although stagnating, than the complaining producers, the trend reversed starting 2014.
- (200) In addition, information on the file suggests that re-rollers are also under the same downward price pressure on the Union market and their situation is comparable to that of the Union integrated mills.
- (201) To conclude, it appears that non-complaining producers did not outperform the complaining producers and that their situation, especially in light of their share of the Union production, is not such as to break the causal link between the dumped imports and the injury incurred by the Union industry as a whole.

### 5.3. CONCLUSION ON CAUSATION

- (202) A causal link was provisionally established between the injury suffered by the Union producers and the dumped imports from the countries concerned.
- (203) 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 such as the economic crisis, the allegation that the Union industry is not sufficiently competitive and/or efficient, the imports from third countries, the role of non-complainants, the export sales performance of the Union producers or the overcapacity of the Union industry, were provisionally not found to break the causal link, even considering their possible combined effect. The crisis and the decrease in consumption as well as the rationalisation of the Union industry may have somewhat contributed to the injury, but in the absence of ever decreasing prices of dumped imports, the situation of the Union industry would certainly not have been affected to such a significant extent. In particular, sales prices would not have dropped to such low levels and better profitability would have been achieved.
- (204) 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.

## 6. UNION INTEREST

- (205) In accordance with Article 21 of the basic Regulation, the Commission examined whether it could clearly conclude that it was not in the Union interest to adopt measures in this case, 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.

### 6.1. INTEREST OF THE UNION INDUSTRY

- (206) The Union industry is located in 17 Member States (United Kingdom, France, Germany, Slovak Republic, Italy, Slovenia, Luxembourg, Greece, Belgium, Poland, the Netherlands, Austria, Finland, Sweden, Portugal, Hungary and Spain), and employs directly ca. 20 000 employees in relation to cold-rolled flat steel products.
- (207) Thirteen producers cooperated during the investigation. None of the known producers opposed the initiation of the investigation. As shown above when analysing the injury indicators, the whole Union industry experienced a deterioration of its situation and was negatively affected by the dumped imports.
- (208) It is expected that the imposition of provisional anti-dumping duties will restore fair trade conditions on the Union market, putting an end to the price depression and enabling the Union industry to recover. This would result in an improvement of the Union industry's profitability towards levels considered necessary for this capital intensive industry. 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. In particular, injury indicators related to the financial performance of the sampled Union producers, such as profitability and return on investment, were seriously affected. It is therefore important that prices be restored to a non-dumped or at least a non-injurious level in order to allow all various producers to operate on the Union market under fair trade circumstances. In the absence of measures, a further deterioration of the Union industry's economic situation appears very likely. A bad performance on the cold-rolled flat steel products segment would impact the downstream and upstream segments of many Union producers as capacity utilisation on these segments is closely linked to the production of the product investigated.
- (209) It is therefore provisionally concluded that the imposition of anti-dumping duties would be in the interest of the Union industry. Any imposition of anti-dumping measures would allow the Union industry to recover from the effects of injurious dumping found.

### 6.2. INTEREST OF UNRELATED IMPORTERS

- (210) As indicated in recital 12, only one company out of the four sampled provided a questionnaire reply. Further, the investigation revealed that out of the 13 companies that had come forward at sampling stage, none of them qualified as a pure unrelated importer. Indeed, most of the parties initially contacted were in fact (groups of) steel service centres, generally with relationships either with the Union industry or parties in the countries concerned. The Commission sought further cooperation from more unrelated importers at a later stage but no unrelated importer which had come forward at the sampling stage was eventually willing to provide the Commission with a questionnaire reply.
- (211) The investigation showed that an increase in prices derived from measures, if any, would not have a direct impact on unrelated importers. In principle, there is no evidence that importers or steel service centres might be unable to pass on price increases to their customers. In addition they can also import from other countries not subject to this investigation.
- (212) An Italian association representing 32 Italian service centres stated that imports are necessary for companies active in the distribution sector because diversifying the sources of supply guarantees secure and reliable supplies to their clients. This is allegedly a concern since Italian cold-rolled flat steel producers made investments in galvanising lines (i.e. reduced sales of cold-rolled flat steel products onto the Union free market) and had some production and shipments issues with cold-rolled flat steel products, which provoked uncertainty in the Italian national market.

- (213) In this regard it is noted that duties should contribute to continuous security of supply for the distributors' clients. Without duties, some of the cold-rolled flat steel producers in the Union might have to close down/reduce their cold-rolled flat steel production activities and leave many Union users with limited sources of supply. Moreover the level of measures will lead to a level playing field but still allow for imports from the countries concerned (at fair prices) and other sources.
- (214) Last, a group of cooperating steel service centres indicated to be favourable to measures in the short-medium run as a means to help Union mills.
- (215) In view of the above, it is provisionally concluded that the imposition of measures will not have significant negative effects on the interest of the Union importers.

### 6.3. INTEREST OF USERS

- (216) The main end-user industries for cold-rolled flat steel products are automotive, household appliances (white goods), construction and a large variety of industrial goods. Large users (such as belonging to the automotive or household appliance sectors) did not cooperate in the proceeding.
- (217) Only three users in Latvia with imports from Russia cooperated with the investigation. Duties affecting Russian cold-rolled flat steel products might have some impact at least on one of them. But due to their size and specific activities, these users cannot be considered to be representative of the impact of duties on Union cold-rolled flat steel products users as a whole.
- (218) According to a submission of an Italian association representing 32 Italian service centres, measures would trigger more delocalisation of major users in industrial groups from Italy and it referred to Electrolux and Whirlpool. Allegedly, the delocalisation process had started some time ago, hurts Italy's overall economy and has negative social implications resulting from the loss of jobs.
- (219) Even if it cannot be contested that duties can in the abstract affect users negatively in terms of higher purchase prices, nothing on the file supports that for Italian users cold-rolled flat steel products costs are so significant (as compared to total costs) to affect profitability and trigger delocalisation of major industrial groups. The level of duties proposed cannot be deemed prohibitive either. In addition, nothing confirms whether users in non-Italian markets might be or will be experiencing the same as what is alleged for the Italian ones — according to the abovementioned Italian association, the specificities of the Italian market are manifold.
- (220) A few parties submitted that measures will prevent Union downstream industries from having access to reasonably priced products. Two Latvian users, a small Portuguese and a small Polish importer added that only some Russian producers with which they had historical relationships sell certain product types and that, overall, the interests of smaller business in the Union were neglected (as compared those of the Union steel producers).
- (221) These allegations are rejected. As concerns the second point, the interests of smaller businesses in the Union have been considered in light of the information available. Even if it cannot be contested that duties can in the abstract affect users negatively in terms of higher purchase prices, nothing on file supports that cold-rolled flat steel products costs are so significant (as compared to total costs) for them. In addition increased costs might be (partly) passed on. The level of duties proposed cannot be deemed unreasonably high either.
- (222) Further, cold-rolled flat steel products are a commodity produced not only in several Union countries but also in numerous countries that are already exporting to the Union at reasonable prices. Therefore the fear of limited access to reasonably priced products and the unavailability of very specific grades seem ill-founded.
- (223) In view of the above, it is provisionally concluded that the imposition of measures would not have any disproportionate negative impact on users.

#### 6.4. OTHER INTERESTS

- (224) One interested party submitted that measures will slow down the recovery of many key industries, negatively affect innovation, economic growth and jobs, and lead to a decrease in demand and consumer welfare.
- (225) This allegation, which was not further substantiated, is rejected. Steel industry holds a strategic place in the Union in terms of economic growth, innovation and employment. Consequently, measures helping the Union industry are expected to boost innovation, growth and jobs in the Union as a whole.
- (226) In light of the weight of complainants as compared to total Union cold-rolled flat steel production and the significant market share of the Union industry, some interested parties indicated to fear reduced competition in the Union market, the creation of dominant firms and a risk of oligopoly by Union producers.
- (227) No parties provided any evidence for these allegations. The claim is therefore rejected. Competition will undoubtedly continue on the Union market, through the presence of numerous EU and non-EU market players and prices as an important factor of competitiveness. Measures at the level proposed should not annul imports from the countries concerned. Imports, including those from the countries currently associated with dumping practices, will be in the position to freely compete in the Union market at fair prices.
- (228) In one interested party's view, measures are likely to impact negatively parties representing much larger and broader interests than those of the complainants. Allegedly, downstream industries account for many times more jobs than the 'vague figures identified seemingly arbitrarily by the complainants'. However, as no quantification of such an impact or employment figures were provided, the allegations could not be cross-checked. The same happened with the claim regarding an impact on consumers, made in a very open way by the cooperating Russian producers. The Commission thus carried out the Union interest analysis on the basis of the elements on file which could be reasonably investigated and quantified.

#### 6.5. CONCLUSION ON UNION INTEREST

- (229) In view of the above, it is provisionally concluded that the imposition of measures would contribute to the recovery of the Union industry and allow for specific investments and R & D to better equip cold-rolled flat steel products producers in the Union for the future and boost their competitiveness.
- (230) The Union industry underwent already significant restructuring in the (recent) past. If there are no duties, some of the Union cold-rolled flat steel producers might have to close down/reduce their cold-rolled flat steel products activities, dismiss hundreds of employees and leave many Union users with limited sources of supply.
- (231) The impact of measures on the few other parties in the Union that came forward cannot be deemed substantive. Nothing on file shows that the potential impact on other actors (that did not come forward) can outweigh the positive effect of measures on the Union industry. Measures are deemed to be beneficial to the upstream industries such as suppliers of raw materials and machinery producers, which do not (or to a limited extent) supply producers in the countries concerned. The imposition of measures at the proposed level only has a limited impact on the prices of the supply chain and the performance of users. The level of measures will lead to a level playing field but still allow for imports from the countries concerned, at fair prices. End-users and consumers are expected to benefit from a fair competitive market, including a local source of supply fully able to service their needs and requests via more qualitative products thanks to R & D and technology improvements. Price will continue to be a major determinant, but on a fair basis.
- (232) On balance, the Commission concludes at this stage of the investigation that there are no compelling reasons that it is not in the Union interest to impose provisional measures on imports of cold-rolled flat steel products originating in the countries concerned.

#### 7. PROVISIONAL ANTI-DUMPING MEASURES

- (233) On the basis of the conclusions reached by the Commission on dumping, injury, causation and Union interest, provisional measures should be imposed to prevent further injury being caused to the Union industry by the dumped imports.

- (234) The findings cannot be undermined by the allegations made by Chinese parties that the PRC was targeted at this point in time by the complainants because, should the PRC be treated as a market economy country as of the end of 2016, dumping margins would in principle be lower from then onwards. This allegation is rejected. Indeed, irrespective of these considerations, the investigation has confirmed that dumped imports of the product concerned from China are currently causing material injury to the Union industry.

#### 7.1. INJURY ELIMINATION LEVEL (INJURY MARGIN)

- (235) 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.
- (236) 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. With the exception of the year 2011, the profitability of the Union industry was negative during the whole period considered. Moreover, throughout the period considered there was a significant presence, on the Union market, of low priced imports from the countries concerned.
- (237) The complainant requested the Commission, in the complaint, to use 10-15 % (range given for confidentiality reasons) of turnover as reasonable non-injurious profit margin, which it claimed was the average profit before tax on sales earned by two representative complainant Union producers in 2010. However, this claim was not sufficiently substantiated.
- (238) In previous investigations regarding similar products — certain seamless pipes and tubes of stainless steel <sup>(1)</sup>, certain welded tubes and pipes of iron or non-alloy steel <sup>(2)</sup> or GOES <sup>(3)</sup>, it was considered that a profit margin of 5 % could be regarded as an appropriate level that the Union industry could be expected to obtain in the absence of injurious dumping. Cold-rolled flat steel products are similar in many respects to the products mentioned above — iron ore, coking coal, certain alloys are major parts of their cost of production and they go through similar processes (furnace, rolling operation). A profit margin of 5 % appeared also reasonable in the eyes of Russian producers. For these reasons it has been provisionally considered that a 5 % profitability margin is reasonable also for the cold-rolled flat steel manufacturing sector.
- (239) On this basis, the Commission calculated a non-injurious price of the like product for the Union industry by adding the above-mentioned profit margin of 5 % to the cost of production of the sampled Union producers during the investigation period.
- (240) The Commission then 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.

#### 7.2. PROVISIONAL MEASURES

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

<sup>(1)</sup> OJ L 336, 20.12.2011, p. 6.

<sup>(2)</sup> OJ L 343, 19.12.2008, p. 1.

<sup>(3)</sup> OJ L 284, 30.10.2015, p. 109.

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

(%)				
Country	Company	Dumping margin	Injury margin	Provisional duty
PRC	Angang group	59,1	13,8	13,8
	Shougang group	52,7	16,0	16,0
	Other cooperating companies	56,9	14,5	14,5
	All other companies	59,1	16,0	16,0
Russia	MMK Magnitogorsk	19,8	21,9	19,8
	PAO Severstal	25,4	27,2	25,4
	OJSC Novolipetsk Steel	26,2	28,1	26,2
	All other companies	26,2	28,1	26,2

- (243) 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.
- (244) 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 <sup>(1)</sup>. 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.
- (245) 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'.
- (246) 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.

## 8. REGISTRATION

- (247) As mentioned above in recital 3, the Commission made imports of the product concerned originating in and consigned from the PRC and Russia subject to registration by Commission Implementing Regulation (EU) 2015/2325. This was in view of the possible retroactive application of the anti-dumping measures under Article 10(4) of the basic Regulation. The registration of imports should cease. No decision on a possible retroactive application of anti-dumping measures can be taken at this stage of the proceeding.

<sup>(1)</sup> European Commission, Directorate-General for Trade, Directorate H, Rue de la Loi 170, 1049 Brussels, Belgium.

## 9. FINAL PROVISIONS

- (248) In the interests of sound administration, the Commission will invite the interested parties to submit written comments and/or to request a hearing with the Commission and/or the Hearing Officer in trade proceedings within a fixed deadline.
- (249) The findings concerning the imposition of provisional duties are provisional and may be amended at the definitive stage of the investigation,

HAS ADOPTED THIS REGULATION:

## Article 1

1. A provisional anti-dumping duty is imposed on imports of flat-rolled products of iron or non-alloy steel, or other alloy steel but excluding of stainless steel, of all widths, cold-rolled (cold-reduced), not clad, plated or coated and not further worked than cold-rolled (cold-reduced), currently falling within CN ex 7209 15 00 (TARIC code 7209 15 00 90), 7209 16 90, 7209 17 90, 7209 18 91, ex 7209 18 99 (TARIC code 7209 18 99 90), ex 7209 25 00 (TARIC code 7209 25 00 90), 7209 26 90, 7209 27 90, 7209 28 90, 7211 23 30, ex 7211 23 80 (TARIC codes 7211 23 80 19, 7211 23 80 95 and 7211 23 80 99), ex 7211 29 00 (TARIC codes 7211 29 00 19 and 7211 29 00 99), 7225 50 80 and 7226 92 00 and originating in the People's Republic of China and the Russian Federation.

The following product types are excluded from the definition of the product concerned:

- flat-rolled products of iron or non-alloy steel, of all width, cold-rolled (cold-reduced), not clad, plated or coated, not further worked than cold-rolled, whether or not in coils, of all thickness, electrical,
- flat-rolled products of iron or non-alloy steel, of all width, cold-rolled (cold-reduced), not clad, plated or coated, in coils, of a thickness of less than 0,35 mm, annealed (known as 'black plates'),
- flat-rolled products of other alloy steel, of all width, of silicon-electrical steel, and
- flat-rolled products of alloy steel, not further worked than cold-rolled (cold-reduced), of high-speed steel.

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

Country	Company	Provisional duty rate (%)	TARIC Additional Code
PRC	Angang Steel Company Limited, Anshan	13,8	C097
	Tianjin Angang Tiantie Cold Rolled Sheets Co. Ltd, Tianjin	13,8	C098
	Other cooperating companies listed in the Annex	14,5	
	All other companies	16,0	C999
Russia	Magnitogorsk Iron & Steel Works OJSC, Magnitogorsk	19,8	C099
	PAO Severstal, Cherepovets	25,4	C100
	All other companies	26,2	C999

3. The application of the individual duty rate specified for the companies mentioned in paragraph 2 shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, on which shall appear a declaration dated and signed by an official of the entity issuing such invoice, identified by his/her name and function, drafted as follows: 'I, the undersigned, certify that the (volume) of (product concerned) sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in the (country concerned). I declare that the information provided in this invoice is complete and correct'. If no such invoice is presented, the duty rate applicable to 'all other companies' shall apply.
4. The release for free circulation in the Union of the product referred to in paragraph 1 shall be subject to the provision of a security deposit equivalent to the amount of the provisional duty.
5. Unless otherwise specified, the relevant provisions in force concerning customs duties shall apply.

#### *Article 2*

1. Within 25 calendar days of the date of entry into force of this Regulation, interested parties may:
  - (a) request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted;
  - (b) submit their written comments to the Commission; and
  - (c) request a hearing with the Commission and/or the Hearing Officer in trade proceedings.
2. Within 25 calendar days of the date of entry into force of this Regulation, the parties referred to in Article 21(4) of Regulation (EC) No 1225/2009 may comment on the application of the provisional measures.

#### *Article 3*

1. Customs authorities are hereby directed to discontinue the registration of imports established in accordance with Article 1 of Implementing Regulation (EU) 2015/2325.
2. Data collected regarding products which were entered not more than 90 days prior to the date of entry into force of this Regulation shall be kept until the entry into force of possible definitive measures, or the termination of this proceeding.

#### *Article 4*

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

Article 1 shall apply for a period of six months.

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

Done at Brussels, 10 February 2016.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

## ANNEX

## CHINESE COOPERATING EXPORTING PRODUCERS NOT SAMPLED

Country	Name	TARIC additional code
PRC	Hebei Iron and Steel Co., Ltd, Shijiazhuang	C103
PRC	Handan Iron & Steel Group Han-Bao Co., Ltd, Handan	C104
PRC	Baoshan Iron & Steel Co., Ltd, Shanghai	C105
PRC	Shanghai Meishan Iron & Steel Co., Ltd, Nanjing	C106
PRC	BX Steel POSCO Cold Rolled Sheet Co., Ltd, Benxi	C107
PRC	Bengang Steel Plates Co., Ltd, Benxi	C108
PRC	WISCO International Economic & Trading Co. Ltd, Wuhan	C109
PRC	Maanshan Iron & Steel Co., Ltd, Maanshan	C110
PRC	Tianjin Rolling-one Steel Co., Ltd, Tianjin	C111
PRC	Zhangjiagang Yangtze River Cold Rolled Sheet Co., Ltd, Zhangjiagang	C112
PRC	Inner Mongolia Baotou Steel Union Co., Ltd, Baotou City	C113