Reports of Cases

JUDGMENT OF THE COURT (Second Chamber)

21 September 2023 *

Table of contents

* Language of the case: English.

(Appeal – Dumping – Implementing Regulation (EU) 2018/140 – Imports of certain cast iron articles originating in the People's Republic of China and in India – Definitive anti-dumping duty – Action for annulment – Admissibility – Standing to bring proceedings – Representative association of exporters – Regulation (EU) 2016/1036 – Article 3(2), (3), (6) and (7) – Injury – Calculation of the import volume – Positive evidence – Objective examination – Extrapolation – Calculation of the EU industry's cost of production – Prices charged intra-group – Causal link – Assessment of injury by segment – None – Article 6(7) – Article 20(2) and (4) – Procedural rights)

In Case C-478/21 P,

APPEAL under Article 56 of the Statute of the Court of Justice of the European Union, brought on 2 August 2021,

China Chamber of Commerce for Import and Export of Machinery and Electronic Products, established in Beijing (China),

Cangzhou Qinghong Foundry Co. Ltd, established in Cangzhou City (China),

Botou City Qinghong Foundry Co. Ltd, established in Botou City (China),

Lingshou County Boyuan Foundry Co. Ltd, established in Sanshengyuan Town (China),

Handan Qunshan Foundry Co. Ltd, established in Xiaozhai Town (China),

Heping Cast Co. Ltd Yi County, established in Liang Village (China),

Hong Guang Handan Cast Foundry Co. Ltd, established in Xiaozhai Town,

Shanxi Yuansheng Casting and Forging Industrial Co. Ltd, established in Shenshan (China),

Botou City Wangwu Town Tianlong Casting Factory, established in Wangwu Town (China),

Tangxian Hongyue Machinery Accessory Foundry Co. Ltd, established in Beiluo Town (China),

represented by R. Antonini, avvocato, B. Maniatis and E. Monard, avocats,

appellants,

the other parties to the proceedings being:

European Commission, represented initially by T. Maxian Rusche and P. Němečková, and subsequently by K. Blanck, P. Němečková and T. Maxian Rusche, and finally by T. Maxian Rusche and P. Němečková, acting as Agents,

defendant at first instance,

EJ Picardie, established in Saint-Crépin Ibouvillers (France),

Fondatel Lecomte, established in Andenne (Belgium),

Fonderies Dechaumont, established in Muret (France),

Fundiciones de Ódena SA, established in Ódena (Spain),

Heinrich Meier Eisengießerei GmbH & Co. KG, established in Rahden (Germany),

Saint-Gobain Construction Products UK Ltd, established in East Leake (United Kingdom),

Saint-Gobain PAM Canalisation, formerly Saint-Gobain PAM, established in Pont-à-Mousson (France),

Ulefos Oy, established in Vantaa (Finland),

represented initially by M. Hommé and B. O'Connor, avocats, and subsequently by M. Hommé, B. O'Connor, avocats, and U. O'Dwyer, Solicitor,

interveners at first instance,

THE COURT (Second Chamber),

composed of A. Prechal (Rapporteur), President of the Chamber, M.L. Arastey Sahún, F. Biltgen, N. Wahl and J. Passer, Judges,

Advocate General: L. Medina,

Registrar: M. Longar, Administrator,

having regard to the written procedure and further to the hearing on 5 October 2022,

after hearing the Opinion of the Advocate General at the sitting on 16 February 2023,

gives the following

Judgment

1 By their appeal, the China Chamber of Commerce for Import and Export of Machinery and Electronic Products ('the CCCME'), as well as Cangzhou Qinghong Foundry Co. Ltd, Botou City Qinghong Foundry Co. Ltd, Lingshou County Boyuan Foundry Co. Ltd, Handan Qunshan Foundry Co. Ltd, Heping Cast Co. Ltd Yi County, Hong Guang Handan Cast Foundry Co. Ltd, Shanxi Yuansheng Casting and Forging Industrial Co. Ltd, Botou City Wangwu Town Tianlong Casting Factory and Tangxian Hongyue Machinery Accessory Foundry Co. Ltd ('the nine other appellants') seek to have set aside the judgment of the General Court of the European Union of 19 May 2021, *China Chamber of Commerce for Import and Export of Machinery and Electronic Products and Others* v *Commission* (T-254/18, 'the judgment under appeal', EU:T:2021:278), by which it dismissed the appeal by the appellants seeking the annulment of Commission Implementing Regulation (EU) 2018/140 of 29 January 2018 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain cast iron

articles originating in the People's Republic of China and terminating the investigation on imports of certain cast iron articles originating in India (OJ 2018 L 25, p. 6; 'the regulation at issue'), in so far as that implementing regulation concerned them.

I. Legal context

A. WTO law

2 By Council Decision 94/800/EC of 22 December 1994 concerning the conclusion on behalf of the European Community, as regards matters within its competence, of the agreements reached in the Uruguay Round multilateral negotiations (1986-1994) (OJ 1994 L 336, p. 1), the Council of the European Union approved the Agreement establishing the World Trade Organization (WTO), signed in Marrakesh on 15 April 1994, and also the agreements in Annexes 1 to 3 to that agreement, which include the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (OJ 1994 L 336, p. 103; 'the Anti-Dumping Agreement').

3 Article 3.1 of the Anti-Dumping Agreement provides:

'A determination of injury for [the] purposes of Article VI [of the General Agreement on Tariffs and Trade (GATT) 1994] shall be based on positive evidence and involve an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for like products, and (b) the consequent impact of these imports on domestic producers of such products.'

4 Article 6.11 of that agreement provides:

'For the purposes of this Agreement, "interested parties" shall include:

(i) an exporter or foreign producer or the importer of a product subject to investigation, or a trade or business association a majority of the members of which are producers, exporters or importers of such product;

(ii) the government of the exporting Member; and

(iii) a producer of the like product in the importing Member or a trade and business association a majority of the members of which produce the like product in the territory of the importing Member.

This list shall not preclude Members from allowing domestic or foreign parties other than those mentioned above to be included as interested parties.'

B. European Union law

5 Recital 12 of Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union (OJ 2016 L 176, p. 21; 'the basic regulation') provides:

'It is necessary to specify the manner in which interested parties should be given notice of the information which the authorities require. Interested parties should have ample opportunity to present all relevant evidence and to defend their interests. It is also desirable to set out clearly the rules and procedures to be followed during the investigation, in particular the rules whereby interested parties are to make themselves known, present their views and submit information within specified time limits, if such views and information are to be taken into account. It is also appropriate to set out the conditions under which an interested party may have access to, and comment on, information presented by other interested parties. There should also be cooperation between the Member States and the [European] Commission in the collection of information.'

6 Article 1(4) of the basic regulation provides:

'For the purposes of this Regulation, "like product" means a product which is identical, that is to say, alike in all respects, to the product under consideration, or, in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration.'

7 Article 3 of that regulation, entitled 'Determination of injury', states:

'1. Pursuant to this Regulation, the term "injury" shall, unless otherwise specified, be taken to mean material injury to the [European] Union industry, threat of material injury to the Union industry or material retardation of the establishment of such an industry and shall be interpreted in accordance with the provisions of this Article.

2. A determination of injury shall be based on positive evidence and shall involve an objective examination of:

(a) the volume of the dumped imports and the effect of the dumped imports on prices in the Union market for like products; and

(b) the consequent impact of those imports on the Union industry.

3. With regard to the volume of the dumped imports, consideration shall be given to whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in the Union. With regard to the effect of the dumped imports on prices, consideration shall be given to whether there has been significant price undercutting by the dumped imports as compared with the price of a like product of the Union industry, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which would otherwise have occurred, to a significant degree. No one or more of those factors can necessarily give decisive guidance.

…

5. The examination of the impact of the dumped imports on the Union industry concerned shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including the fact that an industry is still in the process of recovering from the effects of past dumping or subsidisation; the magnitude of the actual margin of dumping; actual and potential decline in sales, profits, output, market share, productivity, return on investments and utilisation of capacity; factors affecting Union prices; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments. This list is not exhaustive, nor can any one or more of these factors necessarily give decisive guidance.

6. It must be demonstrated, from all the relevant evidence presented in relation to paragraph 2, that the dumped imports are causing injury within the meaning of this Regulation. Specifically, that shall entail demonstrating that the volume and/or price levels identified pursuant to paragraph 3 are responsible for an impact on the Union industry as provided for in paragraph 5, and that that impact exists to a degree which enables it to be classified as material.

7. Known factors, other than the dumped imports, which at the same time are injuring the Union industry shall also be examined to ensure that the injury caused by those other factors is not attributed to the dumped imports under paragraph 6. Factors which may be considered in that respect shall include: the volume and prices of imports not sold at dumping prices; contraction in demand or changes in the patterns of consumption; restrictive trade practices of, and competition between, third country and Union producers; developments in technology and the export performance; and productivity of the Union industry.

…’

8 Article 5(10) and (11) of the basic regulation provides as follows:

‘10. The notice of initiation of proceedings shall announce the initiation of an investigation, indicate the product and countries concerned, give a summary of the information received, and provide that all relevant information is to be communicated to the Commission.

It shall state the periods within which interested parties may make themselves known, present their views in writing and submit information if such views and information are to be taken into account during the investigation. It shall also state the period within which interested parties may apply to be heard by the Commission in accordance with Article 6(5).

11. The Commission shall advise the exporters, importers and representative associations of importers or exporters known to it to be concerned, as well as representatives of the exporting country and the complainants, of the initiation of the proceedings and, with due regard to the protection of confidential information, provide the full text of the written complaint received pursuant to paragraph 1 to the known exporters and to the authorities of the exporting country, and make it available upon request to other interested parties involved. Where the number of exporters involved is particularly high, the full text of the written complaint may instead be provided only to the authorities of the exporting country or to the relevant trade association.’

9 Article 6 of the basic regulation, entitled ‘The investigation’, provides:

‘1. Following the initiation of proceedings, the Commission, acting in cooperation with the Member States, shall commence an investigation at Union level. Such an investigation shall cover both dumping and injury, and they shall be investigated simultaneously.

…

3. The Commission may request Member States to supply information, and Member States shall take whatever steps are necessary in order to give effect to such requests.

They shall send to the Commission the information requested together with the results of all inspections, checks or investigations carried out.

Where that information is of general interest or where its transmission has been requested by a Member State, the Commission shall forward it to the Member States, provided that it is not confidential, in which case a non-confidential summary shall be forwarded.

4. The Commission may request Member States to carry out all necessary checks and inspections, particularly amongst importers, traders and Union producers, and to carry out investigations in third countries, provided that the firms concerned give their consent and that the government of the country in question has been officially notified and raises no objection.

Member States shall take whatever steps are necessary in order to give effect to such requests from the Commission.

Officials of the Commission shall be authorised, if the Commission or a Member State so requests, to assist the officials of Member States in carrying out their duties.

5. The interested parties which have made themselves known in accordance with Article 5(10) shall be heard if they have, within the period prescribed in the notice published in the Official Journal of the European Union, made a written request for a hearing showing that they are an interested party likely to be affected by the result of the proceedings and that there are particular reasons why they should be heard.

…

7. The complainants, importers and exporters and their representative associations, users and consumer organisations, which have made themselves known in accordance with Article 5(10), as well as the representatives of the exporting country, may, upon written request, inspect all information made available by any party to an investigation, as distinct from internal documents prepared by the authorities of the Union or its Member States, which is relevant to the presentation of their cases and not confidential within the meaning of Article 19, and is used in the investigation.

Such parties may respond to such information and their comments shall be taken into consideration, wherever they are sufficiently substantiated in the response.

…

9. For proceedings initiated pursuant to Article 5(9), an investigation shall, whenever possible, be concluded within one year. In any event, such investigations shall in all cases be concluded within 15 months of initiation, in accordance with the findings made pursuant to Article 8 for undertakings or the findings made pursuant to Article 9 for definitive action.'

10 Article 17 of that regulation, which is headed ‘Sampling’, provides:

‘1. In cases where the number of complainants, exporters or importers, types of product or transactions is large, the investigation may be limited to a reasonable number of parties, products or transactions by using samples which are statistically valid on the basis of information available at the time of the selection, or to the largest representative volume of production, sales or exports which can reasonably be investigated within the time available.

2. The final selection of parties, types of products or transactions made under these sampling provisions shall rest with the Commission, though preference shall be given to choosing a sample in consultation with, and with the consent of, the parties concerned, provided that such parties make themselves known and make sufficient information available, within three weeks of initiation of the investigation, to enable a representative sample to be chosen.

…’

11 Article 20 of that regulation, entitled ‘Disclosure’, states:

‘1. The complainants, importers and exporters and their representative associations, and representatives of the exporting country, may request disclosure of the details underlying the essential facts and considerations on the basis of which provisional measures have been imposed. Requests for such disclosure shall be made in writing immediately following the imposition of provisional measures, and the disclosure shall be made in writing as soon as possible thereafter.

2. The parties mentioned in paragraph 1 may request final disclosure of the essential facts and considerations on the basis of which it is intended to recommend the imposition of definitive measures, or the termination of an investigation or proceedings without the imposition of measures, particular attention being paid to the disclosure of any facts or considerations which are different from those used for any provisional measures.

3. Requests for final disclosure, as defined in paragraph 2, shall be addressed to the Commission in writing and be received, in cases where a provisional duty has been imposed, no later than one month after publication of the imposition of that duty. Where a provisional duty has not been imposed, parties shall be provided with an opportunity to request final disclosure within time limits set by the Commission.

…’

12 Article 21(2) of the basic regulation is worded as follows:

‘In order to provide a sound basis on which the authorities can take account of all views and information in the decision as to whether or not the imposition of measures is in the Union’s interest, the complainants, importers and their representative associations, representative users and representative consumer organisations may, within the time limits specified in the notice of initiation of the anti-dumping investigation, make themselves known and provide information to the Commission. Such information, or appropriate summaries thereof, shall be made available to the other parties specified in this Article, and they shall be entitled to respond to such information.’

II. Background to the dispute

13 The background to the dispute, as set out in paragraphs 1 to 9 of the judgment under appeal, can be summarised as follows for the purposes of the present judgment.

14 On 31 October 2016, a complaint was lodged with the Commission by seven EU producers of cast iron articles, seeking to have the Commission initiate an anti-dumping investigation concerning imports of certain cast iron articles originating in China and India. That complaint was supported by two other EU producers of cast iron articles (the nine producers together being referred to as 'the complainants').

15 On 10 December 2016, the Commission published a Notice of initiation of an anti-dumping proceeding concerning imports of certain cast iron articles originating in the People's Republic of China and in India (OJ 2016 C 461, p. 22). The product subject to that proceeding is manhole covers. The product was defined in paragraph 2 of that notice as certain articles of lamellar graphite cast iron, also known as 'grey iron', or spheroidal graphite cast iron, also known as 'ductile cast iron', and parts thereof, used to cover ground or sub-surfaces systems, and/or openings to ground or sub-surface systems, and also to give access to ground or sub-surface systems and/or provide view to ground or sub-surface systems ('the product concerned').

16 The investigation into dumping and injury covered the period from 1 October 2015 to 30 September 2016 ('the investigation period'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2013 to 30 September 2016 ('the period under consideration').

17 The CCCME is an association under Chinese law whose members include Chinese exporting producers of the product concerned. It participated in the anti-dumping proceeding concerning imports of the product concerned. The nine other appellants are exporting producers of the product concerned, two of which were selected by the Commission as part of the sample of Chinese exporting producers used for the purposes of the investigation.

18 On 16 August 2017, the Commission adopted Implementing Regulation (EU) 2017/1480 imposing a provisional anti-dumping duty on imports of certain cast iron articles originating in the People's Republic of China (OJ 2017 L 211, p. 14) ('the provisional regulation').

19 On 29 January 2018, the Commission adopted the regulation at issue which imposed a definitive anti-dumping duty on imports of certain cast iron articles originating in China.

III. The procedure before the General Court and the judgment under appeal

20 By application lodged at the Registry of the General Court on 23 April 2018, the appellants sought annulment of the regulation at issue.

21 By order of 24 October 2018, the President of the First Chamber of the General Court granted leave to intervene in support of the form of order sought by the Commission to EJ Picardie, Fondatel Lecomte, Fonderies Dechaumont, Fundiciones de Ódena SA, Heinrich Meier Eisengießerei GmbH & Co. KG, Saint-Gobain Construction Products UK Ltd, Saint-Gobain PAM Canalisation, formerly Saint-Gobain PAM, and Ulefos Oy ('the interveners').

22 In support of their action before the General Court, the appellants put forward six pleas in law. The Commission disputed both the admissibility and the substance of that action.

23 As regards the admissibility of that action, only the General Court's findings concerning, first, the CCCME's standing to bring legal proceedings in its own name and on behalf of its members, and, second, the authorities to act provided by the nine other appellants to their lawyers to represent them in legal proceedings are relevant to the present appeal.

24 As regards the CCCME's standing to bring legal proceedings in its own name in order to safeguard its procedural rights, the Commission submitted that it did not have such standing because procedural rights were granted to it in error during the administrative proceedings. The General Court rejected that plea of inadmissibility, considering, in essence, that throughout the administrative proceeding, the CCCME had been regarded as an interested party to whom procedural rights had to be granted and that an error in that respect, even if it were established, could not affect what was recognised and granted during the administrative proceedings.

25 As regards the CCCME's standing to bring legal proceedings on behalf of its members, the General Court rejected the Commission's objection that the CCCME could not represent its members in a legal action because it was not a representative association, for the purposes of the legal tradition common to the Member States. According to the General Court, such a requirement is not necessary for an association to be able to act on behalf of its members before the EU Courts.

26 As regards the authorities to act provided by the nine other appellants to their lawyers, the Commission alleged that they were not valid on the ground that the position of the signatories was not identified clearly and that the power of those signatories to sign those authorities had not been established. The General Court did not accept that objection, considering that its Rules of Procedure did not require proof that the authority granted to the lawyer was conferred by someone authorised for that purpose.

27 As regards the substance of the appellants' action, only the General Court's assessments concerning (i) the first and fifth parts of the first plea in law, (ii) the second and third parts of the second plea in law and (iii) the second and third parts of the third plea in law are relevant for the purposes of the present appeal.

28 In its examination of the first part of the first plea in law, the General Court rejected the appellants' complaints regarding the adjustments made by the Commission to data of the Statistical Office of the European Union (Eurostat), classified according to the product control numbers (PCN), in order to calculate the volume of dumped imports, in accordance with Article 3 of the basic regulation.

29 In its assessment of the fifth part of the first plea in law, the General Court rejected the appellants' complaint that in order to calculate the injury suffered by Saint-Gobain PAM, the Commission used prices charged for resales within the group of companies to which that producer belongs without assessing whether those were arm's length purchase prices.

30 By the second part of their second plea in law, the appellants alleged that the Commission had erred in refusing to carry out an assessment by segment in order to establish a causal link between the dumped imports and the injury observed. In response to that allegation, the General Court considered, in essence, that an assessment by segment was not required where the products

are sufficiently interchangeable and that neither the fact that the products belong to different ranges nor the fact that consumers had expressed a priority or preference for certain products was sufficient to establish that they are not interchangeable and therefore that such an assessment may be undertaken.

31 By the third part of their second plea in law, the appellants complained, in particular, that the Commission failed sufficiently to assess the significance of undercutting in relation to the fact that for 37.4% of total sales made in the European Union by the sampled EU producers, no price undercutting had been observed. The General Court rejected that part, considering that, since the product concerned covers a variety of product types which continue to be interchangeable, the existence of an undercutting margin in a range of 31.6% to 39.2%, covering 62.6% of the sales of the sampled EU producers, appeared sufficient to conclude that there was significant price undercutting within the meaning of Article 3(3) of the basic regulation.

32 As regards the third plea in law, alleging an infringement of the appellants' procedural rights on the ground that information essential for the defence of their interests was not disclosed to them, the General Court held that plea to be admissible in so far as it was raised by the CCCME in its own name. However, the General Court rejected that plea as being inadmissible in so far as it was raised by the members of the CCCME and the nine other appellants, on the ground that those members and those appellants had not participated in the investigation or made requests seeking that the information at issue be disclosed to them. The General Court also rejected the appellants' argument that, during that investigation, the CCCME had exercised the procedural rights of those members and of those appellants in their name on the ground that the CCCME had acted as an entity representing the Chinese industry as a whole and not as an entity representing some of its members individually.

33 As regards the substance of that third plea in law, the CCCME submitted, by the second and third parts of that plea, that the Commission had infringed its procedural rights by failing to provide to it, first, certain data, in aggregated form, concerning in particular the calculation of the normal value, the effects of Chinese imports on prices and the injury elimination level, as well as, second, estimates relating to macroeconomic indicators, information on the comparison of the imported products with products of Indian producers and of EU producers as well as calculations concerning the volume of imports from the third countries concerned. The General Court rejected those second and third parts, considering, in essence, that the Commission had provided the CCCME with the material enabling it effectively to defend its interests.

34 By the judgment under appeal, the General Court dismissed the action brought by the appellants.

IV. Forms of order sought by the parties

35 The appellants claim that the Court should:

– set aside the judgment under appeal;

– annul the regulation at issue in so far as it concerns them;

– order the Commission to bear the costs of the procedure before both the General Court and the Court of Justice, including the appellants' costs; and

– order the interveners to bear their own costs.

36 The Commission contends that the Court should:

– set aside the judgment under appeal in so far as it declares the action at first instance to be admissible;

– declare the action at first instance to be inadmissible;

– dismiss the appeal; and

– order the appellants to pay the costs at first instance and on appeal.

37 The interveners contend that the Court should:

– dismiss the appeal in its entirety;

– declare that the CCCME cannot be regarded as a representative association for the purposes of the basic regulation; and

– order the appellants to pay the costs.

V. The appeal

38 In support of their appeal, the appellants put forward five grounds of appeal. The first to fourth grounds of appeal relate to errors which the appellants allege the General Court made in failing to state that the Commission had infringed Article 3(2), (3) and (5) to (7) of the basic regulation when it adopted the regulation at issue. By their fifth ground of appeal, the appellants maintain that the General Court erred in declaring the third plea in law of their action before the General Court to be inadmissible in part, alleging an infringement of their procedural rights, and that the General Court made errors of law when it assessed those rights pursuant to Article 6(7), Article 19(1) and (2) and Article 20(2) and (4) of the basic regulation.

39 The Commission and the interveners are of the view that the appellants' action at first instance ought to have been declared inadmissible and, in any event, that their action was unfounded.

A. The admissibility of the action before the General Court

40 The Commission submits that the action at first instance was inadmissible on the ground that the CCCME did not have standing to bring legal proceedings in its own name, that it did not have the power to represent its members in legal proceedings and that the nine other appellants had not provided their lawyers with a proper authority to act.

41 The appellants dispute those arguments on the ground that, by requesting the Court of Justice (i) to set aside the judgment under appeal in so far as it declares that the action at first instance is admissible and (ii) to declare that action to be inadmissible, the Commission has lodged a cross-appeal without complying with the requirements set out in Article 176(2) of the Rules of Procedure of the Court of Justice.

42 In that regard, it should be recalled that questions concerning the admissibility of an action for annulment constitute a question of public policy which the EU Courts may consider at any time, even on their own initiative (see, to that effect, judgment of 27 February 2014, *Stichting Woonlinie and Others* v *Commission*, C-133/12 P, EU:C:2014:105, paragraph 32, and of 2 September 2021, *Ja zum Nürburgring* v *Commission*, C-647/19 P, EU:C:2021:666, paragraph 53 and the case-law cited).

43 It follows that, in examining an action, the Court may evaluate the admissibility of an action at first instance, irrespective of the fact that such admissibility has been called into question by a party having submitted a reply without having submitted a cross-appeal pursuant to Article 176(2) of the Rules of Procedure of the Court of Justice (see, to that effect, judgment of 28 February 2019, *Council* v *Growth Energy and Renewable Fuels Association*, C-465/16 P, EU:C:2019:155, paragraphs 56 to 59 and the case-law cited).

44 Consequently, the appellants' challenge set out in paragraph 41 of the present judgment must be dismissed.

1. Whether the CCCME has standing to bring proceedings in its own name

(a) Arguments of the parties

45 The Commission submits that, in paragraphs 52 to 75 of the judgment under appeal, the General Court erred in law in considering that the recognition of the CCCME as a representative association during the administrative proceeding was sufficient to establish that the condition that the applicant must be directly and individually concerned by the measure which is the subject of its appeal, laid down in the fourth paragraph of Article 263 TFEU, was satisfied in respect of the CCCME. Whether an entity has standing to bring proceedings before the General Court does not depend on that entity being acknowledged to have standing during the administrative proceedings, but rather depends on the relevant applicable rules. Accordingly, it is for the General Court to assess itself whether the CCCME satisfied the conditions required in order to be regarded as a representative association in accordance with the basic regulation and, therefore, had standing to bring legal proceedings in its own name.

46 The interveners support the Commission's arguments and allege that the CCCME is not a representative association of Chinese exporting producers of the product concerned, but an entity by which the Chinese Government controls exporting producers. The CCCME acts under the supervision, management and business guidance of the Ministry of Civil Affairs and the Ministry of Trade of the People's Republic of China.

47 The appellants' view is that the CCCME is a representative association as provided for in the basic regulation and that it is therefore an interested party referred to in that regulation. In their view, it was regarded as such by the Commission both during the course of the investigation which led to the adoption of the regulation at issue and in other earlier anti-dumping investigations. For the reasons put forward by the General Court in the judgment under appeal, the CCCME is directly and individually concerned by the regulation at issue.

(b) Findings of the Court

48 It should be recalled, first of all, that the admissibility of an action brought by natural or legal persons against an act which is not addressed to them, in accordance with the fourth paragraph of Article 263 TFEU, is subject to the condition that they be accorded standing to bring proceedings, which arises in two situations. First, such proceedings may be instituted if the act is of direct and individual concern to those persons. Second, such persons may bring proceedings against a regulatory act not entailing implementing measures if that act is of direct concern to them (judgment of 16 March 2023, *Commission* v *Jiangsu Seraphim Solar System* and *Council* v *Jiangsu Seraphim Solar System and Commission*, C-439/20 P and C-441/20 P, EU:C:2023:211, paragraph 53 and the case-law cited).

49 By its plea of inadmissiblity, the Commission takes the view that, by examining the first of those two situations, the General Court erred in ruling that the CCCME was entitled to bring legal proceedings in its own name in order to safeguard its procedural rights. In paragraphs 52 to 75 of the judgment under appeal, the General Court founded its assessment of the CCCME's standing to bring proceedings in its own name on the fact that, during the anti-dumping proceeding which led to the regulation at issue, the Commission had granted it those rights. It had, however, not ascertained whether the grant of those rights was lawful. Indeed, the grant of those rights to the CCCME was unlawful, since the CCCME is not a representative association in accordance with the basic regulation, but rather an emanation of the Chinese State.

50 In accordance with settled case-law, persons other than those to whom a decision is addressed may claim to be individually concerned, within the meaning of the fourth paragraph of Article 263 TFEU, only if that decision affects them by reason of certain attributes which are peculiar to them or by reason of circumstances in which they are differentiated from all other persons and by virtue of these factors distinguishes them individually just as in the case of the person addressed by such a decision (judgment of 12 July 2022, *Nord Stream 2* v *Parliament and Council*, C-348/20 P, EU:C:2022:548, paragraph 156 and the case-law cited).

51 The persons capable of being distinguished individually by an EU measure in the same way as the addressees of a decision include those persons who participated in the process by which that measure is adopted. The fact that a person participates in the process by which an EU measure is adopted does not distinguish that person individually with regard to the measure in question unless provision has been made under the EU rules for procedural guarantees in favour of that person (see, to that effect, judgment of 4 October 1983, *Fediol* v *Commission*, 191/82, EU:C:1983:259, paragraph 31, and order of 17 February 2009, *Galileo Lebensmittel* v *Commission*, C-483/07 P, EU:C:2009:95, paragraph 53). The precise scope of an individual's right of action against an EU measure depends on his or her legal position as defined by EU law with a view to protecting the legitimate interests thus afforded him or her (judgment of 28 February 2019, *Council* v *Growth Energy and Renewable Fuels Association*, C-465/16 P, EU:C:2019:155, paragraph 107 and the case-law cited).

52 It follows that procedural rights must be granted lawfully to a person in order for that person to be able to be regarded as individually concerned by those rights and to be entitled to bring an action for annulment against a measure adopted in breach of those rights.

53 In the present case, in its defence before the General Court, the Commission disputed the admissibility of the action brought by the CCCME in order to assert an infringement of its procedural rights, on the ground that it was not an interested party to which the basic regulation

granted such rights. Consequently, in order to assess whether that action was admissible, the General Court was required to assess whether that regulation would grant procedural rights to the CCCME.

54 In paragraphs 53 to 60 of the judgment under appeal, the General Court, however, found that the CCCME was individually concerned by the regulation at issue on the ground that, during the procedure which led to the adoption of that regulation, the Commission had regarded it as an interested party representing, in particular, the Chinese castings industry, since it had granted it procedural rights including the right to access the investigation file, the right to disclosure of the provisional and final conclusions and the right to submit comments on those conclusions, as well as the right to participate in two hearings organised as part of that proceeding.

55 Therefore, it must be observed that the General Court failed to examine the lawfulness of the grant of those procedural rights to the CCCME and that, consequently, it erred in law when it examined whether the condition whereby the applicant must be individually concerned by the measure which is the subject of its appeal, laid down in the fourth paragraph of Article 263 TFEU, was satisfied in relation to the CCCME.

56 That observation is not called into question by the General Court's finding in paragraph 64 of the judgment under appeal that even if the Commission's error in granting those rights to the CCCME were established, it could not erase what was recognised and granted during the administrative procedure, particularly as, after that procedure had closed, the Commission retained the possibility of withdrawing the regulation at issue and resuming the procedure, correcting the error at the stage at which it was committed. Decisions taken by the Commission during an administrative procedure and the Commission's ability to correct them cannot result in a restriction of the EU Courts' review of the admissibility of the actions which have been brought before them.

57 The same error of law vitiates the General Court's assessment in paragraphs 71 to 75 of the judgment under appeal of the condition that the applicant must be directly concerned by the measure which is the subject of its action, laid down in the fourth paragraph of Article 263 TFEU, since that assessment is also founded on the Commission having granted procedural rights to the CCCME during the administrative procedure.

58 However, those errors may result in the CCCME's action in its own name being inadmissible only where it is established that it could not lawfully be granted the procedural rights in question. Therefore, an assessment must be made of whether, under the basic regulation, those rights had to be granted to the CCCME.

59 In that regard, the CCCME takes the view that the basic regulation grants such rights to it because it is a representative association of importers or exporters of the product concerned.

60 Although Article 5(11), Article 6(7), Article 20(1) and (2) and Article 21(2) of the basic regulation grant certain procedural rights to representative associations of importers or exporters of the dumped product, that regulation does not define the concept of a representative association of importers or exporters found in those provisions.

61 In accordance with settled case-law, it is necessary, therefore, to interpret that concept taking account not only of the wording of those provisions in which it is found, but also the context in which those provisions occur and the objectives pursued by the rules of which they form part

(see, to that effect, judgment of 22 June 2021, *Venezuela* v *Council (Whether a third State is affected)*, C-872/19 P, EU:C:2021:507, paragraph 42). In addition, given the primacy of international agreements concluded by the European Union over secondary EU legislation, that concept must be interpreted, as far as possible, in a manner consistent with those agreements, including the Anti-Dumping Agreement (see, to that effect, judgment of 28 April 2022, *Yieh United Steel* v *Commission*, C-79/20 P, EU:C:2022:305, paragraph 101 and the case-law cited).

62 Under a textual interpretation, the concept of a 'representative association of importers or exporters' designates a group of persons who represent importers or exporters in general.

63 It follows, in the first place, that that concept does not designate persons or bodies which represent interests other than those of importers or exporters, such as, in particular, the interests of States. That interpretation is borne out by the context in which that concept occurs. Indeed, Article 5(11), Article 6(7) and Article 20(1) of the basic regulation designate representative associations of importers or exporters, of the one part, and the 'authorities' or the 'representatives' of the exporting country, of the other part, as distinct interested parties to an anti-dumping proceeding.

64 That interpretation is also borne out by the objective of the basic regulation which is to enable the Commission to impose adequate anti-dumping duties in compliance with the principle of sound administration. That objective requires the Commission to be able to ascertain the views of various interested parties participating in an anti-dumping proceeding. Recital 12 of that regulation accordingly states that those parties should have ample opportunity to present all relevant evidence and to defend their interests. The evidence which can be presented by representative associations of importers or exporters and by representatives of the exporting country as well as their respective interests is not necessarily the same. On the one hand, those associations defend the commercial and industrial interests of importers or exporters, whereas on the other hand, those representatives seek to promote the political and diplomatic interests of the exporting country.

65 Furthermore, the interpretation in question accords with Article 6.11 of the Anti-Dumping Agreement, since that article distinguishes, in relation to the parties referred to by that agreement, governments of exporting States which are parties to that agreement from trade or business associations a majority of the members of which are exporters or importers of the product which is the subject of the anti-dumping investigation.

66 It follows from the choice by the EU legislator to make a distinction between the representative associations of importers or exporters and the authorities as well as the representatives of the exporting country that, in order to be able to be regarded as a representative association in accordance with the provisions referred to in paragraph 63 of the present judgment, the body which presents itself as such must not be subject to interference by the exporting State, but must, on the contrary, enjoy the necessary independence as regards that State so that it may actually act in a capacity representing general and collective interests of importers or exporters and not as a front for that State.

67 That independence of representative associations referred to by the basic regulation reflects the independence afforded to associations under the freedom of association defined in Article 12 of the Charter of Fundamental Rights of the European Union, in that that charter affords to associations the right to pursue their activities and to operate without unjustified interference by the State (see, to that effect, judgment of 18 June 2020, *Commission* v *Hungary (Transparency of*

associations), C-78/18, EU:C:2020:476, paragraphs 110 to 113). However, such convergence is confined to the absence of interference by the State concerned challenging the representation, by an association, of the general and collective interests of importers or exporters, since that regulation seeks to transpose the rules of the Anti-Dumping Agreement, the objective of which is to promote global trade and not freedom of association.

68 In the second place, it follows from the textual interpretation and from the context of the concept of 'representative association of importers or exporters' found in paragraphs 62 and 63 of the present judgment that the objects of such an association must include representing importers or exporters of the product which is the subject of the anti-dumping investigation. Such representation requires that such an association's members include a large number of importers or exporters of that product. In addition, it requires the imports or exports of those products by those members to be significant, such that the association concerned may report on the characteristics of the business of importers or of exporters of that product in general.

69 That interpretation is borne out by the objective of the basic regulation, set out in paragraph 64 of the present judgment, which requires the participation of representative associations of importers or exporters, as interested parties in the anti-dumping proceeding. The interests of those associations can be legitimate only if they are actually representative of importers or exporters of the dumped product.

70 In the light of all of the foregoing considerations, the concept of a 'representative association of importers or exporters' in accordance with that regulation must be understood as designating an association whose purpose includes representing the collective and general interests of importers or exporters of a dumped product which requires that that association, first, enjoys independence as regards the authorities of that State in order to be able to ensure such representation and, second, that its membership includes a large number of importers or exporters whose imports or exports of that product are significant.

71 Since it is for the applicant to provide proof of its standing to bring legal proceedings, it was incumbent, in the present case, on the CCCME to demonstrate that it was such a representative association of importers or exporters of the product concerned.

72 In that regard, the CCCME submitted, in its application before the General Court, that its members included 19 exporting producers of the product concerned on which the regulation at issue imposed anti-dumping duties. In addition, it is apparent from the memorandum and articles of association of the CCCME that it is a non-profit social organisation voluntarily formed by enterprises and institutions registered in China which are active in the import and export trade, investment and cooperation in the sector of machinery and electronic products (Article 2) and that its objective is in particular to safeguard the legitimate rights and interests of its members as well as to promote the healthy development of the mechanical and electronic industries (Article 3). Therefore, the CCCME includes exporters of the dumped product and is entitled to safeguard their interests.

73 Nevertheless, as the Commission states, the memorandum and articles of association of the CCCME indicate that the association is under the supervision, management and business guidance of two ministries of the People's Republic of China (Article 4) and that it conducts its relevant activities in accordance with appointment and authorisations of the Chinese Government

(Article 6(2)). Those factors attest to the fact that the CCCME does not have sufficient independence as regards the Chinese State courts to be able to be regarded as a 'representative association' of exporters of the product concerned.

74 In addition, the CCCME has adduced no proof that it represents importers or exporters of the product concerned. Accordingly, at the time of the procedure before the General Court, the Commission stated that the CCCME was active in the overall sectors of machinery and electronics and that it had more than 10 000 members. Also, when confronted during that procedure with the Commission's objection that it did not represent a significant number of exporting producers of the product concerned, the CCCME simply referred, first, to recital 25 of the regulation at issue, in which the Commission took the view that it represented in particular the Chinese castings industry, and second, to proof of the membership of 19 exporting producers of the product concerned, found in Annex A.4 toits application before the General Court, stating that that number was significant. Furthermore, in their reply to questions from the Court, the appellants indicated that they had provided the Commission with a list of 58 Chinese exporting producers of cast iron which are members of the CCCME. However, that list was not adduced before the EU Courts and the appellants have not specified the amount of products concerned which were exported by those members. It follows that the CCCME has demonstrated neither that its members included a large number of importers or exporters of the product concerned, nor that exports of that product by its members were significant.

75 Consequently, the CCCME did not have standing to bring proceedings pursuant to the fourth paragraph of Article 263 TFEU, with the result that the action which it lodged in its own name must be rejected as being inadmissible and that the General Court erred in examining the pleas in law alleging an infringement of the procedural rights of the CCCME which were put forward in support of that action.

2. Whether the CCCME is empowered to represent its members in legal proceedings

(a) Arguments of the parties

76 The Commission alleges that, in paragraphs 98 to 103 of the judgment under appeal, the General Court erred in law when it considered that it is not necessary for an association to be organised democratically in order to be able to bring legal proceedings on behalf of its members. In the view of the Commission, a professional association cannot be an emanation of a State which is organised based on a communist one party system, since, in such a case, that association would be required to defend the interests of its members, as democratically defined by those members, vis-à-vis the State of which it is an emanation. Such a situation where a trade association would at the same time be part of a State and defend the collective interests of its members against that State is contrary to the fundamental principles of representative democracy which are common to the tradition of the Member States. Furthermore, to take into account specific features of the country in which the association is incorporated would run counter to the principle set out in Article 3(5) TEU, according to which the European Union, in its relations with the wider world, is to uphold and promote its values.

77 The CCCME disputes the Commission's line of argument.

(b) Findings of the Court

78 The Commission maintains that, in paragraphs 98 to 103 of the judgment under appeal, the General Court erred in rejecting the plea of inadmissibility alleging that the action was inadmissible in so far as it had been lodged by the CCCME on behalf of its members. According to the Commission, as the CCCME is an emanation of the People's Republic of China and is not organised democratically, it was not entitled to bring an action for annulment on behalf of some of its members.

79 As a preliminary point, it should be noted that the question whether an association may represent its members in an action for annulment before the EU Courts is distinct from the question whether it is a 'representative association of importers or exporters' in accordance with the basic regulation.

80 As regards the first question, it is apparent from settled case-law that an association which is responsible for protecting the collective interests of certain undertakings is, as a rule, entitled to bring an action for annulment under the fourth paragraph of Article 263 TFEU only if the undertakings which it represents or some of those undertakings themselves have *locus standi* (see, to that effect, judgment of 13 March 2018, *European Union Copper Task Force* v *Commission*, C-384/16 P, EU:C:2018:176, paragraph 87 and the case-law cited).

81 Accordingly, under that provision, an action brought by an association acting in place of one or more of its members who could themselves have brought an admissible action will itself be admissible (judgment of 22 December 2008, *British Aggregates* v *Commission*, C-487/06 P, EU:C:2008:757, paragraph 39 and the case-law cited).

82 As the General Court correctly stated in paragraph 84 of the judgment under appeal, an association's ability to bring legal proceedings on behalf of its members is intended to enable a more efficient administration of justice by obviating the institution of numerous separate actions against the same acts by those members.

83 It follows from the foregoing that, in order for an association to be able legitimately to bring an action before the EU Courts on behalf of its members, it is important, first, that the natural or legal persons on whose behalf it is acting are members of that association, second, that it has the power to bring proceedings in their name, third, that that action is brought in their name, fourth, that at least one of the members on whose behalf it is acting could itself have brought an admissible action, and, fifth, that the members on whose behalf it is acting have not brought an action in parallel before the EU Courts.

84 Contrary to the Commission's assertions, there is no requirement, other than the five conditions mentioned in the previous paragraph, that an association representing members in legal proceedings be organised democratically. Indeed, when examining the concept of a 'legal person', referred to in the fourth paragraph of Article 263 TFEU, the Court considered that that concept covered both private legal persons, public entities and third States, their being organised democratically not having been referred to or taken into account (see, to that effect, judgment of 22 June 2021, *Venezuela* v *Council (Whether a third State is affected)*, C-872/19 P, EU:C:2021:507, paragraphs 41 to 52). It follows that for those persons, entities and States, standing to bring proceedings pursuant to that provision is not dependent on their being organised democratically.

85 In a dispute, the aim of which is to set aside a regulation imposing a definitive anti-dumping duty, the Court of Justice has accordingly held, as the General Court correctly points out in paragraph 99 of the judgment under appeal, that the absence of a right to vote of certain members of an association or any other means enabling them to enforce their interests within that association is not sufficient to prove that that association did not have the purpose of representing such members. Such an absence, therefore, is not an impediment to that association bringing an action for annulment on behalf of its members (see, to that effect, judgment of 28 February 2019, *Council* v *Growth Energy and Renewable Fuels Association*, C-465/16 P, EU:C:2019:155, paragraphs 120 to 125).

86 Accordingly, the General Court did not err in law when it held, in paragraphs 98 to 103 of the judgment under appeal, that an association's right to bring legal proceedings on behalf of its members is not subject to a condition relating to the 'representativeness of that association for the purposes of the legal tradition common to the Member States' and therefore, in essence, relating to it being organised democratically.

87 Consequently, the plea of inadmissibility raised by the Commission in relation the action brought before the General Court by the CCCME on behalf of its members must be rejected.

3. Whether the authorities to act provided by the nine other appellants to their lawyers are lawful

(a) Arguments of the parties

88 The Commission maintains that, in paragraphs 133 to 137 of the judgment under appeal, the General Court erred in declaring the action of the nine other applicants admissible even though it had disputed whether the authorities to act provided by the applicants to their lawyers were lawful. In the Commission's view, the General Court could not disregard that challenge on the ground that its rules of procedure did not require proof that the authority granted to the lawyer was conferred on him or her by someone authorised for that purpose. The requirement that the General Court verify that authority to act, if challenged, flows from Article 21 of the Statute of the Court of Justice of the European Union.

89 The appellants dispute the Commission's arguments.

(b) Findings of the Court

90 The Commission alleges that the actions of the nine other appellants were inadmissible since the powers of attorney naming their lawyers were unlawful and since the General Court could not reject the plea of inadmissibility which it had raised in that regard by relying on the fact that its rules of procedure did not require proof that those powers of attorney had been prepared by a representative authorised for that purpose.

91 In that regard, it should be recalled that, under Article 19 of the Statute of the Court of Justice of the European Union, which applies to the General Court pursuant to the first paragraph of Article 53 of that statute, in order to be able to bring proceedings before the EU Courts, legal persons, such as the nine other appellants, must be represented by a lawyer authorised to practice before a court of a Member State or of another State which is a party to the Agreement on the European Economic Area of 2 May 1992 (OJ 1994 L 1, p.3).

92 As regards the authority to act conferred on a lawyer by such persons, Article 51(3) of the Rules of Procedure of the General Court provides that where the party represented by the lawyer is a legal person governed by private law, the lawyer must lodge at the registry an authority to act given by that person. Unlike the version of those rules which applied before 1 July 2015, that provision does not require such a person to provide proof that the authority granted to its lawyer was conferred on him or her lawfully by someone authorised for the purpose.

93 The fact that Article 51(3) does not lay down that obligation does not, however, mean that the General Court need not verify whether the authority concerned is lawful where such authority is challenged. The fact that, at the stage of lodging its action, an applicant does not have to provide that proof does not affect the obligation on that party lawfully to have provided its lawyer with authority to act in order to be able to bring proceedings. The fact that the evidence requirements at the time of lodging an action have been relaxed has no bearing on the substantive condition that the parties must be duly represented by their lawyers. Accordingly, where the lawfulness of an authority granted by a party to its lawyer is challenged, that party must demonstrate that that authority is lawful (see, to that effect, judgment of 16 February 1965, *Barge* v *High Authority*, 14/64, EU:C:1965:13, p. 10).

94 Consequently, as the Advocate General stated, in essence, in paragraphs 120 and 121 of her Opinion, the General Court erred in law in considering, in paragraph 136 of the judgment under appeal, that, as its rules of procedure did not require proof that the authority granted to a lawyer had been established by someone authorised for that purpose, the Commission's challenge to the lawfulness of the authority to act granted to the lawyers of the nine other appellants had to be rejected.

95 Therefore, the admissibility of the actions of the nine other appellants must be assessed.

96 In that regard, it must be noted that, in support of its plea of inadmissibility, the Commission relies, first, on the fact that certain signatories of the authorities to act which are at issue have not specified their position and have not attached documents attesting to their power to sign such documents, and second, on the fact that certain signatories of those authorities to act, who have specified their position as general manager, managing director, financial controller or director, have provided no justification as to their ability to sign such authorities to act under Chinese law.

97 While the EU Courts must require a demonstration that the authority to act granted to a party's lawyer is lawful where that mandate is challenged by an opposing party, such a requirement is only relevant in so far as that challenge is based on sufficiently concrete and precise indicia.

98 In the present case, the Commission submits no such indicia. The fact that certain signatories of the mandates at issue either do not specify their position or specify their position without justifying that they are entitled under Chinese law to sign such mandates does not constitute such indicia.

99 Consequently, the plea of inadmissibility raised by the Commission in relation to the action brought by the nine other appellants must be rejected.

4. Conclusions on the admissibility of the action before the General Court

100 In the light of the foregoing, it must be concluded that the action brought before the General Court is admissible in so far as it was brought by the CCCME on behalf of its members and by the nine other appellants. However, since the CCCME did not have standing to bring proceedings under the fourth paragraph of Article 263 TFEU, that action is inadmissible in so far as it was brought by the CCCME in its own name. The General Court therefore erred in examining that action in so far as the CCCME was thereby alleging an infringement of procedural rights, such that the grounds of appeal in the present appeal concerning that examination are inadmissible.

B. Substance

1. The first ground of appeal

(a) Arguments of the parties

101 By their first ground of appeal, which comprises two parts, the appellants allege that, in paragraphs 152 to 211 and 396 to 403 of the judgment under appeal, the General Court erred in assessing the import volumes to be taken into account in order to establish the existence of injury in accordance with Article 3 of the basic regulation.

102 By the first part of that first ground of appeal, the appellants argue that the General Court erroneously endorsed the Commission's approach whereby, in the present case, that injury could be established by extrapolating the absolute and relative volumes of imports for the years and reference countries from different (subsequent) years and different countries. Such extrapolation was based on an unreasonable, implausible and unjustified assumption that the volumes and reference prices would remain unchanged over time and that there were no differences across countries.

103 In particular, the General Court erred, in paragraph 194 of the judgment under appeal, by relying on reference data in order to reject the first part of the first plea in the appellants' action for annulment without addressing the question of their extrapolation to different years and different countries. Such an approach was, in the view of the appellants, not based on positive evidence as required by Article 3(2) of the basic regulation. The Commission's assumption that there was no evolution of imports was absurd since the import data were relied on precisely in order to assess that evolution and the differences between the countries concerned.

104 In addition, in paragraph 179 of that judgment, the General Court erred in considering that the Chinese export data provided by the CCCME were irrelevant. The intrinsic implausibility of the Commission's assumption, combined with the Chinese export data confirming the unreliability of that assumption confirms that the data taken into account by the Commission do not constitute positive evidence as provided for in Article 3(2). Any other position would amount to imposing an unreasonable burden of proof.

105 By the second part of their first ground of appeal, the appellants take the view that the General Court erred by not finding that the Commission had failed to examine all the relevant aspects carefully and impartially, as it was required to do pursuant to the principle of sound

administration and the duty of care and pursuant to its obligations under Article 3(2), (3) and (5) to (7) of the basic regulation. In the view of the appellants, the General Court cannot limit the Commission's obligation to take account of all available information by relying on, first, the Commission's obligation to comply with the procedural time limits and, second, the fact that those obligations had to be likely to culminate, with a sufficiently high probability, in more reliable results. The obligation to rely on positive evidence and the requirement to consider all the available information in order to obtain that evidence is absolute, in the sense that the positive evidence requirement sets a minimum standard irrespective of any time limits. The considerations in paragraph 68 of the judgment of 10 September 1995, *Bricmate* (C-569/13, EU:C:2015:572), bear out that interpretation.

106 Accordingly, in paragraph 200 of the judgment under appeal, the General Court erred in considering that it was necessary to take account of the fact that the data envisaged were or were not likely to culminate in more reliable results than the data obtained within the applicable time limits. First, it is difficult to establish such a degree of probability before having obtained those initial results and, second, the only time limit applicable to obtaining data on imports is the total duration of the investigation, which was 15 months.

107 The appellants argue that the General Court's assessment in paragraphs 199 to 202 of the judgment under appeal breaches the Commission's obligation to examine on its own initiative all the available information, since that assessment amounted to finding that the Commission did not have to do anything at all to fulfil its obligation to consult all the sources available to it, as requiring it to do anything would have been disproportionate. The appellants also dispute the General Court's finding in paragraph 205 of the judgment under appeal that the Commission was not required to submit a request to the customs authorities, on the ground that that would involve a significant workload and require a significant amount of time. According to the appellants, to assume that such a requirement is disproportionate would deprive Article 6(3) and (4) of the basic regulation of any meaning.

108 Contrary to the General Court's findings in paragraphs 205 and 206 of the judgment under appeal, an examination of all transactions undertaken in two specific, but limited, periods and in respect of two specific countries would provide significant information on the reasonableness and plausibility of the assumption that there was no significant evolution in imports over time and would allow for a more accurate extrapolation.

109 The appellants also take the view that, in paragraph 209 of the judgment under appeal, the General Court erred in considering that importers did not provide information in that regard. However, the Commission did not request such information which would have been more representative than extrapolating in the absence of such information. In any event, the General Court made a manifest error in considering that the selected importers were not sufficiently representative of all importers of the product concerned, since they were sufficiently representative on the basis of Article 17(1) of the basic regulation.

110 The Commission and the interveners dispute the appellants' arguments.

(b) Findings of the Court

(1) Preliminary observations

111 By their first ground of appeal, the appellants submit, in essence, that the General Court erred in law in considering that the Commission had properly proven the volume of dumped imports in order to establish the existence of injury under Article 3 of the basic regulation.

112 In that regard, it should be noted that it is settled case-law of the Court of Justice that, in the sphere of the common commercial policy and, most particularly, in the realm of measures to protect trade, the EU institutions enjoy a broad discretion by reason of the complexity of the economic and political situations which they have to examine. That broad discretion covers, inter alia, the determination of injury caused to the Union industry in an anti-dumping proceeding (judgment of 20 January 2022, *Commission* v *Hubei Xinyegang Special Tube*, C-891/19 P, EU:C:2022:38, paragraphs 35 and 36 and the case-law cited).

113 The judicial review of such an appraisal must therefore be limited to verifying whether relevant procedural rules have been complied with, whether the facts relied on have been accurately stated, and whether there has been a manifest error in the appraisal of those facts or a misuse of powers. That is particularly the case as regards the determination of the factors causing injury to the Union industry in an anti-dumping investigation (judgment of 20 January 2022, *Commission* v *Hubei Xinyegang Special Tube*, C-891/19 P, EU:C:2022:38, paragraph 36 and the case-law cited).

114 Furthermore, the General Court's review of the evidence on which the EU institutions based their findings does not constitute a new assessment of the facts replacing that made by the institutions. That review does not encroach on the broad discretion of those institutions in the field of commercial policy, but is restricted to showing whether that evidence was able to support the conclusions reached by the institutions. The General Court must therefore not only establish whether the evidence put forward is factually accurate, reliable and consistent but also ascertain whether that evidence contained all the relevant information which had to be taken into account in order to assess a complex situation and whether it was capable of substantiating the conclusions reached (judgment of 28 April 2022, *Yieh United Steel* v *Commission*, C-79/20 P, EU:C:2022:305, paragraph 58 and the case-law cited).

115 It is in the light of those factors that the various complaints put forward by the appellants in their first ground of appeal must be assessed.

(2) The first part of the first ground of appeal

116 By the first part of their first ground of appeal, the appellants maintain that the General Court erred in classifying the Commission's assumptions for defining import volumes as 'justified', and the resulting estimates as 'reasonable' and 'plausible'. The General Court was not able, therefore, to make a finding that the Commission had based its assessment of that volume on positive evidence, as is required by Article 3(2) of the basic regulation.

117 In that regard, it is important to recall that, under that provision, the determination of injury is to be based on positive evidence and is to involve an objective examination, in particular, of the volume of the dumped imports. That provision thereby clarifies how evidence is to be obtained and the examination which the Commission must carry out as an investigating authority in order to establish the existence of injury in order to be able to impose anti-dumping duties.

118 However, the basic regulation does not define the concept of 'positive evidence'. In the light of the literal meaning of that concept, its context, including in particular the requirement for an objective examination referred to in Article 3(2) of that regulation, and of the purpose of determining injury, namely to allow for an anti-dumping duty to be imposed in respect of dumped imports, that concept refers to substantive evidence which establishes the reality of indicators of that injury in an affirmative, objective and verifiable manner. Mere assertions, conjecture or uncertain considerations therefore cannot constitute such indicators.

119 Such a definition complies with the requirement, recalled in paragraph 61 of the present judgment, that secondary EU legislation must be interpreted, as far as possible, in a manner consistent with the international agreements concluded by the European Union. The concept of 'positive evidence' which is also found in Article 3(1) of the Anti-Dumping Agreement, the content of which is identical to that of Article 3(2) of the basic regulation, has been interpreted by the Appellate Body of the WTO in paragraph 192 of its report dated 24 July 2001 in the case 'United States – Anti-dumping Measures on Certain Hot-Rolled Steel Products from Japan' (WT/DS184/AB/R) as meaning that the evidence must be of an affirmative, objective and verifiable character and that it must be credible.

120 In the present case, it is apparent from the judgment under appeal that, in order to calculate the volume of imports of the product concerned during the period under consideration, the Commission used Eurostat data classified according to codes derived from the combined nomenclature (CN). However, it had to adjust those data because they related not only to the product concerned, but also to urban furniture.

121 In particular, for non-malleable cast iron products falling under CN code ex 732510 00, the Commission had available to it, for the period between the date when the period under consideration started, namely 1 January 2013, and 1 January 2014, data broken down into subcodes, two of which included exclusively those products and a third which included those and other products. That breakdown was abandoned as from 1 January 2014. In order to isolate the data referring to non-malleable cast iron products for the period between 1 January 2014 and the date of the end of the investigation period, namely 30 September 2016, the Commission took into account 60% of the volume recorded as imports from China under CN code ex 732510 00, that percentage corresponding to the ratio represented by the non-malleable cast iron products imported under that code before 1 January 2014, compared with all the products imported under that code, in the light of the classification into three subcodes of the non-malleable cast iron products which existed before that date. For the last of those subcodes, which did not cover exclusively non-malleable cast iron products, the proportion of non-malleable cast iron products was estimated at 30%. A similar calculation was made in respect of imports from India and from the other third countries concerned (paragraphs 159 and 160 of the judgment under appeal).

122 The products within CN code ex 7325 99 10 during the period under consideration comprised malleable cast iron and other products. In order to take into account only malleable cast-iron products, the Commission took account of 100% of transactions recorded as Chinese imports under that code and deducted from it 14 645 tonnes. That deduction corresponded to transac-

tions made during the year 2004 which did not relate to the product concerned, since, for that year, the Commission had data showing, for China, the imports corresponding to that code, but not relating to the product concerned. A similar calculation was made for imports from India. The Commission also took the view, on the basis of investigations carried out by the complainants, that imports from other third countries coming under the same code did not contain malleable cast-iron products (paragraphs 162 to 164 of the judgment under appeal).

123 In paragraphs 183 to 196 of the judgment under appeal, the General Court rejected the argument by the appellants that the data used by the Commission were based on unwarranted and unreasonable assumptions which were not based on any positive evidence. It justified that rejection by holding that, in the absence of more accurate and more recent information which was similarly or more reliable, in view of the reasonableness and plausibility of the estimates submitted by the Commission and, in the light of the broad discretion afforded to that institution, the volume of imports had been established correctly.

124 In support of the first part of their first ground of appeal, the appellants rely on two arguments. In the first place, they take the view that the assumption that the allocation of various types of products within a CN code remained unchanged over time and across various countries is neither reasonable nor plausible. In the absence of proof to that effect, it is absurd to take the view that that allocation has not evolved.

125 In that regard, it must be stated that, in the absence of available data which are more reliable, data obtained following an adjustment of other data can constitute positive evidence, as defined in paragraph 118 of the present judgment, provided that, first, those other data themselves constitute such positive proof and, second, that the adjustments in question are made on the basis of reasonable assumptions, such that the result of those adjustments is plausible.

126 In the present case, it is common ground that the Eurostat data used by the Commission in order to establish, following adjustments, the import volumes in question constituted positive evidence, as defined in paragraph 118 of the present judgment.

127 In addition, in the absence of available data which are more reliable, the General Court could, without making any error of law, confirm the Commission's assumption that it was reasonable to find that, within the same CN code, the proportion of imports of manhole covers forming the product concerned compared to that of urban furniture did remain stable over time. Contrary to the appellants' assertions, the fact that the Commission's examination seeks to assess the evolution of import volumes does not demonstrate that that assumption is incorrect, since such an evolution is possible while a stable allocation of the various types of product within the same CN code is maintained.

128 Similarly, in the absence of reliable data for third countries other than the People's Republic of China relating to the percentage of imports of the product concerned compared with other products coming under the same CN code, the Commission could take account of the percentage of those imports as established in respect of imports from China. Indeed, in the absence of other reliable and available data concerning those imports of the product concerned by third countries, the Commission could consider that such extrapolation was reasonable.

129 Therefore, the first argument relied on by the appellants in support of the first part of their first ground of appeal must be rejected.

130 In the second place, the appellants dispute the General Court's finding that the Commission's estimates for the purposes of assessing import volumes could be regarded as reasonable and plausible. In their view, the General Court erred in finding, in paragraph 179 of the judgment under appeal, that the Chinese export data which it had provided were irrelevant, whereas those data, by contrast, demonstrated that the Commission's import data were an overestimate.

131 In paragraph 179 of the judgment under appeal, the General Court held that if an applicant intends to dispute the reliability of import volume data used by the Commission and wishes its claim to be successful, it cannot merely provide alternative figures, such as figures obtained on the basis of data from the customs authorities from which the contested imports derived, but rather must provide evidence capable of calling into question the data provided by the Commission.

132 Accordingly, in that paragraph 179, the General Court set out, without making an error of law or imposing an unreasonable burden of proof, the conditions for an applicant to be able legitimately to challenge the reliability of certain data used by the Commission. Indeed, such a challenge cannot merely provide alternative data, but must also set out the reasons why such alternative data are more reliable that those used by the Commission.

133 Therefore, the second argument relied on by the appellants in support of the first part of their first ground of appeal must also be rejected.

134 Therefore, the first part of the first ground of appeal must be rejected for all of the foregoing reasons.

(3) The second part of the first ground of appeal

135 By the second part of their first ground of appeal, the appellants maintain, first, that the findings in paragraphs 199 and 200 of the judgment under appeal are vitiated by an error of law because the General Court improperly limited the obligation on the Commission to consider all the information available, on the ground that account must be taken of the time limits of the procedure and the fact that compliance with such an obligation had to be likely to culminate, with a sufficiently high probability, in more reliable results. The obligation to rely on positive evidence and the requirement to consider all the available information in order to obtain that evidence is absolute, irrespective of any time limits, as the Court of Justice confirmed in paragraph 68 of its judgment of 10 September 2015, *Bricmate* (C-569/13, EU:C:2015:572).

136 In that regard, it should be borne in mind that, pursuant to the basic regulation, it is for the Commission, as the investigating authority, to establish that the product in question has been dumped, that there has been injury and that there is a causal link between the dumped imports and the injury (judgment of 12 May 2022, *Commission* v *Hansol Paper*, C-260/20 P, EU:C:2022:370, paragraph 47).

137 It follows, as the General Court correctly pointed out in paragraph 198 of the judgment under appeal, referring to paragraph 32 of the judgment of 22 March 2012, *GLS* (C-338/10, EU:C:2012:158), that in an anti-dumping investigation the Commission does not act as an arbitrator whose remit is limited to making an award solely on the basis of the information and the evidence provided by the parties to the investigation. The Commission is also obliged to consider on its own initiative all the relevant information which is not available to it but to which

it may itself have access. In that regard, Article 6(3) and (4) of the basic regulation authorises the Commission to request Member States to supply information to it and to carry out all necessary checks and inspections.

138 The Commission's obligation to make an examination on its own initiative must, however, be reconciled with the other obligations imposed on it by the basic regulation. Accordingly, that examination must be able to be carried out within the time limit referred to in Article 6(9) of that regulation, without prejudice to the requirement set out in Article 3(2) of that regulation, namely that the determination of injury must be based on positive evidence and involve an objective examination.

139 Furthermore, that obligation to make an examination on its own initiative refers only the information to which it may itself have access which is relevant for its anti-dumping investigation. Such relevance will be dependent on, in particular, the content as well as the reliability of the information and evidence already available to it following the interested parties' cooperation in that investigation. The Commission is required to examine with all due care all the information available to it (see, to that effect, judgment of 12 May 2022, *Commission* v *Hansol Paper*, C-260/20 P, EU:C:2022:370, paragraph 50 and the case-law cited). Since the Commission has sufficiently reliable data in order to conduct that investigation objectively and since the information to which it may itself have access is probably not more reliable, it cannot be required to exercise its powers of investigation on its own initiative.

140 However, where a party to the anti-dumping proceeding disputes in detail the accuracy of certain information, the Commission is required diligently to examine the substance of that challenge (see, to that effect, judgment of 10 September 2015, *Bricmate*, C-569/13, EU:C:2015:572, paragraph 68) and in so far as it is well founded, to base its findings on other reliable information.

141 Therefore, the General Court did not err in law in finding, in paragraphs 199 and 200 of the judgment under appeal, that the obligation on the Commission to make an examination on its own initiative had to take account of its obligation to comply with the procedural time limits and of whether or not the data envisaged are likely to culminate, with a sufficiently high probability, in more reliable results than those obtained within those time limits.

142 By the second part of their first ground of appeal, the appellants maintain, second, that in paragraphs 202 to 210 of the judgment under appeal, the General Court incorrectly applied the Commission's obligation to examine on its own initiative all the information available, finding that the Commission was not required to collect data from the national customs authorities nor to send questionnaires to importers in order to obtain more reliable data or to verify the assumptions it had made.

143 In that regard, it should be recalled, first of all, as has been set out in paragraph 125 of the present judgment, that the Commission can take as a basis data obtained following an adjustment only in the absence of more reliable available data, which it is for the Commission to examine on its own initiative.

144 Next, as regards the information which the Commission could have obtained from the national customs authorities, it must be noted, in the first place, that in paragraph 202 of the judgment under appeal, the General Court found that it would be disproportionate to require that institution to collect import lists, transaction by transaction, from the customs authorities of all

the Member States, and to analyse them in order to establish whether they may be taken into account and then to compile the data relating to the product concerned for four years for the whole of the European Union.

145 Such a finding does not constitute an incorrect application of the obligation on the Commission to make an examination on its own initiative. Indeed, such data collection would involve verifying each import of a manhole cover in the European Union during the investigation period, which would be practically impossible to undertake in the time limits prescribed. As set out in paragraph 138 of the present judgment, the obligation on the Commission to make an examination on its own initiative must be reconciled with the other obligations imposed on it by the basic regulation, in particular the time limits laid down in that regulation.

146 In the second place, it must be stated that, in paragraphs 205 and 206 of the judgment under appeal, the General Court held that the Commission was not required to compile a data sample by collecting certain more detailed data from the national customs authorities, since, first, compiling such a sample would involve a significant workload and would require a significant amount of time, which must be taken into account in the light of the strict procedural deadlines imposed on the Commission, and, second, the relevance of such a sample could be called into question, since the representativeness of the transactions selected could be queried and since it does not allow for a precise calculation of the import volumes of the product concerned.

147 That finding by the General Court also does not contravene the obligation on the Commission to make an examination on its own initiative, since it does not appear that collecting a sample from the national customs authorities would have made it possible to obtain data more reliable than the adjusted data taken into account by the Commission in the present case.

148 Lastly, as regards the data which the Commission could have collected from importers, the General Court held in paragraphs 207 to 209 of the judgment under appeal that the Commission was not required to collect those data in the present case, since such data would not have been more reliable. It provided its reasoning for that finding, stating that, first, the 28 importers which came forward during the investigation had provided, in their replies to the questionnaire attached to the notice of initiation of the investigation, an overall figure showing the volume of imports of the product concerned from China and from India, second, those data were not subsequently broken down according to the CN codes covering the product and, third, those replies could be verified solely as regards the three sampled importers which replied to the questionnaire and in respect of which it had not been not established that they were sufficiently representative of all importers of that product. The General Court substantiated that finding by referring to the fact that the Commission had stated that the market was fragmented and characterised by a large number of small and medium-sized enterprises and that, in such a context, it could not be ruled out that many other unrelated importers operating in the market, with no direct interest in cooperating in the investigation, had not come forward.

149 In that regard, it should be observed that the sole fact that the importers' responses to that questionnaire did not contain sufficiently detailed information on the imports in question was not sufficient to relieve the Commission of its obligation to examine on its own initiative whether those importers had more reliable data than the information put together on the basis of Eurostat data. However, that error made by the General Court in that regard is of no consequence. As the Commission stated in its response, even if it had requested more detailed information, that information would still have been less exhaustive than the Eurostat data. Indeed, there is no dispute regarding the factual assessment according to which it could not be ruled out that many

other unrelated importers operating in the market had no direct interest in cooperating in the investigation. Consequently, it is not established that collecting import data from importers would have made it possible to obtain data which were more reliable data than the adjusted data taken into account by the Commission in the present case.

150 For the foregoing reasons, the second part of the first ground of appeal and, consequently, that ground of appeal in its entirety must be rejected.

2. The second ground of appeal

(a) Arguments of the parties

151 By their second ground of appeal, the appellants allege that, in paragraphs 305 to 311 of the judgment under appeal, the General Court erred in confirming the Commission's findings regarding the injury suffered by Saint-Gobain PAM and regarding the causal link between the dumped imports and that injury. Those findings were not based on positive evidence and on an objective examination, as provided for in Article 3(2) and (3) of the basic regulation, since, when calculating that injury, no account was taken of profits from sales made to selling entities related to Saint-Gobain PAM. By taking into consideration the production costs incurred by Saint-Gobain PAM in the context of manufacturing, irrespective of the type of sale which would occur subsequently, the Commission failed to take into account, when calculating the overall profitability of that undertaking, the 'hidden' profits obtained by the manufacturer from those related selling entities. Those profits were regarded as costs for the purposes of calculating injury, with the result that the profitability of Saint-Gobain PAM was underestimated and the injury overestimated.

152 The Commission and the interveners submit, as their principal argument, that that ground of appeal is inadmissible as the error of law alleged is incomprehensible and that it amounts to challenging a non-disputed finding of fact, and, in the alternative, that it is unfounded.

(b) Findings of the Court

153 By their second ground of appeal, the appellants complain that the General Court infringed Article 3(2) and (3) of the basic regulation by confirming the Commission's assessment of the injury suffered by Saint-Gobain PAM. When making that assessment, that injury was overestimated, as the Commission incorrectly took the view that profits of Saint-Gobain PAM from sales made to its related selling entities constituted costs.

154 In that regard, it must be stated that, by the fifth part of the first plea in law in their action before the General Court, the appellants complained that the Commission had used, for the purposes of calculating the injury suffered by Saint-Gobain PAM, prices charged for resales within the group of companies to which that EU producer belongs, that is to say, transfer prices, whereas the actual profitability ought to have been assessed by comparing the value of sales to independent customers with the costs incurred in producing goods plus the resellers' selling, general and administrative costs.

155 In paragraphs 305 to 307 of the judgment under appeal, the General Court rejected that complaint, finding that the fact that Saint-Gobain PAM sold the product concerned both directly to independent customers and indirectly through related traders had no effect on the

establishment of production costs, since the two types of sale involved products manufactured by that undertaking and since the value taken into account by the Commission corresponded to the production costs incurred by that undertaking, irrespective of the type of sale which would occur subsequently. The General Court therefore deduced that the fact that certain sales were made through related companies did not affect the calculation of Saint-Gobain PAM's production costs and, consequently, did not affect the assessment of the injury suffered by the EU industry.

156 Accordingly, the General Court did not find that the profits of Saint-Gobain PAM from sales of the product concerned to its related selling entities formed part of that company's costs for the purposes of establishing the injury suffered by the EU industry. In fact, for both direct sales and indirect sales made via related selling entities, the costs taken into consideration were Saint-Gobain PAM's production costs.

157 The appellants' complaint that the costs of Saint-Gobain PAM taken into account included that company's profits from sales made to related selling entities seeks to challenge a finding of fact on the part of the General Court, with no distortion of the evidence having been demonstrated or even alleged. That complaint is inadmissible in accordance with settled case-law that the General Court has exclusive jurisdiction to find and appraise the relevant facts and to assess the evidence submitted to it. The appraisal of those facts and the assessment of that evidence thus do not, save where the facts and evidence are distorted, constitute a point of law which is subject, as such, to review by the Court of Justice on appeal (judgment of 2 February 2023, *Spain and Others* v *Commission*, C-649/20 P, C-658/20 P and C-662/20 P, EU:C:2023:60, paragraph 98 and the case-law cited).

158 Consequently, in the light of the foregoing, the second ground of appeal must be rejected as being inadmissible.

3. The third ground of appeal

159 By their third ground of appeal, which comprises two parts, the appellants maintain that the General Court erred in finding, in paragraphs 371 to 392 and 397 of the judgment under appeal, that there was no need to conduct an assessment by segment in order to assess whether there was a causal link between the imports of the product concerned and the injury suffered by the EU industry, notwithstanding the differences between standard products and non-standard products as well as the differences between grey cast iron products and ductile cast iron products.

(a) The first part of the third ground of appeal

(1) Arguments of the parties

160 By the first part of their third ground of appeal, the appellants allege that the General Court erred in law by limiting the cases in which an assessment of injury by segment is to be undertaken solely to those where the products in question are not interchangeable. Accordingly, in paragraph 378 of the judgment under appeal, the General Court erred in finding that an assessment by segment is not required where the products are sufficiently interchangeable and, in paragraphs 383 to 392 of the judgment under appeal, the General Court erred in limiting its assessment to whether those products constituted a single product for the purposes of the anti-dumping proceeding, based on the judgment of 10 March 1992, *Sanyo Electric* v *Council* (C-177/87, EU:C:1992:111). According to the appellants, there are significant differences between standard products and non-standard

products as well as between grey cast iron products and ductile cast iron products. Those differences are significant to customers of those products. In addition, the imports in question concern exclusively standard products and almost exclusively ductile cast iron products. Such factors justify an assessment by segment which would affect the appraisal of the causal link.

161 The Commission's view is that that first part is inadmissible since the appellants have failed to identity an error of law vitiating the judgment under appeal at the required level of detail. Furthermore, the Commission and the interveners take the view that that first part is unfounded.

(2) Findings of the Court

162 As regards the admissibility of the first part of the third ground of appeal, it should be recalled that, in accordance with settled case-law, it follows from the second subparagraph of Article 256(1) TFEU, the first paragraph of Article 58 of the Statute of the Court of Justice of the European Union and Article 168(1)(d) and Article 169(2) of the Rules of Procedure of the Court of Justice that an appeal must indicate precisely the contested elements of the judgment which the appellant seeks to have set aside and the legal arguments specifically advanced in support of that appeal, failing which the appeal or the ground of appeal concerned may be inadmissible (see, inter alia, judgments of 10 November 2022, *Commission* v *Valencia Club de Fútbol*, C-211/20 P, EU:C:2022:862, paragraph 29, and of 15 December 2022, *Picard* v *Commission*, C-366/21 P, EU:C:2022:984, paragraph 52).

163 In that first part, the appellants state, however, with sufficient precision the error of law alleged as well as the reasons why the General Court made that error. They take the view that the General Court erred in limiting the assessment by segment of the injury caused by the dumped imports to the assumption that the products in question are not interchangeable and rely in support of their allegation on the judgments of 28 October 2004, *Shanghai Teraoka Electronic* v *Council* (T-35/01, EU:T:2004:317), and of 24 September 2019, *Hubei Xinyegang Special Tube* v *Commission* (T-500/17, EU:T:2019:691). Consequently, the Commission's plea of inadmissibility must be rejected.

164 As regards the substance of that first part, it must be stated that, under Article 3(2) of the basic regulation, a determination of injury must involve an objective examination of the volume of the dumped imports, their effect on prices in the EU market for like products and the consequent impact of those imports on the EU industry. Article 3(3) of that regulation provides that, with regard to the effect of the dumped imports on prices, consideration must be given to whether there has been significant price undercutting by those imports as compared with the price of a like product of the EU industry.

165 Although the basic regulation does not impose any particular method for analysing price undercutting, it is apparent from the very wording of Article 3(3) that the method selected to determine possible price undercutting must, in principle, be applied at the level of the 'like product' within the meaning of Article 1(4) of that regulation, even though that product may consist of different product types falling within several market segments. Accordingly, the basic regulation does not, in principle, impose any obligation on the Commission to carry out an analysis of the existence of price undercutting at a level other than that of the like product (see, to that effect, judgment of 20 January 2022, *Commission* v *Hubei Xinyegang Special Tube*, C-891/19 P, EU:C:2022:38, paragraphs 73 to 75).

166 However, since, under Article 3(2) of the basic regulation, the Commission is required to carry out an 'objective examination' of the effect of the dumped imports on prices of the Union industry for like products, that institution is required to take account in its analysis of price undercutting of all the relevant positive evidence, including, where applicable, evidence relating to the various market segments of the product concerned (judgment of 20 January 2022, *Commission* v *Hubei Xinyegang Special Tube*, C-891/19 P, EU:C:2022:38, paragraph 77).

167 Accordingly, in order to ensure that the analysis of price undercutting is objective, the Commission may, in certain circumstances, be required, notwithstanding its broad discretion, to carry out such an analysis at the level of the market segments of the product in question. The same may be the case in a situation where there is marked segmentation of the market for the product in question and due to the fact that the imports subject to the anti-dumping investigation were overwhelmingly concentrated in one of the market segments relating to the product in question, provided, however, that the like product as a whole is duly taken into account. The same may also be the case where there is a particular situation characterised by a high concentration of domestic sales and dumped imports in separate segments and by price differences which are very significant between those segments. In those circumstances, the Commission may be required to take account of the market shares of each product type and those price differences in order to ensure the objectivity of the analysis of the existence of price undercutting (see, to that effect, judgment of 20 January 2022, *Commission* v *Hubei Xinyegang Special Tube*, C-891/19 P, EU:C:2022:38, paragraphs 78 to 81, 110 and 111).

168 In the light of the foregoing, the General Court was entitled to find, as it did in paragraph 378 of the judgment under appeal, that an assessment by segment was not required where the products in question are sufficiently interchangeable. Indeed, those types of product being sufficiently interchangeable ensures that the market is not characterised by marked segmentation and, additionally, that the analysis of price undercutting is objective, since the effect is that sales of EU products will be affected by dumped imports, irrespective of the segment relating to those products or those imports.

169 It follows that, where such interchangeability has been established, (i) the perception of differences between standard products and non-standard products as well as between grey cast iron products and ductile cast iron products by customers of those products and (ii) the fact that the dumped imports are exclusively standard products and almost exclusively ductile cast iron products, cannot justify an assessment by segment.

170 Furthermore, the General Court made no error of law when it held, in paragraph 383 of the judgment under appeal, that the fact the products belong to different ranges was not sufficient to establish, in itself, that they are not interchangeable and therefore that an assessment by segment may be undertaken. As the General Court correctly stated in that paragraph, products belonging to different ranges can have identical functions or satisfy the same needs.

171 Consequently, the first part of the third ground of appeal must be rejected as being unfounded.

(b) The second part of the third ground of appeal

(1) Arguments of the parties

172 By the second part of their third ground of appeal, the appellants maintain that, in the judgment under appeal, the General Court erred in that it did not take account of their argument, nor did it respond to that argument that the nature of dumped imports ought to have been taken into account in assessing whether there was a causal link. In the appellants' view, in view of the nature of those imports, which were almost exclusively standard and ductile cast iron products, no finding of a causal link could have been made pursuant to Article 3(6) and (7) of the basic regulation between those imports and the injury for the 'like product', without assessing that injury in more detail in respect of, of the one part, ductile cast iron products as against grey cast iron products and, of the other part, standard products as against non-standard products.

173 To illustrate the significance of that error by the General Court, the appellants allege that the Commission applied a product comparison method based on PCNs ('the PCN method') solely when examining whether there was price undercutting and not for the injury indicators, such as sales volume and profitability, which were assessed only for the entire like product. Therefore, the Commission could not have established whether the injury found under each of those indicators related to a segment in which Chinese imports were present and thus could be causally linked to the latter. In addition, the fact that the Commission had found that only 62.6% of the total sales of EU producers had been undercut reinforced the need to assess whether the injury found in respect of the like product related to categories of products for which there were no, or almost no, imports. In any event, the General Court incorrectly placed an overly high burden on the appellants to prove that there are differences between the product categories which required a segmented analysis.

174 The appellants argue that the General Court also made an error by dismissing, in paragraphs 391 and 392 of the judgment under appeal, the relevance of a 'preference' or 'priority' between the different segments. It is precisely such a preference which could lead to there being no causal link between the dumped imports and the injury suffered by the EU industry, when those imports relate only to a segment and the injury is found in relation to EU producers in another segment. The fact that, in paragraphs 391 and 392 of that judgment, the General Court regards the existence of a priority or preference on the part of consumers, in certain Member States, for one or another type of cast iron concerned, as an 'assertion' which 'is not supported by concrete evidence', is manifestly erroneous and distortive. First, the Commission had acknowledged that that preference existed. Second, all the interested parties, including the complainants, had stressed the differences between ductile cast iron products and grey cast iron products.

175 The Commission and the interveners take the view that the second part of the third ground of appeal is unfounded, since the appellants have not established that the products at issue were not interchangeable. In any event, that second part is unfounded since the interchangeability of those products precludes an artificial distinction between the assessment of injury and that of the causal link.

(2) Findings of the Court

176 By the second part of their third ground of appeal, the appellants complain that the General Court did not take account of their argument nor did it respond to that argument that no causal link could be established in accordance with Article 3(6) and (7) of the basic regulation without carrying out an analysis of the standard products, non-standard products, ductile cast iron products and grey cast iron products segments, since the dumped imports consisted almost exclusively of standard and grey cast iron products.

177 In that regard, it should be stated that, in paragraphs 382 to 385 of the judgment under appeal, the General Court held that, in the light of (i) the interchangeability of standard and non-standard products and (ii) the lack of evidence adduced to the contrary by the appellants, an assessment of injury by segment distinguishing standard products from non-standard products was not required. Similarly, in paragraphs 387 to 392 of the judgment under appeal, the General Court stated that the Commission had found that ductile cast iron products and grey cast iron products were interchangeable and that the appellants had provided no evidence calling that assessment into question, since they had simply referred to there being a 'priority' or 'preference' in certain Member States for one or other type of cast iron. Therefore, the General Court held that there was no reason to undertake an assessment of injury by segment, distinguishing ductile cast iron from grey cast iron.

178 Since it is apparent from the General Court's finding of fact that both (i) standard and non-standard products and (ii) ductile cast iron products and grey cast iron products were interchangeable, an assessment of injury according to the segments of the products in question was not required. As has been stated in paragraph 168 of the present judgment, it can be deduced from the interchangeability of those products that sales of the EU products will be affected by the dumped imports irrespective of the segment relating to those products or imports.

179 It is necessary to reject as being ineffective the argument of the appellants that, in having applied the PCN method, the Commission took account of a segmentation of the products in question without, however, that method being satisfactory, since it related only to the examination of one of the various injury indicators, namely the existence of price undercutting, and that it concerned only 62.6% of total sales made by the sampled EU producers. Since the interchangeability of the products in question did not require an assessment by segment, the alleged shortcomings of that method for an assessment by segment are irrelevant.

180 In so far as the appellants allege that the General Court did not examine their complaint alleging an infringement of Article 3(6) and (7) of the basic regulation due to the absence of assessment by segment, it must be stated that it is true that the purpose of Article 3(2) and (3) and of Article 3(6) and (7) differs, since Article 3(2) and (3) governs the determination of injury to the EU industry and Article 3(6) and (7) sets out the conditions for there to be a causal link between the dumped imports and that injury. However, there is a relationship between those provisions, as stated in paragraph 363 of the judgment under appeal. Article 3(6) of the basic regulation expressly provides that the demonstration that those imports are causing injury must be made based on evidence put forward in relation to Article 3(2) which involves demonstrating that the volume and/or price levels identified pursuant to Article 3(3) are responsible for a material impact on the EU industry. Accordingly, in paragraph 364 of that judgment, the General Court was fully entitled to recall that the examination referred to in Article 3(3) of the basic regulation must serve as a basis for the analysis of the causal link between those imports and the injury suffered by the EU industry.

181 It follows that the finding that an assessment by segment is not required when examining injury under Article 3(2) and (3) of the basic regulation also applies in relation to the examination of the causal link under Article 3(6) and (7). In finding, in paragraphs 382 to 392 of the judgment under appeal, that an assessment by segment of the products in question was not justified in the context of the examination of injury given the interchangeability of those products, the General Court did therefore, implicitly, but necessarily, reject the appellants' argument alleging infringement of Article 3(6) and (7) of that regulation due to the absence of such an assessment.

182 Furthermore, it is necessary to reject as being unfounded the appellants' argument that the General Court imposed an overly high burden on them to prove that there are differences between the product categories which required a segmented analysis. Since an assessment by segment is justified only in order to ensure that the examination of the effect of the dumped imports on the like product of the EU industry is objective, the obligation to demonstrate that the products at issue are not sufficiently interchangeable, in order to require an assessment by segment, does not constitute an excessive burden of proof.

183 Lastly, in so far as the appellants submit that, in paragraph 392 of the judgment under appeal, the General Court made an error by dismissing the relevance, when assessing injury, of a consumer preference or priority in certain Member States for one or other type of cast iron concerned, it must be stated that, in that paragraph, the General Court rejected their arguments on two separate bases. First, it observed that their allegations in that regard were not supported by concrete evidence and second, it held that a mere priority did not make it possible to determine with certainty that the products are not, or are insufficiently, interchangeable. Since, in their appeal, the appellants do not call into question that second basis, their arguments concerning the existence of concrete evidence supporting their allegations must be rejected as being irrelevant.

184 In the light of the foregoing, the second part of the third ground of appeal and, consequently, that third ground of appeal in its entirety must be rejected.

4. The fourth ground of appeal

(a) Arguments of the parties

185 By their fourth ground of appeal, the appellants allege that, in paragraph 425 of the judgment under appeal, the General Court infringed Article 3(6) and (7) of the basic regulation as well as its obligation to state reasons by finding that the existence of an undercutting margin covering 62.6% of sales of the sampled EU producers appeared sufficient to conclude that there was significant price undercutting within the meaning of Article 3(3) of that regulation. The General Court, therefore, failed to assess whether the absence of price undercutting in relation to 37.4% of those sales precluded a finding of a causal link in accordance with Article 3(6) and (7). The injury observed could relate to product types not concerned by the dumped imports, which would affect the objectivity of the examination of the injury caused by those imports.

186 In addition, in paragraph 417 of the judgment under appeal, the General Court erred in law by making the analysis of the impact of the absence of price undercutting in relation to 37.4% of those sales conditional on a finding of segmentation in the EU market. The presence of segmentation is not a prerequisite for requiring the Commission to analyse diligently the causal

link. The lack of any undercutting on, and lack of imported matching product types for, a large part of EU sales could have precluded a finding of causal link for the injury suffered by the EU industry as a whole.

187 The appellants also dispute that the PCN method could justify the approach taken in the regulation at issue. The lack of correspondence between the PCNs in question at the stage of sampling would call for an assessment of whether, despite there being no such correspondence, a causal link can be established. It could, for instance, include an analysis seeking to determine whether imports, other than those simply of the sampled producers, include the non-matching product types. That is not so in the present case.

188 The Commission and the interveners dispute the arguments of the appellants.

(b) Findings of the Court

189 Under Article 3(6) of the basic regulation, it must be demonstrated, from all the relevant evidence presented in relation to paragraph 2 of that article, that the dumped imports are causing injury, which entails demonstrating that the volume and/or price levels identified pursuant to paragraph 3 of that article have been responsible for a material impact on the EU industry.

190 In paragraphs 417 to 425 of the judgment under appeal, the General Court held that (i) unlike in the situation underlying two other cases, in the present case, the Commission had not found that there were different segments and (ii) although it had divided the product concerned into PCN codes for the purposes of comparison, that product covered a variety of product types which continued to be interchangeable. In those circumstances, the General Court found that the existence of an undercutting margin in a range of 31.6% to 39.2%, covering 62.6% of the sales of the sampled EU producers appeared sufficient to conclude that there was significant price undercutting as compared with the price of a like product of the EU industry within the meaning of Article 3(3) of the basic regulation.

191 The appellants argue that the General Court erred in law and in its reasoning in failing to assess whether or not the absence of price undercutting in relation to 37.4% of those sales precluded a finding of a causal link in accordance with Article 3(6) and (7) of the basic regulation. They argue that the General Court also erred in law in making the need to analyse the impact of that absence of price undercutting conditional on a finding of segmentation in the EU market.

192 As regards the complaint of an error of law, it must be stated that while Article 3 of the basic regulation sets out certain matters to be taken into consideration in the determination of injury caused by the dumped imports, it does not lay down, as stated in paragraph 165 of the present judgment, any precise method for analysing price undercutting. Since that determination involves complex economic assessments, the Commission enjoys, in accordance with the case-law recalled in paragraph 112 of the present judgment, a broad discretion as to the choice of that [method???].

193 In addition, the basic regulation does not provide that the Commission is required, in all circumstances, to take account of all of the products sold by the EU industry, including the product types in question not exported by the sampled exporting producers, in the determination of injury caused by dumped imports.

194 The wording of Article 3(2) and (3) of the basic regulation, referred to in Article 3(6) of that regulation, does not require the Commission to take into consideration, in its examination of the impact of those imports on the Union industry prices, all sales of the like product by the Union industry (judgment of 20 January 2022, *Commission* v *Hubei Xinyegang Special Tube*, C-891/19 P, EU:C:2022:38, paragraphs 152, 153 and 159).

195 That is borne out by the fact that the examination of the impact of the dumped imports of the EU industry prices, which is undertaken for the purposes of the determination of injury, entails comparing sales not of the same undertaking, as is the case with the determination of the dumping margin, which is calculated on the basis of the data of the exporting producer concerned, but rather comparing sales of a number of undertakings, namely the sampled exporting producers and the undertakings forming part of the EU industry included in the sample. A comparison of the sales of those undertakings will often be much more difficult in the context of the analysis of price undercutting than in the analysis of the dumping margin, since the range of product types sold by those different undertakings will tend to overlap only in part (see, to that effect, judgment of 20 January 2022, *Commission* v *Hubei Xinyegang Special Tube*, C-891/19 P, EU:C:2022:38, paragraphs 154 and 155).

196 Such a risk, arising from the fact that certain types of goods cannot be taken into account in the analysis of price undercutting because of the difference in the range of products sold by those various undertakings, is even higher where PCNs are more detailed. Although more granular PCNs have the advantage of comparing product types with more common physical and technical characteristics, that advantage, conversely, has the disadvantage of increasing the possibility that certain product types sold by one or other of the companies concerned have no equivalent and cannot therefore be compared or taken into account in that analysis (judgment of 20 January 2022, *Commission* v *Hubei Xinyegang Special Tube*, C-891/19 P, EU:C:2022:38, paragraphs 156 and 157).

197 Accordingly, the Commission's exercise of its broad discretion in deciding on the method to be used for analysing price undercutting may have the inevitable consequence, as is the case of the PCN method, that certain product types cannot be compared and, therefore, are not taken into account in that analysis. The exercise of that discretion is, however, limited by the obligation, imposed on the Commission by Article 3(2) of the basic regulation, to carry out an objective examination of the effects of dumped imports on the Union industry prices (see, to that effect, judgment of 20 January 2022, *Commission* v *Hubei Xinyegang Special Tube*, C-891/19 P, EU:C:2022:38, paragraph 158).

198 In the present case, the effect of the Commission's decision to apply the PCN method was that it was unable to compare 37.4% of the sales of the sampled EU producers.

199 However, the fact that the Commission was able to establish that there was an undercutting margin in a range of 31.6% to 39.2%, covering 62.6% of those sales constitutes significant price undercutting which is capable of being classified as having a material impact on the EU industry in accordance with Article 3(6) of the basic regulation.

200 In addition and in any event, the appellants err in deducing from that lack of comparison for 37.4% of those sales that they were not affected by the imports in question. Indeed, since the product concerned covers various interchangeable products and since, accordingly, there is no marked segmentation of the product market in question (see paragraph 167 of the present judgment) those imports probably also had an effect on the prices of the products of the sampled EU

producers which could not be compared on the basis of the PCN method. The fact that that effect was not supported by figures based on that method is not sufficient to call into question the objectivity of the finding that those imports must have affected the price of all types of products of EU producers since those products are interchangeable.

201 Therefore, the appellants' complaint alleging that the General Court infringed Article 3(6) and (7) of the basic regulation since it failed to take into consideration the absence of price undercutting in relation to 37.4% of the sales of the sampled EU producers must be rejected as being unfounded, since the appellants are mistaken in believing that there is no undercutting for that percentage of those sales and that the Commission established, using the PCN method, significant price undercutting with a material impact on the EU industry.

202 As regards the complaint that the obligation to state reasons was infringed, it should be pointed out that, according to the settled case-law of the Court of Justice, the obligation incumbent upon the General Court under Article 36 and the first paragraph of Article 53 of the Statute of the Court of Justice of the European Union to state reasons for its judgments does not require the General Court to provide an account that follows exhaustively and one by one all the arguments articulated by the parties to the case. The reasoning may therefore be implicit, on condition that it enables the persons concerned to understand the grounds of the General Court's judgment and provides the Court of Justice with sufficient information to exercise its powers of review on appeal (judgment of 14 September 2016, *Trafilerie Meridionali* v *Commission*, C-519/15 P, EU:C:2016:682, paragraph 41).

203 In the present case, in the light of (i) the reasons set out in paragraphs 406 to 425 of the judgment under appeal and (ii) the findings in paragraphs 192 to 201 of the present judgment, it must be stated that that reasoning enabled the appellants to understand the grounds of the General Court's judgment and enabled the Court to exercise its powers of review. Consequently, the appellants' complaint alleging an infringement of the obligation to state reasons must be rejected.

204 In the light of the foregoing, the fourth ground of appeal must be rejected.

5. The fifth ground of appeal

(a) Preliminary observations

205 By their fifth ground of appeal, which comprises three parts, the appellants dispute the General Court's finding regarding the third plea in law in their action at first instance, which alleged that the Commission failed to observe their procedural guarantees on the ground that the Commission did not disclose to them the information relevant to the determination of dumping and injury.

206 The second and third parts of that fifth ground of appeal relate more specifically to the substance of the General Court's findings concerning the assessment of the third plea in law of the action at first instance, which the CCCME had put forward in its own name. However, as has been stated in paragraphs 48 to 75 and 100 of the present judgment, the CCCME did not have standing to bring proceedings, in its own name, seeking annulment of the regulation at issue. Therefore, the second and third parts of that fifth ground of appeal are inadmissible.

(b) The first part of the fifth ground of appeal

(1) Arguments of the parties

207 By the first part of their fifth ground of appeal, the appellants maintain that, in paragraphs 435 to 438 of the judgment under appeal, the General Court erred or, in the alternative, distorted the facts by declaring inadmissible the third plea of their action for annulment in so far as it concerned the infringements of the procedural guarantees alleged by the members of the CCCME and the nine other appellants on the ground that they had not participated in the investigation. Those members and those appellants participated in the investigations, since they were either sampled exporting producers or exporting producers listed in the regulation at issue as exporting producers who cooperated in establishing that sample. An exporting producer 'comes forward' in response to a notice of initiation under Article 5(10) of the basic regulation by submitting a sampling form. In addition, the appellants argue that the Commission declared in its defence before the General Court that the sampled and non-sampled Chinese appellants received from it 'the disclosure documents … referred to in Article 19(2) of the basic [r]egulation'.

208 The appellants also allege that, in paragraphs 443 to 447 of the judgment under appeal, the General Court erred in holding that the fact that the CCCME acted as representative of the Chinese cast iron industry as a whole was not sufficient to demonstrate that it acted on behalf of its members and of nine other appellants during the anti-dumping proceeding in question and, consequently, that it was not precluded from arguing an infringement of procedural rights of its members and of those appellants. The General Court applied the wrong legal standard and made an incorrect legal classification of the facts. In assessing the CCCME's representation of its members and of the nine other appellants, the General Court ignored the evidence, distorted the content of the CCCME's comments of 15 September 2017 on the provisional regulation and ignored the fact that the CCCME's representation of the Chinese exporting producers was made clear to the Commission.

209 The Commission and the interveners dispute the appellants' arguments.

(2) Findings of the Court

210 In the first place, the appellants maintain, as their principal argument, that the General Court erred in law in holding that, despite the fact that the members of the CCCME and the nine other appellants had either been included in the sample or had been listed as exporting producers who cooperated in establishing the sample at the time of the anti-dumping investigation, they were precluded from arguing that there had been an infringement of their rights to have disclosed to them information relevant to the determination of dumping and injury at the time of that investigation.

211 In that regard, it should be recalled that observance of the rights of the defence is a fundamental principle of EU law (judgment of 3 June 2021, *Jumbocarry Trading*, C-39/20, EU:C:2021:435, paragraph 31 and the case-law cited). The Court has, therefore, held that respect for those rights is of crucial importance in anti-dumping investigations and that, in accordance with those rights, the undertakings concerned should have been placed in a position during the administrative procedure in which they could effectively make known their views on the correctness and relevance of the facts and circumstances alleged and on the evidence presented by the Commission in support of its allegation concerning the existence of dumping and the resultant

injury (see, to that effect, judgment of 16 February 2012, *Council and Commission* v *Interpipe Niko Tube and Interpipe NTRP*, C-191/09 P and C-200/09 P, EU:C:2012:78, paragraphs 76 and 77 and the case-law cited).

212 Recital 12 of the basic regulation states, therefore, that the interested parties should have ample opportunity to present all relevant evidence and to defend their interests. In addition, Article 6(5) and (7) and Article 20(1) and (2) of the basic regulation set out the rights of defence of those parties. That first provision envisages the possibility for those parties, which include, in particular, importers and exporters of the product which is the subject of the investigation, to be heard and to inspect all information made available by any party to an investigation, as distinct from internal documents prepared by the authorities of the European Union or its Member States, which is relevant to the presentation of their cases and not confidential, and is used in the investigation. That second provision enables those parties to obtain disclosure of the details underlying the essential facts and considerations on the basis of which, on the one hand, provisional measures have been imposed or, on the other hand, it is intended to recommend the imposition of definitive measures.

213 However, those provisions make the exercise of those rights subject to certain requirements in order to ensure the sound administration of the anti-dumping proceeding. Accordingly, under Article 6(5) and (7) of the basic regulation, the interested parties are required, first, to make themselves known and, second, to submit a written request to inspect the information in question or to be heard. As regards the first of those requirements, Article 5(10) of the basic regulation provides that the notice of initiation of proceedings is to state the periods within which interested parties may make themselves known, present their views in writing and submit information if such views and information are to be taken into account during the investigation. Article 5(10) also provides that that notice is to state the period within which interested parties may apply to be heard by the Commission in accordance with Article 6(5) of that regulation. Under Article 20(1) and (3) of the basic regulation, information regarding the imposition of provisional measures must be requested in writing immediately following the imposition of those measures, and information concerning the imposition of definitive measures must be requested, also in writing, in the month following the publication of the imposition of a provisional duty.

214 The basic regulation confers procedural rights and guarantees on certain interested parties, but the exercise of those rights and guarantees depends on the active participation by those parties in the proceedings in question, which must take the form, at the very least, of the submission of a written request within a stated deadline (judgment of 9 July 2020, *Donex Shipping and Forwarding*, C-104/19, EU:C:2020:539, paragraph 70).

215 Furthermore, Article 17 of the basic regulation provides that, in cases where the number of complainants, exporters or importers, types of product or transactions is large, the Commission may limit the investigation to a reasonable number of parties, products or transactions by using samples. In order to assess whether to undertake sampling and to establish the composition of the sample, it is important that the interested parties provide the Commission with the necessary information in that regard. Accordingly, where the Commission envisages basing its investigation on a sample of exporters or importers, it may, in the notice of initiation, invite the exporters or importers concerned to make themselves known and request information from them in order to be able to define a representative sample of them.

216 The act, for the interested parties, of making themselves known and providing relevant information in order to establish a representative sample of those parties, or even being included for that purpose, constitutes a form of participation in the anti-dumping proceeding. However, that participation does not confer on those parties the procedural guarantees listed in Article 6(5) and (7) and in Article 20(1) and (2) of the basic regulation. As has been explained in paragraphs 213 and 214 of the present judgment, the grant of those guarantees is subject to certain requirements which involve participation specific to that procedure by those same parties, in the form of demonstrating an interest and written requests. Participating in sampling, as provided for in Article 17 of the basic regulation, does not constitute such specific participation.

217 Consequently, even if the members of the CCCME and the nine other appellants participated in the sampling carried out during the anti-dumping proceeding in question, the General Court did not err in law in holding, in paragraphs 435 to 438 of the judgment under appeal that those members and those appellants were precluded from arguing that there had been an infringement of their procedural guarantees due to the Commission having failed to disclose to them information essential for the defence of their interests. Indeed, the General Court did, correctly, state that those members and those appellants had not made requests seeking disclosure to them of such information during that proceeding.

218 In the alternative, the appellants submit that the General Court distorted the facts by concluding that the CCCME and the nine other appellants did not participate in the investigation in a manner which would allow them to submit that there had been an infringement of their procedural rights. In that regard, they rely on the fact that, in its defence before the General Court, the Commission stated that the members of the CCCME and the nine other appellants had received 'the disclosure documents … referred to in Article 19(2) of the basic [r]egulation'.

219 In that context, it should be pointed out that where an appellant alleges a distortion of the evidence by the General Court, that party must, pursuant to Article 256 TFEU, the first paragraph of Article 58 of the Statute of the Court of Justice of the European Union and Article 168(1)(d) of the Rules of Procedure of the Court of Justice, indicate precisely the evidence alleged to have been distorted by the General Court and show the errors of appraisal which, in that party's view, led to such distortion. In addition, according to settled case-law, that distortion must be obvious from the documents in the Court's file, without any need to carry out a new assessment of the facts and the evidence (judgment of 10 November 2022, *Commission* v *Valencia Club de Fútbol*, C-211/20 P, EU:C:2022:862, paragraph 55 and the case-law cited).

220 The assertion in the defence submitted by the Commission before the General Court that the members of the CCCME and the nine other appellants 'were provided [with] the disclosure documents … referred to in Article 19(2) of the basic [r]egulation' even if the Commission was referring to Article 20(2) of the basic regulation is not such as to establish that the General Court distorted the facts regarding the participation of the CCCME members and the nine other appellants in the anti-dumping proceeding conferring on them the procedural guarantees referred to in Article 6(7) and Article 20(2) of that regulation. That assertion is not sufficient to demonstrate that the CCCME members or the nine other appellants made themselves known and that they made a written request for disclosure of the information required to be able to exercise their procedural rights in accordance with those provisions.

221 Consequently, notwithstanding the participation by the CCCME members and the nine other appellants in the sampling undertaken during the anti-dumping proceeding, the General Court did not err in law nor did it distort the facts by holding, in paragraphs 435 to 438 of the judgment

under appeal, that the complaints of the CCCME members and of the nine other appellants based on the lack of communication of information essential for the defence of their interests were inadmissible, on the ground that those members and those appellants had not made requests seeking to have that information communicated to them during that procedure.

222 In the second place, the appellants dispute that the infringements of the rights of the defence relied on by the CCCME on behalf of its members and the nine other appellants were inadmissible. They allege that the General Court applied the wrong legal standard when it held that the CCCME was not entitled to exercise the procedural rights of its members or of the nine other appellants during the anti-dumping proceeding in question. In addition, they allege that the General Court incorrectly classified the CCCME as a body representing the Chinese cast iron industry as a whole and not the Chinese exporting producers individually.

223 In the light of those complaints, it must be stated that procedural rights are specific to the person on whom they are conferred. Accordingly, the Court had held that the rights of the defence are of a subjective nature, such that it is the concerned parties themselves that must be able effectively to exercise those rights, irrespective of the nature of the proceedings to which they are subject (judgment of 9 September 2021, *Adler Real Estate and Others*, C-546/18, EU:C:2021:711, paragraph 59) and that a company that did not participate in a dumping investigation and is not linked to any exporting producer in the country covered by the investigation cannot claim any rights of defence in a procedure in which it did not participate (judgment of 9 July 2020, *Donex Shipping and Forwarding*, C-104/19, EU:C:2020:539, paragraph 68 and the case-law cited).

224 It must be observed that, while the case-law recalled in the previous paragraph does not relate to whether an association is able to exercise the procedural rights of certain undertakings, including its members, in an administrative procedure, it does not preclude that ability. However, that ability cannot result in the circumvention of the conditions with which, under that case-law, the undertakings in question ought to have complied if they had wished to exercise their procedural rights themselves.

225 Therefore, the General Court did not apply the wrong legal standard when it found, in paragraphs 443 and 444 of the judgment under appeal, that an association's ability to exercise the procedural rights of certain of its members during the anti-dumping proceeding is subject to the condition that that entity has demonstrated, during the investigation, the intention to act as the representative of certain of its members, which presupposes that those members have been identified and that the entity is in a position to establish that it has received from them a mandate enabling it to exercise those procedural rights on their behalf.

226 In addition, as regards the General Court's classification of the CCCME as an 'entity representing the Chinese [cast iron] industry as a whole', it must be pointed out that, as is apparent from paragraph 446 of the judgment under appeal, in its comments of 15 September 2017 on the provisional regulation, the CCCME clarified the nature of its participation in the anti-dumping investigation, stating that 'the CCCME's interest is the interest of the Chinese cast iron industry as a whole. This interest can and will often coincide with the interests of individual Chinese exporting producers of the product concerned, but it is distinct from and goes beyond those individual interests. … The CCCME's participation in the present investigation aims at serving the overall interests of its members and the Chinese cast (exporting) iron industry, as distinct from the individual interests of its [m]ember[s]. The latter interests will be taken care of by the individual Chinese (exporting) producers, some of which participate individually in the present proceeding'.

227 Accordingly, the CCCME indicated clearly during that proceeding that it was involving itself in it on behalf of the overall interests of the Chinese cast iron exporting industry and not in the name of the individual interests of its members or of other undertakings, as is required in order for it to be able to exercise the procedural rights of the latter.

228 The various arguments put forward by the appellants that, first, the CCCME's remarks have been distorted, second, the CCCME is a representative association of Chinese exporting producers, and, third, the CCCME has demonstrated that, during the anti-dumping proceeding in question, it was dealing with the joint defence of the Chinese casting industry, which the Commission had acknowledged, do not call into question the finding made in the previous paragraph.

229 First of all, the Commission's finding in paragraph 25 of the regulation at issue that the CCCME represents, inter alia, the Chinese casting industry does not demonstrate that the General Court distorted the information provided by the CCCME in its comments of 15 September 2017 on the provisional regulation as regards its participation in the anti-dumping proceeding in question. Next, the other arguments put forward by the appellants do not make it possible to demonstrate that the CCCME took part in that anti-dumping proceeding in order to represent the individual interests of the undertakings in question. Lastly, the power of attorney attached to the notice of 12 December 2016 on the circulation of the minutes of the early warning meeting concerning the EU anti-dumping investigation on imported iron castings, upon which the appellants rely, does not demonstrate that the CCCME was able to exercise the procedural rights of those undertakings since it does not state that it permits the CCCME to represent those undertakings individually during that procedure and since it is only a draft power of attorney.

230 In the light of the foregoing, the General Court has not applied a wrong legal standard nor has it made a classification error in finding that the CCCME was precluded from relying on infringements of the procedural rights of its members and of the nine other appellants.

231 The first part of the fifth ground of appeal must be rejected for all of the foregoing reasons.

232 Therefore, that third ground of appeal must be rejected and, consequently, the appeal must be dismissed in its entirety.

Costs

233 In accordance with Article 184(2) of the Rules of Procedure of the Court of Justice, where the appeal is unfounded, the Court is to make a decision as to the costs. Under Article 138(1) of those rules, which applies to the procedure on appeal by virtue of Article 184(1) thereof, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings.

234 Since the Commission and the interveners have applied for costs and the appellants have been unsuccessful in their grounds of appeal, the appellants must be ordered to pay the costs.

On those grounds, the Court (Second Chamber) hereby:

1. Dismisses the appeal;

2. Orders China Chamber of Commerce for Import and Export of Machinery and Electronic Products, Cangzhou Qinghong Foundry Co. Ltd, Botou City Qinghong Foundry Co. Ltd, Lingshou County Boyuan Foundry Co. Ltd, Handan Qunshan Foundry Co. Ltd, Heping Cast Co. Ltd Yi County, Hong Guang Handan Cast Foundry Co. Ltd, Shanxi Yuansheng Casting and Forging Industrial Co. Ltd, Botou City Wangwu Town Tianlong Casting Factory and Tangxian Hongyue Machinery Accessory Foundry Co. Ltd to bear their own costs and to pay those incurred by the European Commission, EJ Picardie, Fondatel Lecomte, Fonderies Dechaumont, Fundiciones de Ódena SA, Heinrich Meier Eisengießerei GmbH & Co. KG, Saint-Gobain Construction Products UK Ltd, Saint-Gobain PAM Canalisation and Ulefos Oy.

Prechal Arastey Sahún Biltgen

Wahl Passer

Delivered in open court in Luxembourg on 21 September 2023.

A. Calot Escobar
Registrar

A. Prechal
President of the Chamber