

**COMMISSION IMPLEMENTING REGULATION (EU) 2022/2068**  
**of 26 October 2022**

**imposing a definitive anti-dumping duty on imports of certain cold-rolled flat steel products originating in the People's Republic of China and the Russian Federation following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council**

THE EUROPEAN COMMISSION,

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

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

Having regard to Regulation (EU) 2015/477 of the European Parliament and of the Council of 11 March 2015 on measures that the European Union may take in relation to the combined effect of anti-dumping or anti-subsidy measures with safeguard measures <sup>(2)</sup>, and in particular Article 1 thereof,

Whereas:

**1. PROCEDURE**

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

- (1) By Regulation (EU) 2016/1328 <sup>(3)</sup> the European Commission imposed anti-dumping duties on imports of certain cold-rolled flat steel products ('CRF') originating in the People's Republic of China ('the PRC' or 'China') and the Russian Federation ('Russia') ('the original measures'). The investigation that led to the imposition of the original measures will hereinafter be referred to as 'the original investigation'.
- (2) The anti-dumping duties currently in force for the PRC are 19,7 % on imports from the sampled exporting producers, 20,5 % on the non-sampled cooperating companies and 22,1 % on all other companies, and for Russia range between 18,7 % and 34 % for the sampled exporting producers with a duty rate of 36,1 % for all other companies.

**1.2. Request for an expiry review**

- (3) Following the publication of a notice of impending expiry <sup>(4)</sup> the European Commission ('the Commission') received a request for a review pursuant to Article 11(2) of the basic Regulation.

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<sup>(1)</sup> OJ L 176, 30.6.2016, p. 21.

<sup>(2)</sup> OJ L 83, 27.3.2015, p. 11.

<sup>(3)</sup> Commission Implementing Regulation (EU) 2016/1328 of 29 July 2016 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain cold rolled flat steel products originating in the People's Republic of China and the Russian Federation (OJ L 210, 4.8.2016, p. 1).

<sup>(4)</sup> OJ C 389, 16.11.2020, p. 4.

- (4) The request for review was lodged on 3 May 2021 by the European Steel Association ('EUROFER') ('the applicant') on behalf of the Union industry of CRF in the sense of Article 5(4) of the basic Regulation. The request for review was based on the grounds that the expiry of the measures would likely result in recurrence of dumping and continuation or recurrence of injury to the Union industry.

### 1.3. Initiation of an expiry review

- (5) Having determined, after consulting the Committee established by Article 15(1) of the basic Regulation, that sufficient evidence existed for the initiation of an expiry review the Commission initiated, on 3 August 2021, an expiry review with regard to imports to the Union of CRF originating in the PRC and Russia ('the countries concerned') on the basis of Article 11(2) of the basic Regulation. It published a Notice of Initiation in the *Official Journal of the European Union* <sup>(5)</sup> ('the Notice of Initiation').

### 1.4. Review investigation period and period considered

- (6) The investigation of a continuation or recurrence of dumping covered the period from 1 July 2020 to 30 June 2021 ('review investigation period'). The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2017 to the end of the review investigation period ('the period considered').

### 1.5. Interested parties

- (7) In the Notice of Initiation, interested parties were invited to contact the Commission in order to participate in the investigation. In addition, the Commission specifically informed the applicant, all known Union producers, the known producers in the PRC and Russia and the authorities of the PRC and Russia, known importers, users and traders about the initiation of the expiry review and invited them to participate.

### 1.6. Comments on initiation

- (8) Interested parties had an opportunity to comment on the initiation of the expiry review and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings. The Commission received comments from three exporting producers in Russia, the Russian government, one unrelated importer and one user.
- (9) In their comments on initiation, the three Russian exporting producers claimed that the applicant had failed to present sufficient and reliable evidence that there was a likelihood of continuation or recurrence of injurious dumping from imports from Russia. In addition, the Russian government, the Russian exporting producers, the unrelated importer and a user claimed there was no causal link between the Union industry's injury situation and imports of CRF from China and Russia. The reasoning of the different parties was that the injury to the Union industry, if it existed, was caused by other factors than injurious imports from Russia and China due to the negligible imports volumes of CRF from the countries concerned.
- (10) However, as also stated in the Notice of Initiation, the applicant alleged that 'the removal of injury as originally established has been mainly due to the existence of measures and that any recurrence of substantial imports at dumped prices from the countries concerned would likely lead to a recurrence of injury to the Union industry should measures be allowed to lapse' <sup>(6)</sup>. The purpose of the review investigation was to establish whether the expiry of measures is likely to result in continuation or recurrence of injury caused by dumped imports from the countries concerned. The information provided by the applicant at the initiation stage was sufficient to show that injury caused by dumped imports would recur if dumped imports were to resume at higher volumes. Therefore, the Commission rejected the parties' claims on causality.

<sup>(5)</sup> Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of certain cold-rolled flat steel products originating in the People's Republic of China and the Russian Federation (OJ C 311, 3.8.2021, p. 6).

<sup>(6)</sup> OJ C 311, 3.8.2021, p. 8, par. 4.2.

- (11) The Russian government claimed that the applicant did not present sufficient evidence of the increased dumping, as stated in Article 5.2 of the Anti-dumping Agreement, while calculating normal value. Furthermore, it argued that the information provided in the open version of the request for expiry review was not detailed enough and showed no exact figures used for calculating the margin, because transport costs, export costs as well as prices on the Russian CRF market and the calculations themselves had been provided in approximate figures. The Russian government requested the Commission to examine the calculations provided in the request and to provide the evidence that these calculations are trustworthy. Moreover, the Russian government referred to Article 6.2 of the Anti-dumping Agreement stating that without an opportunity for a reasonable understanding of the substance of information submitted in confidence, the applicant prevented both the Russian government and the Russian producers, as well as other interested parties from an opportunity to defend their interests in full and asked the Commission and Eurofer to provide more detailed data on dumping margin calculations.
- (12) Concerning the claim on the sufficiency of evidence, the request for review acknowledged that Russian exports of the product concerned to the Union decreased sharply in comparison to the investigation period of the original investigation. Therefore, the request assessed the likelihood of recurrence of dumping by reference to export prices to third countries other than the Union. The analysis of the evidence showed that the request contained sufficient evidence of likelihood of recurrence of dumping.
- (13) The dumping margin calculated in the request reflected the pricing behaviour of the Russian exporting producers on third country markets and did not necessarily reflect the exact degree of dumping which was calculated in the investigation. However, the applicant provided sufficient evidence in the request on export price and normal value showing likelihood of recurrence of dumping. The applicant also provided a sufficiently detailed description of the methodology used in its dumping calculation to permit a reasonable understanding of the substance of the information submitted in confidence.
- (14) In order to assess the normal value of CRF for the Russian exporting producers, the applicant had collected publicly available and subscription-based information on the domestic selling prices of 1 tonne of CRF by the main exporters on their domestic market for the period of reference. The Commission verified and confirmed the export price with the Global Trade Atlas ('GTA') database.
- (15) Since imports of the product under review from Russia to the Union have been negligible following the imposition of the anti-dumping duties in 2016, the applicant based the export price on several sources of price information on export sales of Russian CRF to any third countries in 2020. These export prices for 1 tonne of CRF were established on the basis of market intelligence on export prices from Russia. The export price was verified and confirmed with the average GTA price of the three main Russian export destinations.
- (16) The applicant had thus compared, the average ex-works export price of CRF steel products from Russia with a normal value based on Russian domestic prices.
- (17) In its statutory analysis, the Commission took into account only those elements for which evidence was sufficiently adequate and accurate.
- (18) Therefore, the claims of the Russian government were rejected.
- (19) The Commission considered that the non-confidential version of the request available in the file for inspection by interested parties contained all the essential evidence and non-confidential summaries of the confidential data allowing interested parties to properly exercise their rights of defence. Therefore, this claim was rejected.

#### 1.7. Sampling

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

#### 1.7.1. *Sampling of Union producers*

- (21) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of three Union producers. The Commission selected the sample on the basis of the production and sales volumes of the like product. The sample consisted of three Union producers that accounted for more than 30 % of the estimated total volume of production of the like product in the Union and more than 20 % of the estimated total volume of sales.
- (22) In accordance with Article 17(2) of the basic Regulation, the Commission invited interested parties to comment on the provisional sample. No comments were received and the provisional sample was thus confirmed and was considered representative of the Union industry.

#### 1.7.2. *Sampling of importers*

- (23) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Annex to the Notice of Initiation.
- (24) No unrelated importer replied to the sampling form. Consequently, the Commission decided that sampling was not necessary.

#### 1.7.3. *Sampling of exporting producers in Russia and China*

- (25) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all exporting producers in Russia and China to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Chinese and Russian authorities to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.
- (26) At the initiation, the Commission made available a copy of the questionnaires in the file for inspection by interested parties and on DG TRADE's website.
- (27) No Chinese exporting producers provided the requested information and/or agreed to be included in the sample. The Commission informed the Mission of the People's Republic of China to the European Union about its intention to apply facts available in accordance with Article 18 of the basic Regulation. No comments were received.
- (28) Therefore, since there was no cooperation from the Chinese producers, the findings with regard to the imports from the PRC were made on the basis of the facts available pursuant to Article 18 of the basic Regulation, in particular using trade statistics on imports and exports (Eurostat, the Global Trade Atlas ('GTA') <sup>(7)</sup> and OECD <sup>(8)</sup>).
- (29) Three Russian exporting producers, namely PJSC Magnitogorsk Iron and Steel Works (MMK) and its related companies (MMK Group), PJSC Novolipetsk Steel (NLMK) and its related companies (NLMK Group) and PJSC Severstal (Severstal) and its related companies (SEVERSTAL Group), provided the requested information and agreed to be included in the sample. However, on 6 September 2021, these three exporting producers informed the Commission that they had decided not to submit individual anti-dumping questionnaire replies but would cooperate with the Commission on all other aspects of the expiry review, such as comments on the review request, likelihood of continuation or recurrence of injury and Union interest. Subsequently, on 13 September 2021, the three Russian exporting producers submitted comments on the request for expiry review, the alleged continuation and likelihood of recurrence of injurious dumping and Union interest. They invited the Commission to conduct selective verification of relevant company-specific data, such as production, capacity and capacity utilisation submitted together with the comments.

<sup>(7)</sup> <https://www.gtis.com/gta/>

<sup>(8)</sup> [https://qdd.oecd.org/subject.aspx?Subject=ExportRestrictions\\_IndustrialRawMaterials](https://qdd.oecd.org/subject.aspx?Subject=ExportRestrictions_IndustrialRawMaterials)

- (30) Following this communication, on 21 September and 19 November 2021 the Commission informed the aforementioned exporting producers that it considered them as non-cooperating parties and informed them about its intention to apply Article 18 of the basic Regulation and make use of facts available to determine its findings in the investigation. The Commission also informed the authorities of Russia about its intention to apply facts available in accordance with Article 18 of the basic Regulation.
- (31) On 30 September and 29 November 2021, the Commission received comments from the three Russian exporting producers regarding the application of Article 18 of the basic Regulation. They disagreed with the Commission's assessment of their cooperation status and reiterated their intention to cooperate on other aspects of the review such as continuation or recurrence of injury, likelihood of further injurious dumping and Union interest. They invited again the Commission to verify the data on production, capacity and capacity utilisation they had submitted.
- (32) In this respect, the Russian exporting producers did not submit the requested necessary information in their questionnaire replies. The Commission considered that the Russian exporting producers provided only fragmented information limited to production, capacity and production volume, without supporting evidence. Consequently, since the exporting producers did not provide sufficient and reliable information for the Commission to arrive at a reasonable accurate finding, the Commission used the information available on the file as explained in recital 30. In any event, the Commission used the information provided by the three Russian producers to the extent possible in this regard.
- (33) The Commission sent a questionnaire concerning the existence of significant distortions in the PRC within the meaning of Article 2(6a)(b) of the basic Regulation to the Government of the People's Republic of China ('GOC').
- (34) The Commission also sent questionnaires to the sampled Union producers. The same questionnaires had also been made available online <sup>(9)</sup> on the day of initiation. In addition, the Commission sent a questionnaire to the Union producers association, EUROFER.
- (35) Questionnaire replies were received from the three sampled Union producers and EUROFER.

#### 1.7.4. Verification

- (36) The Commission sought and verified all the information deemed necessary for the determination of likelihood of continuation or recurrence of dumping and injury and of the Union interest. Due to the outbreak of the COVID-19 pandemic and the consequent measures taken to deal with the outbreak ('the COVID-19 Notice') <sup>(10)</sup>, the Commission was unable to carry out verification visits at the premises of the sampled companies. Instead, the Commission performed Remote cross-checks ('RCCs') of the information provided by the following companies via videoconference:

#### **Union producers**

- Voestalpine Stahl GmbH, Austria
- ThyssenKrupp Steel Europe AG, Germany
- ArcelorMittal Belgium, Belgium

#### 1.8. Subsequent procedure

- (37) On 19 August 2022, the Commission disclosed the essential facts and considerations on the basis of which it intended to maintain the anti-dumping duties in force regarding imports from the PRC and Russia. All parties were granted the opportunity to make comments on the disclosure.

<sup>(9)</sup> [https://trade.ec.europa.eu/tdi/case\\_details.cfm?id=2538](https://trade.ec.europa.eu/tdi/case_details.cfm?id=2538)

<sup>(10)</sup> Notice on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations (2020/C 86/06) (OJ C 86, 16.3.2020, p. 6).

- (38) The comments made by interested parties were considered by the Commission and taken into account, where appropriate. The parties who so requested were granted a hearing.

## 2. PRODUCT UNDER REVIEW, PRODUCT CONCERNED AND LIKE PRODUCT

### 2.1. Product under review

- (39) The product under review is the same as in the original investigation namely flat-rolled products of iron or non-alloy steel, or other alloy steel but excluding of stainless steel, of all widths, cold-rolled (cold-reduced), not clad, plated or coated and not further worked than cold-rolled (cold-reduced), currently falling under CN codes ex 7209 15 00 (TARIC code 7209 15 00 90), 7209 16 90, 7209 17 90, 7209 18 91, ex 7209 18 99 (TARIC code 7209 18 99 90), ex 7209 25 00 (TARIC code 7209 25 00 90), 7209 26 90, 7209 27 90, 7209 28 90, 7211 23 30, ex 7211 23 80 (TARIC codes 7211 23 80 19, 7211 23 80 95 and 7211 23 80 99), ex 7211 29 00 (TARIC codes 7211 29 00 19 and 7211 29 00 99), 7225 50 80 and 7226 92 00 ('the product under review').
- (40) The following product types are excluded from the definition of the product under review:
- flat-rolled products of iron or non-alloy steel, of all widths, cold-rolled (cold-reduced), not clad, plated or coated, not further worked than cold-rolled, whether or not in coils, of all thickness, electrical,
  - flat-rolled products of iron or non-alloy steel, of all widths, cold-rolled (cold-reduced), not clad, plated or coated, in coils, of a thickness of less than 0,35 mm, annealed (known as 'black plates'),
  - flat-rolled products of other alloy steel, of all widths, of silicon-electrical steel, and
  - flat-rolled products of alloy steel, not further worked than cold-rolled (cold-reduced), of high-speed steel.
- (41) Cold-rolled flat steel products are produced from hot-rolled coils. The cold-rolling process is defined by passing a sheet or strip that has previously been hot rolled and pickled – through cold rolls, i.e. below the softening temperature of the metal. Cold-rolled flat steel products are manufactured to meet certain specifications or proprietary end-user specifications. They can be delivered in various forms: in coils (oiled or not oiled), in cut lengths (sheet) or narrow strips. Cold-rolled flat steel products are an industrial input purchased by end-users for a variety of applications, mainly in manufacturing (general industry, packaging, automotive, etc.) but also in construction.

### 2.2. Product concerned

- (42) The product concerned by this investigation is the product under review originating in the PRC and Russia.

### 2.3. Like product

- (43) As established in the original investigation, this expiry review investigation confirmed that the following products have the same basic physical characteristics as well as the same basic uses:
- the product concerned when exported to the Union;
  - the product under review sold on the domestic market of the PRC and Russia; and
  - the product under review produced and sold in the Union by the Union industry.
- (44) These products are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

### 3. DUMPING

#### 3.1. People's Republic of China

##### 3.1.1. Preliminary remarks

- (45) During the review investigation period, imports of certain cold-rolled flat steel products from China continued, albeit at lower levels than in the investigation period of the original investigation (i.e. from 1 April 2014 to 31 March 2015). According to Eurostat data, imports of certain cold-rolled flat steel products from China accounted for less than 1 % of the Union market in the review investigation period compared to 10,3 % <sup>(11)</sup> market share during the original investigation. In absolute terms, China exported about 32 000 tonnes to the Union during the review investigation period, which is a significant decrease compared to about 732 000 tonnes <sup>(12)</sup> that it exported to the Union during the investigation period of the original investigation.
- (46) During the original investigation, the Commission found that exports of the product concerned from China were dumped at a significant level on the Union market. The dumping margins of the cooperating Chinese exporters ranged from 52,7 % to 59,2 %. Due to the application of the lesser duty rule, the anti-dumping duties imposed on Chinese imports were set at a much lower level, ranging from 19,7 % to 22,1 %.
- (47) As mentioned in recital 27, none of the Chinese exporters/producers cooperated in the investigation. Therefore, the Commission informed the authorities of the PRC that due to the absence of cooperation, the Commission might apply Article 18 of the basic Regulation concerning the findings with regard to the PRC. The Commission did not receive any comments or requests for an intervention of the Hearing Officer in this regard.
- (48) Consequently, in accordance with Article 18(1) of the basic Regulation, the findings in relation to the likelihood of continuation or recurrence of dumping with regard to the PRC were based on facts available, in particular the information contained in the request for the expiry review and in the submissions by the interested parties, combined with other sources of information, such as trade statistics on imports and exports (Eurostat, the GTA <sup>(13)</sup>, and OECD <sup>(14)</sup>), and independent providers of financial data, such as Global Financials published by Dunn & Bradstreet <sup>(15)</sup>.

##### 3.1.2. Dumping

###### 3.1.2.1. Procedure for the determination of the normal value under Article 2(6a) of the basic Regulation for the imports of certain cold-rolled flat steel products originating in the PRC

- (49) Given the sufficient evidence available at the initiation of the investigation tending to show, with regard to the PRC, the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation, the Commission initiated the investigation on the basis of Article 2(6a) of the basic Regulation.
- (50) In order to obtain information it deemed necessary for its investigation with regard to the alleged significant distortions, the Commission sent a questionnaire to the GOC. In addition, in point 5.3.2. of the Notice of Initiation, the Commission invited all interested parties to make their views known, submit information and provide supporting evidence regarding the application of Article 2(6a) of the basic Regulation within 37 days of the date of publication of the Notice of Initiation in the *Official Journal of the European Union*. No questionnaire reply was received from the GOC and no submission on the application of Article 2(6a) of the basic Regulation was received within the deadline. Subsequently, by Note Verbale dated 13 September 2021, the Commission informed the GOC that it would use facts available within the meaning of Article 18 of the basic Regulation for the determination of the existence of the significant distortions in the PRC.

<sup>(11)</sup> Commission Implementing Regulation (EU) 2016/181 of 10 February 2016 imposing a provisional anti-dumping duty on imports of certain cold-rolled flat steel products originating in the People's Republic of China and the Russian Federation (OJ L 37, 12.2.2016, p. 17), recital 113.

<sup>(12)</sup> See previous footnote.

<sup>(13)</sup> <https://www.gtis.com/gta/>

<sup>(14)</sup> [https://qdd.oecd.org/subject.aspx?Subject=ExportRestrictions\\_IndustrialRawMaterials](https://qdd.oecd.org/subject.aspx?Subject=ExportRestrictions_IndustrialRawMaterials)

<sup>(15)</sup> <https://ec.altares.eu/>

- (51) In point 5.3.2. of the Notice of Initiation, the Commission also specified that, in view of the evidence available, a possible representative third country for China was in this case Brazil, pursuant to Article 2(6a)(a) of the basic Regulation, for the purpose of determining the normal value based on undistorted prices or benchmarks. The Commission further stated that it would examine other possibly appropriate countries in accordance with the criteria set out in first indent of Article 2(6a) of the Basic regulation.
- (52) On 24 November 2020, the Commission informed by a note ('the First Note') interested parties on the relevant sources it intended to use for the determination of the normal value. In that note, the Commission provided a list of all factors of production such as raw materials, labour and energy used in the production of certain cold-rolled flat steel products. In addition, based on the criteria guiding the choice of undistorted prices or benchmarks, the Commission identified possible representative countries, namely Brazil, Mexico, Russia and Turkey. The Commission received no comments on the First Note.
- (53) On 17 March 2022, the Commission informed by a second note ('the Second Note') interested parties on the relevant sources it intended to use for the determination of the normal value, with Brazil as the representative country. No comments were received.

#### 3.1.2.2. Normal value

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

#### 3.1.3. Existence of significant distortions

- (57) In recent investigations concerning the steel sector in the PRC <sup>(16)</sup>, the Commission found that significant distortions in the sense of Article 2(6a)(b) of the basic Regulation were present.
- (58) In those investigations, the Commission found that there is substantial government intervention in the PRC resulting in a distortion of the effective allocation of resources in line with market principles <sup>(17)</sup>. In particular, the Commission concluded that in the steel sector, which is the main raw material to produce the product under review, not only does a substantial degree of ownership by the GOC persist in the sense of Article 2(6a)(b), first indent of the

<sup>(16)</sup> Commission Implementing Regulation (EU) 2022/191 of 16 February 2022 imposing a definitive anti-dumping duty on imports of certain iron or steel fasteners originating in the People's Republic of China (OJ L 36, 17.2.2022, p. 1); Commission Implementing Regulation (EU) 2021/2239 of 15 December 2021 imposing a definitive anti-dumping duty on imports of certain utility scale steel wind towers originating in the People's Republic of China (OJ L 450, 16.12.2021, p. 59); Commission Implementing Regulation (EU) 2021/635 of 16 April 2021 imposing a definitive anti-dumping duty on imports of certain welded pipes and tubes of iron or non-alloyed steel originating in Belarus, the People's Republic of China and Russia following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council (OJ L 132, 19.4.2021, p. 145) and Commission Implementing Regulation (EU) 2020/508 of 7 April 2020 imposing a provisional anti-dumping duty on imports of certain hot rolled stainless steel sheets and coils originating in Indonesia, the People's Republic of China and Taiwan (OJ L 110, 8.4.2020, p. 3).

<sup>(17)</sup> See Implementing Regulation (EU) 2022/191 recital 195-201, Implementing Regulation (EU) 2021/2239 recitals 67-74, Implementing Regulation (EU) 2021/635 recitals 149-150 and Implementing Regulation (EU) 2020/508 recitals 158-159.



basic Regulation <sup>(18)</sup>, but the GOC is also in a position to interfere with prices and costs through State presence in firms in the sense of Article 2(6a)(b), second indent of the basic Regulation <sup>(19)</sup>. The Commission further found that the State's presence and intervention in the financial markets, as well as in the provision of raw materials and inputs have an additional distorting effect on the market. Indeed, overall, the system of planning in the PRC results in resources being concentrated in sectors designated as strategic or otherwise politically important by the GOC, rather than being allocated in line with market forces <sup>(20)</sup>. Moreover, the Commission concluded that the Chinese bankruptcy and property laws do not work properly in the sense of Article 2(6a)(b), fourth indent of the basic Regulation, thus generating distortions in particular when maintaining insolvent firms afloat and when allocating land use rights in the PRC <sup>(21)</sup>. In the same vein, the Commission found distortions of wage costs in the steel sector in the sense of Article 2(6a)(b), fifth indent of the basic Regulation <sup>(22)</sup>, as well as distortions in the financial markets in the sense of Article 2(6a)(b), sixth indent of the basic Regulation, in particular concerning access to capital for corporate actors in the PRC <sup>(23)</sup>.

- (59) Like in previous investigations concerning the steel sector in the PRC, the Commission examined in the present investigation whether it was appropriate or not to use domestic prices and costs in the PRC, due to the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation. The Commission did so on the basis of the evidence available on the file, including the evidence contained in the request, as well as in the Commission Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the Purposes of Trade Defense Investigations <sup>(24)</sup> ('Report'), which relies on publicly available sources. That analysis covered the examination of the substantial government interventions in the PRC's economy in general, but also the specific market situation in the relevant sector including the product under review. The Commission further supplemented these evidentiary elements with its own research on the various criteria relevant to confirm the existence of significant distortions in the PRC as also found by its previous investigations in this respect.

<sup>(18)</sup> See Implementing Regulation (EU) 2022/191 recital 195-201, Implementing Regulation (EU) 2021/2239 recitals 67-74, Implementing Regulation (EU) 2021/635 recitals 115-118 and Implementing Regulation (EU) 2020/508 recitals 122-127.

<sup>(19)</sup> See Implementing Regulation (EU) 2022/191 recital 195-201, Implementing Regulation (EU) 2021/2239 recitals 67-74, Implementing Regulation (EU) 2021/635 recitals 119-122 and Implementing Regulation (EU) 2020/508 recitals 128-132: While the right to appoint and to remove key management personnel in SOEs by the relevant State authorities, as provided for in the Chinese legislation, can be considered to reflect the corresponding ownership rights, CCP cells in enterprises, state owned and private alike, represent another important channel through which the State can interfere with business decisions. According to the PRC's company law, a CCP organisation is to be established in every company (with at least three CCP members as specified in the CCP Constitution) and the company shall provide the necessary conditions for the activities of the party organisation. In the past, this requirement appears not to have always been followed or strictly enforced. However, since at least 2016 the CCP has reinforced its claims to control business decisions in SOEs as a matter of political principle. The CCP is also reported to exercise pressure on private companies to put 'patriotism' first and to follow party discipline. In 2017, it was reported that party cells existed in 70 % of some 1.86 million privately owned companies, with growing pressure for the CCP organisations to have a final say over the business decisions within their respective companies. These rules are of general application throughout the Chinese economy, across all sectors, including to the producers of SSCR producers and the suppliers of their inputs.

<sup>(20)</sup> See Implementing Regulation (EU) 2022/191 recitals 195-201, Implementing Regulation (EU) 2021/2239 recitals 67-74, Implementing Regulation (EU) 2021/635 recitals 123-129 and Implementing Regulation (EU) 2020/508 recitals 133-138.

<sup>(21)</sup> See Implementing Regulation (EU) 2022/191 recitals 195-201, Implementing Regulation (EU) 2021/2239 recitals 67-74, Implementing Regulation (EU) 2021/635 recitals 130-133 and Implementing Regulation (EU) 2020/508 recitals 139-142.

<sup>(22)</sup> See Implementing Regulation (EU) 2022/191 recitals 195-201, Implementing Regulation (EU) 2021/2239 recitals 67-74, Implementing Regulation (EU) 2021/635 recitals 134-135 and Implementing Regulation (EU) 2020/508 recitals 143-144.

<sup>(23)</sup> See Implementing Regulation (EU) 2022/191 recitals 195-201, Implementing Regulation (EU) 2021/2239 recitals 67-74, Implementing Regulation (EU) 2021/635 recitals 136-145 and Implementing Regulation (EU) 2020/508 recitals 145-154.

<sup>(24)</sup> Commission staff working document SWD(2017) 483 final/2, 20. 12. 2017, available at: [https://trade.ec.europa.eu/doclib/docs/2017/december/tradoc\\_156474.pdf](https://trade.ec.europa.eu/doclib/docs/2017/december/tradoc_156474.pdf)

- (60) The request alleged that the Chinese economy as a whole is widely influenced and affected by various all-encompassing interventions by the GOC or other public authorities on various levels of government, in view of which domestic prices and costs of the Chinese steel industry cannot be used in the present investigation. To support its position, the request referred to the Commission's recent investigations of the Chinese steel sector <sup>(25)</sup> or the conclusions of the G20 Global Forum on Steel Excess Capacity <sup>(26)</sup>.
- (61) More specifically, the request pointed out that against the background of the '*socialist market economy*' doctrine enshrined in the PRC Constitution, the omnipresence of the Chinese Communist Party ('CCP') and the government influence over the economy by means of strategic planning initiatives – such as the 13<sup>th</sup> and 14<sup>th</sup> Five-Years Plans – the GOC's interventionism takes various forms, namely administrative, financial and regulatory.
- (62) The request provided examples of elements pointing to existence of distortions, as listed in the first to sixth dash of Article 2(6a)(b) of the basic Regulation. In particular, referring to previous Commission investigations in the steel sector, to the Report, to reports by third countries authorities (USTR) and by other institutions (IMF) the applicant submitted that:
- The market of CRF is served to a significant extent by enterprises which operate under the ownership, control or policy supervision or guidance of the PRC authorities, given in particular the CCP's influence over both private and state-owned companies by means of CCP nominations in companies, as well as in view of the systematic intermingling of State and CCP offices. The applicant further submitted that while the steel sector consists approximately half of state-owned and half of private companies in terms of production and production capacity, four out of the five biggest steel producers are SOEs, including Baowu, the second largest crude steel producer worldwide which is fully state-owned and closely aligned with the GOC's steel policy. The applicant pointed out in this connection that the GOC has been pursuing the plan to consolidate 70 % of iron and steel production in ten champion companies by 2025, a strategy which affects also the CRF industry, e.g. by the Baowu acquisition of the CRF producer Maanshan Iron & Steel in 2019;
  - State presence in firms allows the state to interfere with respect to prices or costs, notably by exercising regulatory and managerial control over SOEs, as well as through an increasing role of CCP in both state-owned and private companies which have been urged in recent years to leave major decisions to the CCP. The applicant further referred to personal overlaps between the state-controlled CISA association and the largest private steel producer, the Shagang group, as well as to State presence in upstream sector companies for which targets are set which result in abnormally low costs for the steel industry.
  - Public policies or measures discriminate in favour of domestic suppliers or otherwise influence free market forces, given in particular the system of planning which funnels resources to selected industries, such as the steel sector. The applicant illustrated this by quoting the draft 14th Five-Years Plan for the steel industry which reiterates its importance for the Chinese economy, as well as by referring to other planning and strategic documents which foresee support to the steel sector, such as Made in China 2025. The applicant further referred to other public policies affecting free market forces, such as the GOC steering the prices of raw materials through numerous measures, such as export quotas, export licensing requirements, export duties or VAT rebates, through energy price differentiation. In addition, the request describes the incentives provided by the Chinese authorities to steel producers which participate in the Belt and Road Initiative, aimed at fostering the presence of Chinese companies on foreign markets;

<sup>(25)</sup> Commission Implementing Regulation (EU) 2017/649 of 5 April 2017 imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China (OJ L 92, 6.4.2017, p. 68); Commission Implementing Regulation (EU) 2017/969 of 8 June 2017 imposing definitive countervailing duties on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China and amending Commission Implementing Regulation (EU) 2017/649 imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China (OJ L 146, 9.6.2017, p. 17) and Commission Implementing Regulation (EU) 2019/688 of 2 May 2019 imposing a definitive countervailing duty on imports of certain organic coated steel products originating in the People's Republic of China following an expiry review pursuant to Article 18 of the Regulation (EU) 2016/1037 of the European Parliament and of the Council (OJ L 116, 3.5.2019, p. 39).

<sup>(26)</sup> Global Forum on steel excess capacity, Ministerial Report, 20 September 2018.

- The lack, discriminatory application or inadequate enforcement of bankruptcy, corporate or property laws results in the survival of large numbers of ‘zombie companies’ which contribute to the persistence of unused capacities, an issue particularly felt in the steel sector and reverberating in the Chinese financial and borrowing markets. The applicant also pointed out that given the absence of private land ownership in China, the Chinese state intervenes in the land use by the steel sector, as also already found by the Commission in previous investigations <sup>(27)</sup>;
  - Wage costs are distorted, insofar as no free bargaining exists and the only legally recognised trade union, the ACFTU is subject to CCP leadership. The applicant also pointed out that China has still not ratified several fundamental ILO convention and that the Chinese workforce is impacted by the household registration system;
  - Access to finance is granted by institutions which implement public policy objectives, or otherwise do not act independently of the state, due to the dominant presence of State-owned and controlled banks in which the State and CCP have influence over personnel and business decisions and which align themselves with the country’s industrial policy objectives. According to the request, Chinese CRF producers massively benefit from preferential lending by those banks. The applicant pointed out that also private banks must take national policy into account when conducting their business. Similarly to the distortions in the banking sector, the request describes the dominant role of government-related players in the bond market and the distortive role of the State-owned credit rating agencies or private agencies strongly influenced by the State, which opens the way to financing at more favourable rates to encouraged industries than those that would have been available on financial markets operating according to market principles.
- (63) As indicated in recital 50, the GOC did not comment or provide evidence supporting or rebutting the existing evidence on the case file, including the Report and the additional evidence provided by the applicant, on the existence of significant distortions and/or on the appropriateness of the application of Article 2(6a) of the basic Regulation in the case at hand.
- (64) Specifically in the sector of the product under review, i.e. the steel sector, a substantial degree of ownership by the GOC persists. Many of the largest CRF producers are owned by the State, such as, for example, Hebei Iron and Steel, Handan Iron and Steel, Baoshan Iron and Steel, Shanghai Meishan Iron and Steel, BX Steel Posco Cold Rolled Sheet, WISCO International Economic and Trading, Maanshan Iron and Steel, Tianjin Rolling One Steel or Inner Mongolia Baotou Steel Union. Baosteel, another major Chinese enterprise that engages in steel manufacturing, is part of the China Baowu Steel Group Co. Ltd. (formerly Baosteel Group and Wuhan Iron & Steel), the world’s largest steel producer <sup>(28)</sup> which is ultimately 100 % owned by the central SASAC <sup>(29)</sup>. While the nominal split between the number of SOEs and privately owned companies is estimated to be almost even, from the five Chinese steel producers ranked in the top 10 of the world’s largest steel producers, four are SOEs <sup>(30)</sup>. At the same time, while the top ten producers only took up some 36 % of total industry output in 2016, the GOC set the target in the same year to consolidate 60 % to 70 % of steel production in around ten large-scale enterprises by 2025 <sup>(31)</sup>. This intention has been repeated by the GOC in April 2019, announcing a release of guidelines on steel industry consolidation <sup>(32)</sup>. Such consolidation may entail forced mergers of profitable private companies with underperforming SOEs <sup>(33)</sup>. Since there was no cooperation from Chinese exporters of the product under review, the exact ratio of the private and state owned cold-rolled flat steel producers could not be determined. However, while specific information may not be available for the CRF sector, the sector represents a sub-sector of the steel industry and the findings concerning the steel sector are therefore deemed indicative also for the product under review.

<sup>(27)</sup> Implementing Regulation (EU) 2019/688, recital 86.

<sup>(28)</sup> See at: <https://worldsteel.org/steel-topics/statistics/top-producers/> (accessed on 4 August 2022)

<sup>(29)</sup> See for example at: [www.fitchratings.com/research/corporate-finance/china-baowu-steel-group-corporation-limited-05-03-2021](http://www.fitchratings.com/research/corporate-finance/china-baowu-steel-group-corporation-limited-05-03-2021) (accessed on 4 August 2022).

<sup>(30)</sup> Report – Chapter 14, p. 358: 51 % private and 49 % SOEs in terms of production and 44 % SOEs and 56 % private companies in terms of capacity.

<sup>(31)</sup> Available at: [www.gov.cn/zhengce/content/2016-02/04/content\\_5039353.htm](http://www.gov.cn/zhengce/content/2016-02/04/content_5039353.htm); [https://policycn.com/policy\\_ticker/higher-expectations-for-large-scale-steel-enterprise/?iframe=1&secret=c8uthafuthefra4e](https://policycn.com/policy_ticker/higher-expectations-for-large-scale-steel-enterprise/?iframe=1&secret=c8uthafuthefra4e), and [www.xinhuanet.com/english/2019-04/23/c\\_138001574.htm](http://www.xinhuanet.com/english/2019-04/23/c_138001574.htm) (accessed on 4 August 2022).

<sup>(32)</sup> Available at [http://www.jjckb.cn/2019-04/23/c\\_137999653.htm](http://www.jjckb.cn/2019-04/23/c_137999653.htm) (accessed on 4 August 2022).

<sup>(33)</sup> As was the case of the merger between the private company Rizhao and the SOE Shandong Iron and Steel in 2009. See Beijing steel report, p. 58, and the acquired majority stake of China Baowu Steel Group in Magang Steel in June 2019, see <https://www.ft.com/content/a7c93fae-85bc-11e9-a028-86cea8523dc2> (accessed on 4 August 2022).

- (65) The latest Chinese policy documents concerning the steel sector confirm the continued importance which GOC attributes to the sector, including the intention to intervene in the sector in order to shape it in line with the government policies. This is exemplified by the Ministry of Industry and Information Technology's draft Guiding Opinion on Fostering a High Quality Development of Steel Industry which calls for further consolidation of the industrial foundation and significant improvement in the modernization level of the industrial chain <sup>(34)</sup> or by the 14<sup>th</sup> Five Years Plan on Developing the Raw Material Industry according to which the sector will 'adhere to the combination of market leadership and government promotion' and will 'cultivate a group of leading companies with ecological leadership and core competitiveness' <sup>(35)</sup>. Similar examples of the intention by the Chinese authorities to supervise and guide the developments of the sector can be seen at the provincial level, such as in Shandong which not only foresees 'building a steel industry ecology [...], establish manufacturing parks, extend the industrial chain and create industrial clusters' but want the steel industry to 'provide a demonstration for the transformation and upgrading [...] in our province and even the whole country' <sup>(36)</sup>.
- (66) As to the GOC being in a position to interfere with prices and costs through State presence in firms in the sense of Article 2(6a)(b), second indent of the basic Regulation, due to the lack of cooperation from the side of the CRF producers, it was impossible to systematically establish existence of personal connections between producers of the product under review and the CCP. However, given that CRF represents a subsector of the steel sector, information available with respect to steel producers is relevant also to CRF. To provide an example, Baowu's Chairman of the Board of Directors serves at the same time as the Party Committee Secretary with the General Manager being the Deputy Secretary of the Party Committee <sup>(37)</sup>. Similarly, the Chairman of Baosteel's Board of Directors occupies the position of the Party Committee's secretary, while the Executive Manager is the Deputy Secretary of the Party Committee <sup>(38)</sup>. More generally, in view of the general applicability of the legislation on CCP presence in companies, it cannot be assumed that the ability of the GOC to interfere with prices and costs through State presence in firms would be different compared to the steel sector in general.
- (67) Both public and privately owned enterprises in the CRF sector are subject to policy supervision and guidance. The following examples illustrate the above trend of an increasing level of intervention by the GOC in the CRF sector. Many CRF producers explicitly emphasise Party building activities on their websites, have party members in the company management and underline their affiliation to the CCP. For instance, Baowu indicates that 301 Party Committees exist within the group, with the number of CCP members among Baowu's staff amounting to 84 571 <sup>(39)</sup>. Moreover, the group indicates the following concerning Party building in the enterprise: 'Strengthen the leadership of the party and improve corporate governance, improve the modern enterprise system. China Baowu fully implements the requirements of the 'Opinions on Strengthening the Party's Leadership in the Improvement of Corporate Governance by Central Enterprises', [...] The revised and improved decision-making system for major matters further improved the decision-making authority of the party committee, the board of directors, managers and other governance bodies, the decision-making matters and forms authorized by the board of directors [...]. [...] Baowu adheres to and implements the simultaneous planning of party building and enterprise reform, the simultaneous establishment of party organizations and working institutions, the simultaneous allocation of party organization leaders and party affairs staff <sup>(40)</sup>'.
- (68) Further, policies discriminating in favour of domestic producers or otherwise influencing the market in the sense of Article 2(6a)(b), third indent of the basic Regulation are in place in the CRF sector. Even though CRF is a specialised industry and no specific policy documents guiding specifically the development of the CRF industry as such could be identified during the investigation, the CRF industry benefits from governmental guidance and intervention into the steel sector, given that CRF represents one of its subsectors.

<sup>(34)</sup> See: [https://www.miit.gov.cn/gzcy/yjzj/art/2020/art\\_af1bef04b9624997956b2bff6cdb7383.html](https://www.miit.gov.cn/gzcy/yjzj/art/2020/art_af1bef04b9624997956b2bff6cdb7383.html) (accessed on 13 January 2022).

<sup>(35)</sup> See Section IV, Subsection 3 of the Plan, available at: [https://www.miit.gov.cn/zwgk/zcwj/wjfb/tz/art/2021/art\\_2960538d19e34c66a5eb8d01b74cbb20.html](https://www.miit.gov.cn/zwgk/zcwj/wjfb/tz/art/2021/art_2960538d19e34c66a5eb8d01b74cbb20.html) (accessed on 13 January 2022).

<sup>(36)</sup> See the 14<sup>th</sup> Five-Years Plan on the Steel Industry development, Foreword.

<sup>(37)</sup> See the group's website, available at: [http://www.baowugroup.com/about/board\\_of\\_directors](http://www.baowugroup.com/about/board_of_directors) (accessed on 28 March 2022)

<sup>(38)</sup> See the company's website, available at: <https://www.baosteel.com/about/manager> (accessed on 28 March 2022)

<sup>(39)</sup> See the group's website, available at: [http://www.baowugroup.com/party\\_building/overview](http://www.baowugroup.com/party_building/overview) (accessed on 28 March 2022)

<sup>(40)</sup> *Ibidem*.

- (69) The steel industry is regarded as a key industry by the GOC <sup>(41)</sup>. This is confirmed in the numerous plans, directives and other documents focused on steel, which are issued at national, regional and municipal level such as the ‘Steel Industry Adjustment and Upgrading plan for 2016-2020’, valid during a significant part of the review investigation period. This Plan stated that the steel industry is ‘an important, fundamental sector of the Chinese economy, a national cornerstone’ <sup>(42)</sup>. The main tasks and objectives set out in this Plan cover all aspects of the development of the industry <sup>(43)</sup>. The 13<sup>th</sup> Five-Year Plan on Economic and Social Development <sup>(44)</sup>, applicable during the review investigation period, envisaged support to enterprises producing high-end steel product types <sup>(45)</sup>. It also focused on achieving product quality, durability and reliability by supporting companies using technologies related to clean steel production, precision rolling and quality improvement <sup>(46)</sup>. Similarly, under the 14<sup>th</sup> Five Years Plan adopted in March 2021, the GOC has earmarked the steel industry for transformation and upgrade, as well as optimization and structural adjustment <sup>(47)</sup>.
- (70) The Guiding Catalogue for Industry Restructuring (2019 Version) <sup>(48)</sup> (‘the Catalogue’) lists steel as an encouraged industry. The other important raw material used for the production of CRF is iron ore. Iron ore was covered by the National Mineral Resource Plan 2016-2020 during a significant portion of the review investigation period. The plan envisaged, among others, to ‘ensure enterprise concentration and develop large and medium sized mines competitive on the market’, ‘ensure guidance of local resources so as to concentrate them towards large-sized mining groups’, ‘reduce the burden on iron ore enterprises, raise the competitiveness of domestic iron ore enterprises’, ‘adequately control the development of 1 000 meter-deep mines and small-scale low-grade iron ore mines’.
- (71) Iron ore is also mentioned in the 13<sup>th</sup> Five-Years Plan on Steel 2016-2020, which was in force during a significant portion of the review investigation period. The plan envisaged for iron ore: ‘keep on supporting exploration works in domestic key mineral areas, [...], support a number of existing and strongly competitive domestic iron ore enterprises, thanks to a wider and intensified development, [...], and to strengthen the role of domestic mineral resources bases as regards security (of supplies)’.
- (72) Iron ore is classified as a Strategic Emerging Industry (SEI) and therefore covered by the 13<sup>th</sup> Five-Years Plan on SEIs. Iron ore and ferro alloys are also all listed in the Catalogue. Ferro alloys are further mentioned in the 2018 MIIT Guiding Catalogue for Industry Development and Transfer. The examples above concerning the steel sector in general and the iron ore business in particular, the latter being an important raw material to produce CRF, demonstrate the importance the GOC is paying to these sectors. As such, the GOC guides also the further development of the CRF sector in accordance with a broad range of policy tools and directives and controls virtually every aspect in the development and functioning of the sector. Thus, the CRF industry benefits from governmental guidance and intervention concerning the main raw materials to manufacture CRF, namely iron.
- (73) In sum, the GOC has measures in place to induce operators to comply with the public policy objectives of supporting encouraged industries, including the production of the main raw materials used in the manufacturing of CRF. Such measures impede market forces from operating freely.

<sup>(41)</sup> Report, Part III, Chapter 14, p. 346 ff.

<sup>(42)</sup> Introduction to the Plan for Adjusting and Upgrading the Steel Industry.

<sup>(43)</sup> Report, Chapter 14, p. 347.

<sup>(44)</sup> The 13<sup>th</sup> Five-Year Plan for Economic and Social Development of the People’s Republic of China (2016-2020), available at: <https://en.ndrc.gov.cn/policies/202105/P020210527785800103339.pdf> (accessed on 4 August 2022).

<sup>(45)</sup> Report – Chapter 14, p. 349.

<sup>(46)</sup> Report – Chapter 14, p. 352.

<sup>(47)</sup> See People’s Republic of China 14<sup>th</sup> Five-Year Plan for National Economic and Social Development and Long-Range Objectives for 2035, Part III, Article VIII, available at: <https://cset.georgetown.edu/publication/china-14th-five-year-plan/> (accessed on 4 August 2022).

<sup>(48)</sup> Guiding Catalogue for Industry Restructuring (2019 Version), approved by Decree of the National Development and Reform Commission of the People’s Republic of China No 29 of 27 August 2019; available at: <http://www.gov.cn/xinwen/2019-11/06/5449193/files/26c9d25f713f4ed5b8dc51ae40ef37af.pdf> (accessed on 27 June 2022).

- (74) The present investigation has not revealed any evidence that the discriminatory application or inadequate enforcement of bankruptcy and property laws according to Article 2(6a)(b), fourth indent of the basic Regulation in the CRF sector referred to above in recital 55 would not affect the manufacturers of the product under review.
- (75) The CRF sector is also affected by the distortions of wage costs in the sense of Article 2(6a)(b), fifth indent of the basic Regulation, as also referred to above in recital 55. Those distortions affect the sector both directly (when producing the product under review or the main inputs), as well as indirectly (when having access to capital or inputs from companies subject to the same labour system in the PRC)<sup>(49)</sup>.
- (76) Moreover, no evidence was submitted in the present investigation demonstrating that the CRF sector is not affected by the government intervention in the financial system in the sense of Article 2(6a)(b), sixth indent of the basic Regulation, as also referred to above in recital 55. Therefore, the substantial government intervention in the financial system leads to the market conditions being severely affected at all levels.
- (77) Finally, the Commission recalls that in order to produce CRF, a number of inputs is needed. When the producers of CRF purchase/contract these inputs, the prices they pay (and which are recorded as their costs) are clearly exposed to the same systemic distortions mentioned before. For instance, suppliers of inputs employ labour that is subject to the distortions. They may borrow money that is subject to the distortions on the financial sector/capital allocation. In addition, they are subject to the planning system that applies across all levels of government and sectors.
- (78) As a consequence, not only the domestic sales prices of CRF are not appropriate for use within the meaning of Article 2(6a)(a) of the basic Regulation, but all the input costs (including raw materials, energy, land, financing, labour, etc.) are also affected because their price formation is affected by substantial government intervention, as described in Parts I and II of the Report. Indeed, the government interventions described in relation to the allocation of capital, land, labour, energy and raw materials are present throughout the PRC. This means, for instance, that an input that in itself was produced in the PRC by combining a range of factors of production is exposed to significant distortions. The same applies for the input to the input and so forth.
- (79) No evidence or argument to the contrary has been adduced by the GOC or the exporting producers in the present investigation.
- (80) In sum, the evidence available showed that prices or costs of the product under review, including the costs of raw materials, energy and labour, are not the result of free market forces because they are affected by substantial government intervention within the meaning of Article 2(6a)(b) of the basic Regulation, as shown by the actual or potential impact of one or more of the relevant elements listed therein. On that basis, and in the absence of any cooperation from the GOC, the Commission concluded that it is not appropriate to use domestic prices and costs to establish normal value in this case. Consequently, the Commission proceeded to construct the normal value exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks, that is, in this case, on the basis of corresponding costs of production and sale in an appropriate representative country, in accordance with Article 2(6a)(a) of the basic Regulation, as described in the following section.

#### 3.1.4. Representative country

##### 3.1.4.1. General remarks

- (81) The choice of the representative country was based on the following criteria pursuant to Article 2(6a) of the basic Regulation:
- A level of economic development similar to China. For this purpose, the Commission used countries with a gross national income per capita similar to China on the basis of the database of the World Bank<sup>(50)</sup>;

<sup>(49)</sup> See Implementing Regulation (EU) 2021/635, recitals 134-135 and Implementing Regulation (EU) 2020/508, recitals 143-144.

<sup>(50)</sup> World Bank Open Data – Upper Middle Income, <https://data.worldbank.org/income-level/upper-middle-income>.

- Production of the product under review in that country <sup>(51)</sup>;
- Availability of relevant public data in the representative country.
- Where there is more than one possible representative country, preference should be given, where appropriate, to the country with an adequate level of social and environmental protection.

(82) As explained in recitals 52 and 53, the Commission issued two notes for the file on the sources for the determination of the normal value. These notes described the facts and evidence underlying the relevant criteria. No comments were received by the parties on these elements and on the relevant sources as laid down in the two above-mentioned notes. In the Second Note, the Commission informed interested parties of its intention to consider Brazil as an appropriate representative country in the present case if the existence of significant distortions pursuant to Article 2(6a) of the basic Regulation would be confirmed.

#### 3.1.4.2. A level of economic development similar to the PRC

- (83) In the First Note on production factors, the Commission identified Brazil, Mexico, Russia and Turkey as countries with a similar level of economic development as the PRC according to the World Bank, i.e. they are all classified by the World Bank as 'upper-middle income' countries on a gross national income basis, where production of the product under review was known to take place.
- (84) The applicant had proposed Brazil as an allegedly appropriate representative country in its request, since Brazil was home to several integrated steel producers and was a prime example of a competitive domestic market for the main steel products, including the product under review. The applicant also indicated in its request that all the inputs used in the production of the product under investigation in Brazil are commonly imported from multiple origins, and to a large extent from non-distorted sources.
- (85) No comments were received concerning the countries identified in that note.

#### 3.1.4.3. Availability of relevant public data in the representative country

- (86) In the First Note the Commission indicated that for the countries identified as countries where the product under review is being produced, i.e. Brazil, Mexico, Russia and Turkey, the availability of public data needed to be further verified, in particular with regard to the public financial data from producers of the product under review.
- (87) With regard to Mexico, the Commission identified two companies that were identified in the First Note as producers. However, one of these two companies was loss making from 2016 onwards, and including 2020. For the other company, it turned out that its financial statements for the year 2020 were not consistent with its financial statements for the year before (2019): for instance, the net sales were found to be about 7 times lower in 2020 than in 2019. No information was found substantiating such difference in net sales (also impacting the net profits) between the years 2020 and 2019. Therefore, both companies were considered not to be suitable candidates for the determination of manufacturing overhead, SG&A and profit. In the absence of other information on file available to the Commission on the presence of other companies producing the product under review in Mexico with readily available financial data, the Commission concluded that Mexico could no longer be considered an appropriate representative country.
- (88) With regard to Russia, the Commission identified two companies that were identified in the First Note as producers and which had publicly available financial data. Both companies were profitable in 2020 and in the years before. However, as indicated in recital 91, the Commission identified a number of issues with the data available for Russia, as it did not import a number of important raw materials, such as liquefied natural gas, used for the production of the product under investigation. Moreover, natural gas prices appeared to be distorted in Russia. Therefore, the Commission concluded that Russia was not suitable to be considered as an appropriate representative country for this investigation.

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<sup>(51)</sup> If there is no production of the product under review in any country with a similar level of development, production of a product in the same general category and/or sector of the product under review may be considered.

- (89) With regard to Turkey, the Commission identified two companies in the First Note as producers. However, for one of them, no recent readily available financial statements were available. For the other company, despite the fact that it was profitable in 2020 and the years before, the Commission considered the level of selling and general costs ('SG&A') of this company not reasonable because its SG&A expressed as a percentage of its cost of manufacturing was low (less than 2 % in 2020) or even negative. The Commission therefore concluded that it could not use the data of these companies as an undistorted and reasonable amount for SG&A for establishing the undistorted normal value. As a result, the Commission concluded that Turkey could not be considered as an appropriate representative country for this investigation.
- (90) Finally, with respect to Brazil, the Commission identified five companies producing CRF in the First Note. However, two out of these five companies had a negative selling and general costs ('SG&A') expressed as a percentage of their cost of manufacturing, therefore their data could not be used for the purpose of establishing undistorted normal value. The other three Brazilian companies had recent public financial data showing profits and reasonable amount for SG&A for the year 2020.
- (91) The Commission also analysed the imports of the main factors of production into Brazil, Mexico, Russia and Turkey. The analysis of import data showed that Russia did not import some important factors of production. Moreover, natural gas prices appeared to be distorted in Russia. In addition, the analysis of import data showed that Turkey did not import liquefied natural gas (HS 2711 11 natural gas, liquefied) and only imported a limited quantity of oxygen (HS 2804 40 oxygen). Therefore neither Russia nor Turkey could be considered as a suitable representative country.
- (92) In the light of the above considerations, the Commission informed the interested parties with the Second Note that it intended to use Brazil as an appropriate representative country and three Brazilian companies (ArcelorMittal Brazil, CSN, and Usiminas), in accordance with Article 2(6a)(a), first indent of the basic Regulation in order to source undistorted prices or benchmarks for the calculation of normal value.
- (93) Interested parties were invited to comment on the appropriateness of Brazil as a representative country and of the three companies (ArcelorMittal Brazil, CSN, and Usiminas) as producers in the representative country. Following the Second Note, no comments were received.

#### 3.1.4.4. Level of social and environmental protection

- (94) Having established that Brazil was the only appropriate representative country, based on all of the above elements, there was no need to carry out an assessment of the level of social and environmental protection in accordance with the last sentence of Article 2(6a)(a) first indent of the basic Regulation.

#### 3.1.4.5. Conclusion

- (95) In view of the above analysis, Brazil met the criteria laid down in Article 2(6a)(a), first indent of the basic Regulation in order to be considered as an appropriate representative country.

#### 3.1.5. Sources used to establish undistorted costs

- (96) In the First Note, the Commission listed the factors of production such as materials, energy and labour used in the production of the product under review by the exporting producers and invited the interested parties to comment and propose publicly available information on undistorted values for each of the factors of production mentioned in that note.



- (97) Subsequently, in the Second Note, the Commission stated that, in order to construct the normal value in accordance with Article 2(6a)(a) of the basic Regulation, it would use GTA to establish the undistorted cost of most of the factors of production, notably the raw materials. In addition, the Commission stated that it would use the following sources for establishing undistorted costs of energy: the electricity price as charged by one of the largest electricity suppliers in Brazil, the company EDP Brasil <sup>(52)</sup>, whereas it would use the data – as further explained in recital 109 – for the price of natural gas in Brazil. Moreover, the Commission stated that for establishing undistorted costs of labour it would use the ILO statistics to determine the wages in Brazil. The ILO statistics <sup>(53)</sup> provide information on monthly wages of employees <sup>(54)</sup> and average weekly hours worked in Brazil, in the manufacturing sector <sup>(55)</sup>, in 2020.
- (98) In the Second Note, the Commission also informed the interested parties that given the absence of cooperation from Chinese exporting producers it would group together the negligible weight of some of the raw materials in the total cost of production under ‘consumables’, based on the information submitted in the request by the applicant. Further, the Commission informed that it would apply the percentage to the recalculated cost of raw materials based on the information provided by the applicant in its request for determining the consumables when using the established undistorted benchmarks in the appropriate representative country.
- (99) No comments were received.

### 3.1.6. Undistorted costs and benchmarks

#### 3.1.6.1. Factors of production

- (100) The Commission asked the applicant to provide clarifications on the relevant factors of production used for the production processes starting from semi-finished hot-rolled products and to submit an update on the level of transport costs covering the entire review investigation period. The applicant provided the requested information on 17 February 2022.
- (101) Considering all the information based on the request and subsequent information submitted by the applicant, the following factors of production and their sources have been identified in order to determine the normal value in accordance with Article 2(6a)(a) of the basic Regulation:

Table 1

#### Factors of production of certain cold-rolled flat products

Factor of Production	Commodity Code	Undistorted value in CNY	Unit of measurement
<b>Raw materials</b>			
Dolomite	251810, 251820 and 251830	169,9	Tonne
Limestone	252100	160,8	Tonne
Quicklime	252210	852,8	Tonne
Iron ores and concentrates	260111 and 260112	1 206,8	Tonne
Ferrous products	720310 and 720390	453 671	Tonne

<sup>(52)</sup> [https://www.edp.com.br/distribuicao-es/saiba-mais/informativos/tarifas-aplicadas-a-clientes-atendidos-em-alta-e-media-tensao-\(grupo-a\)](https://www.edp.com.br/distribuicao-es/saiba-mais/informativos/tarifas-aplicadas-a-clientes-atendidos-em-alta-e-media-tensao-(grupo-a)), and <https://www.edp.com.br/distribuicao-es/saiba-mais/informativos/bandeira-tarifaria>

<sup>(53)</sup> <https://ilostat.ilo.org/>

<sup>(54)</sup> <https://ilostat.ilo.org/data/> [https://www.ilo.org/shinyapps/bulkexplorer36/?lang=en&segment=indicator&id=EAR\\_4MTH\\_SEX\\_ECO\\_CUR\\_NB\\_A](https://www.ilo.org/shinyapps/bulkexplorer36/?lang=en&segment=indicator&id=EAR_4MTH_SEX_ECO_CUR_NB_A)

<sup>(55)</sup> [https://www.ilo.org/shinyapps/bulkexplorer38/?lang=en&segment=indicator&id=HOW\\_TEMP\\_SEX\\_ECO\\_NB\\_A](https://www.ilo.org/shinyapps/bulkexplorer38/?lang=en&segment=indicator&id=HOW_TEMP_SEX_ECO_NB_A)

Anthracite and Bituminous coal	270111 and 270112	662	Tonne
Coke and semi-coke of coal	270400	2 027,6	Tonne
Oxygen	280440	8 796,3	Cubic meter
Ferro-manganese	720211 and 720219	9 388,2	Tonne
Ferro-chromium	720241 and 720249	9 470,6	Tonne
Semi-finished products of iron or non-alloy steel	7207	4 256,3	Tonne
Flat-rolled products of iron or non-alloy steel	72081000, 72082500, 72082610, 72082690, 72082710, 72082790, 72083610, 72083690, 72083700, 72083810, 72083890, 72083910, 72083990, 72084000, 72085100, 72085200, 72085300, 72085400, 72089000, 72111300, 72111400, 72111900	4 637,9	Tonne
Flat-rolled products of other alloy steel, of a width of 600 mm or more	72253000, 72254010, 72254090	8 539,6	Tonne
Flat-rolled products of other alloy steel, of a width of less than 600 mm	72269100	9 081,8	Tonne
<b>Byproduct: Waste</b>			
Waste and scrap of iron or steel	720430 and 720449	2 383,3	Tonne
Turnings, shavings, chips, milling waste, sawdust, filings, trimmings and stampings of iron or steel	720441	3 269,1	Tonne
<b>Labour</b>			
Labour		24,8	per man hour
<b>Energy</b>			
Electricity		547,7	KWH
Natural gas	271111 and 271112	1 638	Tonne

## 3.1.6.2. Raw materials

- (102) Based on the information provided by the applicant in its request, there are two main production processes to produce certain cold-rolled flat steel products:

- The first production process, starting from raw materials with use of a blast oxygen furnace (BOF): In this production process, the first step is the production of the 'Full-hard cold rolled flat' (FH CRF) from raw materials (mainly iron ore and coking coal), i.e. the product obtained right after the hot-rolled material is passed through the cold rolling mill for thickness reduction. The second step is the annealing, the re-heating of the FH CRF to restore the properties of steel.
  - The second production process, starting from the semi-finished products, i.e. the hot rolled flat steel products: The production of CRF starts with the purchased hot-rolled flat steel ('HRF') coils ('pickled coils') which will constitute the overwhelming cost share of the inputs.
- (103) In order to establish the undistorted price of raw materials (in case of the first production process) and of the hot rolled flat steel products (in case of the second production process) as delivered at the gate of a representative country producer, the Commission used as a basis the weighted average import price to the representative country as reported in the GTA, to which import duties and transport costs were added. An import price in the representative country was determined as a weighted average of unit prices of imports from all third countries excluding the PRC and countries which are not members of the WTO, listed in Annex 1 of Regulation (EU) 2015/755 of the European Parliament and the Council <sup>(56)</sup>. The Commission decided to exclude imports from the PRC into the representative country as it concluded in recital 80 that it is not appropriate to use domestic prices and costs in the PRC due to the existence of significant distortions in accordance with Article 2(6a)(b) of the basic Regulation. Given that there is no evidence showing that the same distortions do not equally affect products intended for export, the Commission considered that the same distortions affected export prices. After excluding imports from the PRC into the representative country, the volume of imports from other third countries remained representative.
- (104) A number of factors of production represented a negligible share of total raw material costs in the review investigation period. As the value used for these had no appreciable impact on the dumping margin calculations, regardless of the source used, the Commission decided to include those costs into consumables. As explained in recital 98, the Commission applied the percentage provided by the applicant in its request for determining the amount of consumables when using the established undistorted benchmarks in the appropriate representative country.
- (105) With regard to import duties, the Commission noted that Brazil imported its most relevant raw materials (iron ore from more than 5 countries, and coal and coke from more than 10 countries). Given that in an expiry review it is not necessary to calculate an exact margin of dumping, but rather to establish the likelihood of continuation or recurrence of dumping, the Commission calculated import duties for each raw material on the basis of representative volumes of imports from a limited number of countries, accounting for at least 80 % of total imports of the most relevant raw materials (iron ore, coal and coke).
- (106) With regard to transport costs, absent any cooperation, the Commission asked the applicant to submit an update on the level of domestic transport costs covering the entire review investigation period. On respectively 4 and 17 February 2022, the applicant submitted the requested information. The Commission expressed the domestic transport cost for the supply of raw materials as a percentage of the actual cost of such raw materials and then applied the same percentage to the undistorted cost of the same raw materials in order to obtain the undistorted transport cost. The Commission considered that the ratio between the exporting producer's raw material and the reported transport costs could be reasonably used as an indication to estimate the undistorted transport costs of raw materials when delivered to the company's factory.

### 3.1.6.3. Labour

- (107) The Commission used the ILO statistics to determine the wages in Brazil. The ILO statistics <sup>(57)</sup> provide information on monthly wages of employees <sup>(58)</sup> and average weekly hours worked in Brazil, in the manufacturing sector <sup>(59)</sup>, in 2020.

<sup>(56)</sup> Regulation (EU) 2015/755 of the European Parliament and of the Council of 29 April 2015 on common rules for imports from certain third countries (OJ L 123, 19.5.2015, p. 33). Article 2(7) of the basic Regulation considers that domestic prices in those countries cannot be used for the purpose of determining normal value and, in any event, such import data was negligible.

<sup>(57)</sup> <https://ilostat.ilo.org/>

<sup>(58)</sup> <https://ilostat.ilo.org/data/> [https://www.ilo.org/shinyapps/bulkexplorer36/?lang=en&segment=indicator&id=EAR\\_4MTH\\_SEX\\_CO\\_CUR\\_NB\\_A](https://www.ilo.org/shinyapps/bulkexplorer36/?lang=en&segment=indicator&id=EAR_4MTH_SEX_CO_CUR_NB_A)

<sup>(59)</sup> [https://www.ilo.org/shinyapps/bulkexplorer38/?lang=en&segment=indicator&id=HOW\\_TEMP\\_SEX\\_ECO\\_NB\\_A](https://www.ilo.org/shinyapps/bulkexplorer38/?lang=en&segment=indicator&id=HOW_TEMP_SEX_ECO_NB_A)

#### 3.1.6.4. Electricity

- (108) The Commission used the electricity price tariff reported by one of the largest electricity suppliers in Brazil, the company EDP Brasil <sup>(60)</sup> to establish the undistorted value for electricity cost.

#### 3.1.6.5. Natural gas

- (109) The price of natural gas in Brazil was based on data which provides duty-paid import prices for the imported gas by combining the import quantities and values extracted from GTA with tariff data obtained from MacMap <sup>(61)</sup>.

#### 3.1.6.6. Manufacturing overhead costs, SG&A, profits and depreciation

- (110) According to Article 2(6a)(a) of the basic Regulation, 'the constructed normal value shall include an undistorted and reasonable amount for administrative, selling and general costs and for profits'. In addition, a value for manufacturing overhead costs needs to be established to cover costs not included in the factors of production referred to above.
- (111) The Commission used the financial data of three Brazilian companies (ArcelorMittal Brazil, CSN, and Usiminas), producers in the representative country, as referred to in recital 90.
- (112) In order to establish an undistorted value of the manufacturing overheads and given the absence of cooperation from the Chinese exporting producers, the Commission used facts available in accordance with Article 18 of the basic Regulation. Therefore, based on the data provided by the applicant in its request, the Commission established the ratio of manufacturing overheads to the total manufacturing and labour costs. This percentage was then applied to the undistorted value of the cost of manufacturing to obtain the undistorted value of manufacturing overheads.

#### 3.1.7. Calculation of the normal value

- (113) On the basis of the above, the Commission constructed the normal value per product type on an ex-works basis in accordance with Article 2(6a)(a) of the basic Regulation.
- (114) First, the Commission established the undistorted manufacturing costs. In the absence of cooperation by the exporting producers, the Commission relied on the information provided by the applicant in the review request on the usage of each factor (materials and labour) for the production of the product under review.
- (115) Once the undistorted manufacturing cost established, the Commission added the manufacturing overheads, SG&A and profit as noted in recital 112. Manufacturing overheads were determined based on data provided by the applicant. SG&A and profit were determined based on the financial data of three Brazilian companies (ArcelorMittal Brazil, CSN, and Usiminas) as noted in recital 111. The Commission added the following items to the undistorted costs of manufacturing:
- Manufacturing overheads, which accounted in total for 10 % of the direct costs of manufacturing starting from the first production process, and 2 %, of the direct costs of manufacturing starting from the second production process;

<sup>(60)</sup> <https://www.edp.com.br/distribuicao-es/saiba-mais/informativos/tarifas-aplicadas-a-clientes-atendidos-em-alta-e-media-tensao-grupo-a>, and <https://www.edp.com.br/distribuicao-es/saiba-mais/informativos/bandeira-tarifaria>

<sup>(61)</sup> [www.macmap.org](http://www.macmap.org)

- SG&A and other costs, which accounted for 18,5 % of the Costs of Goods Sold ("COGS") of the three Brazilian above-mentioned companies and;
- Profits, which amounted to 14,7 % of the costs of goods sold as achieved by three Brazilian above-mentioned companies, were applied to the total undistorted costs of manufacturing.

(116) On that basis, the Commission constructed the normal value per product type on an ex-works basis, in accordance with Article 2(6a)(a) of the basic Regulation. The constructed normal value was either ranging between EUR/tonne 1 200 – 1 400, or between EUR/tonne 1 500 – 1 700, depending on the production process (see recital 102 in this respect) during the review investigation period.

#### 3.1.8. *Export price*

(117) In the absence of cooperation by the exporting producers from China, the export price was determined based on 14(6) data <sup>(62)</sup> at CIF level.

#### 3.1.9. *Comparison*

(118) The Commission compared the constructed normal value established in accordance with Article 2(6a)(a) of the basic Regulation and the export price as established above.

(119) Where justified by the need to ensure a fair comparison, the Commission adjusted the normal value and/or the export price for differences affecting prices and price comparability, in accordance with Article 2(10) of the basic Regulation. Adjustments based on the information provided by the applicant were made for sea and domestic freight and unloading charges, amounting to EUR/tonne 140,44, on the export price in order to bring it to ex-works price.

#### 3.1.10. *Continuation of dumping*

(120) On this basis, the Commission established that the export price was 29,7 % lower than the normal value for the first production process starting from the raw materials, as explained in recital 102, and 8,83 % for the second production process starting from the semi-finished products.

(121) However, as the volume of imports in question was very limited, corresponding to less than 0,5 % of total imports into the Union and less than 1 % market share in the Union market, the prices were considered unrepresentative. For this reason, the Commission concluded that these low volumes do not provide a sufficient basis to conclude about the continuation of dumping. Therefore, the Commission investigated the likelihood of recurrence of dumping.

#### 3.1.11. *Likelihood of recurrence of dumping*

(122) For the analysis of the likelihood of recurrence of dumping, the following additional elements were analysed: exports to third countries, the production capacity and spare capacity in China, and the attractiveness of the Union market.

##### 3.1.11.1. *Comparison between export prices to third countries and export prices to the Union*

(123) The Commission analysed the price pattern of Chinese exports to third countries during the RIP. Therefore, it consulted publicly available information such as the Chinese exporting statistics as reported in Global Trade Atlas ("GTA") and extracted the quantities and values of the export of certain cold-rolled flat steel products under the HS codes 7209 15 90, 7209 16 90, 7209 17 90, 7209 18 90, 7209 25 00, 7209 26 00, 7209 27 00, 7209 28 00, 7211 23 00, 7211 29 00, 7225 50 00 and 7226 92 00 for the review investigation period. The export quantities (in tonnes) to all countries (European Union included) amount to 3 253 368 tonnes, of which 31 602 tonnes or about 1 % were exported to the Union.

<sup>(62)</sup> The 14(6) database provides data on imports of products that are already subject to registration or anti-dumping or anti-subsidy measures, from the countries concerned by the proceeding and from other third countries, at the level of 10-digit TARIC codes.

- (124) The Chinese export statistics provided in GTA reported an average CIF export price from China to other countries amounting to EUR/tonne 629, which was adjusted to an ex-works price (after adjustments for sea and domestic freight, and unloading charges) amounting to EUR/tonne 585. The latter price was even below the export price to the EU in the review investigation period.
- (125) Therefore, it was considered likely that, if the current measures were to be repealed, the Chinese exporting producers would start selling to the Union at levels below the normal value found.

#### 3.1.11.2. Production capacity and spare capacity in China

- (126) According to the request of the applicant, there are more than 50 exporting producers of the product under review in China. According to Chinese export statistics as reported in GTA, the Chinese exporting producers also exported to the rest of the world.
- (127) In the absence of cooperation by the Chinese exporting producers in China, the Commission based its findings with regard to the capacity of the other exporting producers on facts available, and relied on the information contained in the expiry review request as well as other available sources, such as Commission Implementing Regulation (EU) 2021/1029 <sup>(63)</sup>, a document of the OECD on the latest developments <sup>(64)</sup> in steelmaking capacities in 2021, published in September 2021 and data of the World Steel Association concerning the year 2021 <sup>(65)</sup>.
- (128) First, the information contained in the expiry review request estimated the total Chinese capacity at more than 120 million tonnes, while production and Chinese consumption were both estimated at 100 million tonnes in 2020. On this basis, the spare capacity in China was estimated at 20 million tonnes in 2020, which is indicative for the spare capacity in the review investigation period, and which significantly exceeds the total Union consumption on the free market (about 9,7 million tonnes) in the review investigation period. Second, Implementing Regulation (EU) 2021/1029 provided that despite 'the exceptional consumption surge experienced in China' (see recital 36 of Regulation (EU) 2021/1029), the 2020 Global Forum on Steel Excess Capacity ('GFSEC') Ministerial Report, based on data up to 2019, provided that 'the immediate implication of the demand outlook is that the global capacity-demand gap, an indicator of over-supply risks for the steel market, is going to increase significantly to at least 606 mmt in 2020'. It also noted 'this reversal in excess capacity can lead to trade disturbances, trigger sharply lower steel prices and hurt the economic sustainability of the steel industry'. Third, this situation was also confirmed in the OECD document, entitled 'latest development in steelmaking capacities in 2021.' The document referred not only to 'a number of new investments related to China's measures to replace outdated and small steel plants, especially in the eastern and southern coastal areas of China' but also to the fact that the Chinese government 'has found instances where some steel mills have expanded their production capacity under the framework of the capacity swap scheme'. Moreover, the OECD document referred to investments of Chinese steel companies in South Asian countries, such as the Philippines and Indonesia. Finally, even if the data of the WorldSteel Association for the year 2021 are for crude steel only, they can be considered indicative for the product concerned as the cold-rolled steel production is basically the second steel production process, after the hot-rolled steel production. In this respect, the 2021 data for the crude steel production showed that China was responsible for 52,9 % of the global world steel production, which is also an indication of the enormous production capacity of the product concerned in the PRC during the year 2021.
- (129) In addition, some main markets such as the USA and India are protected by anti-dumping measures on the product under review, which reduces access of the Chinese exporting producers.
- (130) On this basis, it is likely that Chinese producers will direct their spare capacities to the Union market in large quantities at dumped prices should the measures lapse.

#### 3.1.11.3. Attractiveness of the Union market

- (131) The Union market is among the largest markets of certain cold-rolled flat steel products worldwide.

<sup>(63)</sup> Commission Implementing Regulation (EU) 2021/1029 of 24 June 2021 amending Commission Implementing Regulation (EU) 2019/159 to prolong the safeguard measure on imports of certain steel products (OJ L 225 I, 25.6.2021, p. 1).

<sup>(64)</sup> <https://www.oecd.org/industry/ind/latest-developments-in-steelmaking-capacity-2021.pdf>

<sup>(65)</sup> <https://worldsteel.org/steel-topics/statistics/world-steel-in-figures-2022/>

- (132) The applicant claimed in its request that the Union steel safeguard measures alone, which apply to the product under review, would not be sufficient to protect the Union market against imports in significant quantities at dumped prices. As China did not receive any country-specific quota for the product under review, Chinese exporting producers have access to a large amount of residual quota volumes under which they could direct their exports to the Union market if the anti-dumping measures were to lapse. As a result, if anti-dumping measures were to be repealed, Chinese export volumes are likely to increase significantly within the residual quota and thus flood the Union market before any out-of-quota duty under the safeguard measure would become applicable.
- (133) The importer Duferco S.A. stated <sup>(66)</sup> that the Chinese authorities cancelled the 13 % rebate of value-added tax on steel exports, including on imports of the product under review with a view to curtailing the steel production in China (in order to address its carbon emissions), while ensuring Chinese domestic supply. Duferco S.A. stated that, as a result, prices of Chinese imports are expected to increase, thereby undermining the attractiveness of the Union market. The Commission, however, could not confirm this claim, as the evolution of volumes and prices depends on many other elements as well, like in particular the existing overcapacity and the attractiveness of the Union market in comparison with other third countries.

#### 3.1.11.4. Conclusion on the likelihood of recurrence

- (134) The Union market is very attractive as it is among the largest in the world. Moreover, as laid down in table 7 of recital 202, the weighted average unit sales prices of the sampled Union producers to unrelated customers on the free market in the Union amounted to EUR/tonne 622 during the review investigation period, which is above the average export price from China adjusted to an ex-works price amounting to EUR/tonne 585 (see recital 124). Thus, it would be likely that, if the current anti-dumping measures expire, Chinese producers would use their spare capacity and, in addition, divert some of their less profitable export sales from third countries to the Union market.
- (135) On the basis of the above considerations, it was concluded that there is a likelihood of recurrence of dumping should the measures be allowed to lapse.

### 3.2. Russia

#### 3.2.1. Preliminary remarks

- (136) During the review investigation period, imports of the product under review from Russia continued, albeit at significantly lower levels than in the investigation period of the original investigation (i.e. from 1 April 2014 to 31 March 2015). According to Comext (Eurostat) statistics, imports of CRF from Russia accounted for less than 3 000 tonnes in the review investigation period, compared to approximately 700 000 tonnes during the original investigation period. Imports of CRF from Russia accounted for a close to 0 % market share of both the total Union market and the free Union market in the review investigation period, compared to 9,8 % market share during the original investigation period.
- (137) As explained in recital 29, the three Russian exporting producers came forward at initiation and expressed their willingness to cooperate. However, later they informed the Commission that they did not intend to reply to the exporting producers' questionnaire.
- (138) Consequently, in accordance with Article 18 of the basic Regulation, the findings in relation to the continuation of dumping as well as to the likelihood of recurrence of dumping were based on facts available.

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<sup>(66)</sup> Initiation of expiry review of the anti-dumping measures applicable to imports of certain cold-rolled flat steel products originating in the People's Republic of China and the Russian Federation, submission on behalf of Duferco S.A., 27.8.2021, section 4.1. China, pages 6-7.

### 3.2.2. Continuation of dumping of imports during the review investigation period

#### 3.2.2.1. Normal value

- (139) As mentioned in recital 138 above, due to the non-cooperation from exporting producers in Russia, the Commission used facts available to establish the normal value. To this end, the Commission used data provided by the applicant for the review investigation period based on MEPS International <sup>(67)</sup> domestic prices references for Russia – CRF – Volga region. On that basis, the normal value was EUR/tonne 702, 97 during the review investigation period.

#### 3.2.2.2. Export price

- (140) Due to the non-cooperation from the exporting producers in Russia, the Commission had to use facts available to establish the export price.
- (141) The export price was determined based on CIF Eurostat data. Thus the export price was EUR/tonne of 755,65.

#### 3.2.2.3. Comparison

- (142) The Commission compared the normal value and the export price of the product under review on an ex-works basis. Adjustments were made, based on information provided by the applicant, for sea and domestic freight, and unloading charges, amounting to EUR/tonne 127,84 on the export price in order to bring it to ex-works level. On that basis, the adjusted ex-works export price to the Union was EUR/tonne 627, 81.

#### 3.2.2.4. Continuation of dumping

- (143) The above comparison showed the export prices to the Union, expressed as a percentage of the CIF value, were 10 % lower than the established normal value.
- (144) However, as the volume of imports in question was very limited, accounting for less than 1 % of total imports into the Union and close to 0 % of the share of the Union market, the Commission also investigated the likelihood of recurrence of dumping.

### 3.2.3. Likelihood of recurrence of dumping should measures be repealed

- (145) In accordance with Article 11(2) of the basic Regulation, the Commission investigated the likelihood of recurrence of dumping should the measures expire. In this respect, the following additional elements were analysed: the exports to third countries, the production capacity and spare capacity in Russia as well as the attractiveness of the Union market.

#### 3.2.3.1. Exports to third countries

##### (a) **Normal value**

- (146) The normal value was constructed as explained in Section 3.2.2.1 above.

##### (b) **Export price**

- (147) The export price was established on the basis of export prices of the product under review to other third countries. In this respect, due to lack of cooperation from exporting producers, the Commission used the GTA database. The average CIF export price to third countries was EUR/tonne 536 in the review investigation period. The CIF export price to third countries was reduced to ex-works level by deducting the freight and insurance costs and domestic transport cost in Russia, which amounted to EUR/tonne 127,84 as mentioned in recital 141. On that basis, the adjusted ex-works export price to third countries was EUR/tonne 408,72.

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<sup>(67)</sup> Global Steel Prices, Indexes & Forecasts | MEPS International



(c) **Price comparison**

- (148) The Commission compared the normal value established in Section 3.2.2.1 and the average export price to third countries on an ex-works basis.
- (149) The above comparison showed that the Russian exports of the product under review to third countries, expressed as a percentage of the CIF value, were 55 % lower than the normal value established.
- (150) In their submission on initiation, the three Russian exporting producers claimed that export prices to third markets are not more representative than export prices to the Union because these exports, mainly to Turkey, are composed of cheaper types of CRF, which would explain their lower prices. They suggested that high Russian export prices reported by Eurostat are representative and must be used in the assessment.
- (151) In this respect, the Commission noted that no evidence was provided to substantiate the allegation of differences in the product types. In fact, the three Russian exporting producers failed to provide a questionnaire reply allowing the Commission to perform its assessment as to the product types exported to the Union. Thus, as explained in recital 138, the Commission based its assessment on facts available. It used the GTA database to establish the Russian export price to third countries as the most appropriate source. In any event, even if the Russian export prices to the Union were used as suggested by the three Russian exporters, the Commission established in Section 3.2.2.4 above that the Russian export prices to the Union sourced from Eurostat, expressed as a percentage of the CIF value, were 10 % lower than the established normal value. Therefore, the claim was rejected.

3.2.3.2. Production capacity and spare capacity in Russia

- (152) Given the non-cooperation by the Russian exporting producers, the production capacity and spare capacity in Russia were established on the basis of facts available and in particular the information provided by the applicant concerning the review investigation period.
- (153) According to the information provided by the applicant, the total production capacity of the product under review in Russia exceeded 12 000 000 tonnes in the review investigation period. The applicant estimated that the Russian producers have a spare capacity of around 2 million tonnes that cannot be absorbed by the domestic market. In addition, the applicant submitted that the Russian producers have increased the production capacity for cold-rolled steel by approximately 1 150 000 tonnes between 2016 and 2021.
- (154) The Russian exporting producers contested the estimation of the spare capacity in Russia as provided by the applicant. In their submission on initiation, they provided data about total production capacity of the CRF industry in Russia, the overall production volume and the capacity utilisation rate. They claimed that in 2020, the Russian CRF industry had a spare capacity of [1,8 – 2,3] million tonnes which was only [4 – 8] % of the overall Union consumption (32,4 million tonnes). They further stated that taking into account the estimated growth of CRF consumption and production in Russia and the Eurasian Economic Union (EAEU), free capacity of Russian CRFS industry is projected to diminish further.
- (155) In this respect, as explained in recital 32, the Russian exporting producers did not send questionnaire replies and the Commission considered that they provided only fragmented information about production, capacity and production volume without supporting evidence and which the Commission could not verify. Consequently, since the exporting producers did not provide sufficient and reliable information as regards production capacity and production volumes, the Commission used the information available on the file.

- (156) Furthermore, the Russian exporting producers provided the data about production, capacity and capacity utilisation only in a sensitive version without a non-confidential summary. As noted in the Notice of Initiation, if a party providing confidential information fails to show good cause for a confidential treatment request or does not furnish a non-confidential summary of it in the requested format and quality, the Commission may disregard such information unless it can be satisfactorily demonstrated from appropriate sources that the information is correct. Given that the information about production, capacity and capacity utilisation was provided only in sensitive version and thus could not be subject to comments by other interested parties, it could not be satisfactorily demonstrated that the information is correct.
- (157) In any event, the data in question provided by the Russian exporting producers and the one provided by the applicant did not diverge to a large extent. Therefore, the Commission considered that an assessment based on the data provided by the Russian exporting producers would not have led to a different conclusion. As a result, the Commission rejected the claims.
- (158) After disclosure, the Russian government as well as the exporting producers challenged the Commission's findings that the exporting producers did not cooperate fully with the investigation and that no meaningful open version had been submitted (as explained in recital 156). Thus, the exporting producers claimed that the Commission misused its discretionary powers in this respect.
- (159) First, the Commission observed that the information on capacity per company was only provided by the exporting producers in an indexed form which did not allow the parties to comment on the exact capacity installed (no ranges were provided). Neither production data nor capacity utilisation data was provided in the open version. Consequently, the Commission reiterated its finding that the open version of the information about production, capacity and capacity utilisation could not be scrutinised by the other interested parties. Second, this information was not provided as part of questionnaire replies and could not be cross checked with other parts of the questionnaires and the underlying documents that companies are required to provide as evidence backing the information submitted in the questionnaire reply. Finally, as explained in recital 157 above, the Commission established that even if the data provided were to be taken into account, its findings of spare capacity would not have been altered. Consequently, the Commission rejected these claims.
- (160) The spare capacity of the product under review available in Russia represents approx. 21 % of the total Union consumption on the free market in the review investigation period when it is based on the application and approximately 20 % if the submission of the Russian exporting producers were to be taken into account.
- (161) Based on the above, the Commission concluded that the Russian exporting producers have significant spare capacities, which they could use to produce CRF to export to the Union if measures were allowed to lapse.

### 3.2.3.3. Attractiveness of the Union market

- (162) The Commission established that the Russian exporting producers exported the product under review to third markets at prices around 14 % lower than the average sales prices of the Union producers on the Union market. Taking into account this price level, exporting to the Union is potentially more attractive for the Russian exporters than exporting to all other countries.
- (163) The Union market is also attractive in view of its geographical proximity and size, with a total consumption of 33 579 173 tonnes, including a consumption on the free market of 9 677 020 tonnes in the review investigation period.

- (164) The volume of exports to third countries was 580 000 tonnes in the review investigation period, which represented 6 % of the free Union market consumption. This represents an additional volume of CRF which could be diverted to the Union market given its attractiveness should the measures expire.
- (165) After disclosure, the exporting producers and the Russian government argued that the Union market was no longer attractive for the exporting producers because of the sanctions, and even in the pre-sanctions period, 'trade flows, infrastructure and supply chains have already been destroyed' and it would take years before they were restored.
- (166) While the claim on sanctions is addressed in recitals 167 and 172 below, the Commission observed that no evidence was provided in respect of the claim that it would take years to restore exports to the Union. At the same time, given the significantly lower prices at which the Russian exporting producers continue exporting to the rest of the world, the geographical proximity and size of the Union market as well as the significant volume of exports to third countries that could be diverted to the Union, the Commission reiterated its findings that the Union market is attractive for the Russian exporting producers.
- (167) This conclusion is not called into question by recent events. The Commission noted in this respect that after the initiation of the investigation, due to the military aggression by the Russian Federation against Ukraine, the Union imposed successive packages of sanctions against Russia which also affected steel products and/or the steel companies producing and exporting the product under review after the review investigation period. The latest package of sanctions covering the product under review and/or the exporting producers contains an import ban of CRF. This ban entered into force on 16 March 2022 <sup>(68)</sup>. Given that these sanctions are linked to the military aggression and the underlying geopolitical situation, their scope, modulation, and/or duration are unpredictable. Furthermore, anti-dumping measures have a lifetime of five years. Considering the abovementioned uncertainties and the fact that the Council may further amend the precise scope and duration of sanctions at any moment, the Commission found that they cannot have a bearing in its conclusions in this proceeding.

#### 3.2.3.4. Conclusion on the likelihood of recurrence of dumping

- (168) The Commission established that Russian exporting producers sell to third countries at prices lower than the normal value.
- (169) As explained in recital 161, the spare capacity in Russia was significant in the review investigation period, representing approx. 21 % of the total Union consumption on the free market in the review investigation period, and increased between 2016 and 2021.
- (170) Finally, the attractiveness of the Union market in terms of size, geographical proximity and prices points to the likelihood that Russian exports and spare capacity would be (re)directed towards the Union, should the measures be allowed to lapse.
- (171) Following disclosure, the Russian government argued that there is no likelihood of recurrence of dumping since imports have been insignificant and, because of the sanctions, the Russian manufacturers have completely stopped exports to the Union for a long and indefinite period of time.
- (172) Regarding exports to the Union, the Commission recalled that it established a likelihood of recurrence of dumping based on the elements described above which do not include the current level of exports to the Union, which is considered a temporary situation which may change at any time. Regarding the sanctions in place, as explained in recital 167, given that their scope, modulation and/or duration are unpredictable and can be amended at any time,

<sup>(68)</sup> Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ L 229, 31.7.2014, p. 1) as amended by Council Regulation (EU) 2022/428 (OJ L 87 I, 15.3.2022, p. 13). Please refer to <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02014R0833-20220413> for the consolidated version of Regulation (EU) No 833/2014, containing all amendments relating to the package of sanctions.

the Commission found that they cannot have a bearing on the conclusions in this proceeding. Therefore, the recent events temporarily affecting imports from Russia into the Union cannot alter the findings made as regards recurrence of dumping in this case and these claims were rejected.

- (173) Consequently, the Commission concluded that there was a likelihood of recurrence of dumping, if the measures would not be extended.

#### 4. INJURY

##### 4.1. Definition of the Union industry and Union production

- (174) The like product was manufactured by 21 producers in the Union during the period considered. They constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.
- (175) The total Union production during the review investigation period was established at around 30,5 million tonnes. The Commission established the figure on the basis of all the available information concerning the Union industry, such as information provided by the applicant. As indicated in recital 21, a sample of three Union producers was selected that represented more than 30 % of the total Union production of the like product.
- (176) As the Union industry is mostly vertically integrated and cold-rolled flat steel products are regarded as a primary material for the production of various value added downstream products, the captive and free market consumption were analysed separately.
- (177) The distinction between the captive and free markets is relevant for the injury analysis, because products destined for captive use are not exposed to direct competition from imports, and transfer prices are set within the groups according to various price policies and are therefore not reliable. By contrast, production destined for the free market is in direct competition with imports of the product concerned, and prices are free market prices.
- (178) To provide a picture of the Union industry that is as complete as possible, and similar to what was done in the original investigation, the Commission obtained data for the entire activity of cold-rolled flat steel products and determined whether the production was destined for captive use or for the free market. The Commission found that around 78 % of the total Union producers' production was destined for captive use.
- (179) The Commission examined certain economic indicators relating to the Union industry on the basis of data for the free market only. These indicators are: sales volume and sales prices on the Union market; market share; export volume and prices and profitability. For other indicators, such as production, capacity, productivity, employment and wages, the figures considered below relate to the whole activity and therefore no separation was warranted.

##### 4.2. Union consumption

- (180) The Commission established the Union consumption on the basis of data provided by (a) EUROFER concerning Union industry sales of the like product in the Union, cross-checked with the sampled Union producers; and (b) imports of the product under review from all third countries as reported in Eurostat.
- (181) Union consumption developed as follows:

Table 2

**Union consumption (tonnes)**

	2018	2019	2020	Review Investigation period
Total Union consumption	39 389 717	38 484 642	31 808 880	33 579 173
<i>Index</i> (2018 = 100)	100	98	81	85
Captive market	28 207 944	28 129 434	22 651 025	23 902 153
<i>Index</i> (2018 = 100)	100	100	80	85
Free market	11 181 772	10 355 209	9 157 856	9 677 020
<i>Index</i> (2018 = 100)	100	93	82	87

Source: Data provided by Eurofer and cross-checked with the sampled producers questionnaire replies; Eurostat.

- (182) Free market consumption has increased as compared to the 7 122 682 tonnes consumed during the investigation period of the original investigation (1 April 2014 to 31 March 2015). However, during the period considered, the Union captive consumption decreased by around 15 %, while the Union free market consumption decreased by around 13 %. Between the years 2018 to 2019 the consumption on the captive market remained stable while the consumption on the free market decreased by 7 %. The main decrease occurred between the years 2019 and 2020 when both free and captive consumption decreased substantially by 11 % and 20 % respectively. This decrease started in 2019 due to an overall slowdown in Union growth, but was exacerbated due to the overall economic slowdown caused by the Covid-19 pandemic. The slowdown in economic growth generally, and in the manufacturing sector specifically, has affected the overall demand for steel. This particularly had an impact on the automotive industry, which constitutes a significant part of the users of CRF. From 2020 to the review investigation period both captive and free consumption increased by 5 % without, however, returning to the levels of 2018.

### 4.3. Imports from the countries concerned and the rest of the world

#### 4.3.1. Volume and market share of the imports from the countries concerned and the rest of the world

- (183) The Commission established the volume of imports on the basis of Eurostat. The market share of the imports was established on the basis of a comparison between import volumes and the Union free market consumption, as reported in Table 2 above.

- (184) Imports into the Union from the countries concerned and the rest of the world developed as follows:

Table 3

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

	2018	2019	2020	Review Investigation period
Volume of imports from the countries concerned	14 367	4 286	1 435	9 713
<i>Index</i> (2018 = 100)	100	30	10	68
Market share	0,1 %	0,0 %	0,0 %	0,1 %
Volume of imports from the PRC	2 305	1 275	423	7 065
<i>Index</i> (2018 = 100)	100	55	18	307
Market share PRC	0,0 %	0,0 %	0,0 %	0,1 %
Volume of imports from Russia	12 062	3 011	1 012	2 648
<i>Index</i> (2018 = 100)	100	25	8	22
Market share Russia	0,0 %	0,0 %	0,0 %	0,0 %
Volume of imports from the rest of the world	2 279 706	2 113 190	1 876 491	2 154 420
<i>Index</i> (2018 = 100)	100	93	82	95
Market share rest of the world	20,39 %	20,41 %	20,49 %	22,26 %

Source: Eurostat

- (185) While imports from the countries concerned accounted for 20 % market share and 1,4 million tonnes in the original investigation period, they have, based on information from Eurostat, virtually disappeared from the Union market. In fact, imports from the countries concerned continued to decrease from 14 367 to 9 713 tonnes over the period considered. Although import volumes from both countries concerned increased again somewhat between 2020 and the review investigation period, in line with increasing consumption volumes in the same period, they still accounted for a market share of only 0,1 % during the review investigation period.

- (186) Total imports of the product under review from third countries other than the countries concerned decreased by 5 % (from 2,28 to 2,15 million tonnes) over the period considered. This follows the same downward trend of the Union free market consumption as mentioned in Table 2, but to a lesser degree. In addition, third countries maintained (and even increased by almost 2 percentage points) their market share in the free market over the period considered, while the Union industry lost almost 2 % market share. However, the supply of CRF on the free market was fragmented, with none of the other third countries holding a market share of more than 4 % in the Union market <sup>(69)</sup>.

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

##### 4.4.1. General remarks

- (187) The assessment of the economic situation of the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.
- (188) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators based on data contained in the questionnaire response submitted by Eurofer concerning the Union industry's sales of the like product, crosschecked with the data provided by the sampled Union producers. The Commission evaluated the microeconomic indicators on the basis of data contained in the questionnaire replies from the sampled Union producers. Both sets of data were found to be representative of the economic situation of the Union industry.
- (189) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity, magnitude of the dumping margin, and recovery from past dumping.
- (190) The microeconomic indicators are: average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital.

##### 4.4.2. Macroeconomic indicators

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

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

Table 4

#### Production, production capacity and capacity utilisation

	2018	2019	2020	Review Investigation period
Production volume (tonnes)	36 298 267	35 686 689	29 229 520	30 520 404
<i>Index</i> (2018 = 100)	100	98	81	84
Production capacity (tonnes)	45 912 036	45 976 102	48 542 510	44 909 450
<i>Index</i> (2018 = 100)	100	100	106	98

<sup>(69)</sup> India, Turkey, Ukraine and the Republic of Korea were the only countries with a market share above 3 % during the review investigation period, while only Taiwan and the United Kingdom had over 2 % market share.

Capacity utilisation (%)	79	78	60	68
<i>Index</i> (2018 = 100)	100	98	76	86

Source: Eurofer, sampled Union producers

- (192) Production volumes have decreased significantly since the beginning of the period considered. The decrease follows a largely similar trend and magnitude as that observed for the decrease of the total Union consumption. Production volumes decreased by 16 % over the review investigation period.
- (193) Production capacity also decreased slightly during the period considered, and is at a much lower level than during the original investigation. This is partly because the United Kingdom was still a member of the Union during the original investigation, while their production capacity was no longer taken into account in the current review investigation. In addition, the Union industry has undertaken steps to adapt and rationalize their capacity in line with market consumption. Capacity utilisation rates therefore initially improved as compared to the original investigation. Since the slowdown of Union growth in 2019 and especially the onset of the Covid-19 pandemic, however, they again significantly decreased during the period considered, although recovering somewhat in the review investigation period (where the decrease was almost 20 percentage points lower in 2020 as compared with 2018, it was – 11 percentage points in the review investigation period as compared with 2018).

#### 4.4.2.2. Sales volume and market share

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

Table 5

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

	2018	2019	2020	Review Investigation period
Total Sales volume on the Union market – free and captive	37 095 644	36 367 167	29 930 954	31 415 040
<i>Index</i> (2018 = 100)	100	98	81	85
Captive market sales and use	28 207 944	28 129 434	22 651 025	23 902 153
<i>Index</i> (2018 = 100)	100	100	80	85
Free market sales	8 887 699	8 237 733	7 279 930	7 512 887
<i>Index</i> (2018 = 100)	100	93	82	85
Market share of free market sales	79 %	80 %	79 %	78 %

Source: Eurofer, sampled Union producers



- (195) Total sales in the Union followed a downward trend over the period considered, with an overall decrease of 15 %. The same trend is observed with a similar magnitude for the captive and free markets, in line with the decrease in consumption shown in Table 2.
- (196) The market share of the Union industry on the free market remained rather stable throughout the period considered, but went down during the review investigation period by almost 2 %. This coincides with the increase of market share by third countries in the review investigation period, as shown in Table 3.

#### 4.4.2.3. Growth

- (197) In a context of decreasing consumption, the Union industry not only lost sales volumes in the Union but also lost market share on the free market. Consequently, there was no growth for the Union industry during the period considered.

#### 4.4.2.4. Employment and productivity

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

Table 6

#### Employment and productivity

	2018	2019	2020	Review Investigation period
Number of employees	9 634	9 137	9 773	9 321
<i>Index</i> (2018 = 100)	100	95	101	97
Productivity (tonnes/ employee)	3 768	3 906	2 991	3 274
<i>Index</i> (2018 = 100)	100	104	79	87

Source: Eurofer, sampled Union producers

- (199) The Union industry did not manage to maintain the number of employees engaged in the production of the product under review, which overall decreased between 2018 and the review investigation period by 3 %.
- (200) The productivity of the Union industry's workforce, measured as output (tonnes) per employee, followed a downward trend over the period considered (-13 %). The considerable decrease of the productivity is explained by the higher decrease of the production volume, which is also linked to the decrease of sales and demand for Union industry's products both on the domestic and export markets, compared to the smaller decrease of the number of employees.

#### 4.4.2.5. Magnitude of the dumping margin and recovery from past dumping

- (201) All dumping margins established during the review investigation period were significantly above the de minimis level. At the same time, the level of imports during the review investigation period was very limited, representing only 0,1 % of Union consumption. The anti-dumping measures imposed following the original investigation had allowed the Union industry to recover from past dumping, as is shown by the data for 2018 and confirmed by statements from the applicant in the review request.

## 4.4.3. Microeconomic indicators

## 4.4.3.1. Prices and factors affecting prices

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

Table 7

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

	2018	2019	2020	Review Investigation period
Average unit sales price in the Union on the free market	654	613	553	622
<i>Index</i> (2018 = 100)	100	94	85	95
Unit cost of production	592	617	573	643
<i>Index</i> (2018 = 100)	100	104	97	109

Source: Sampled Union producers

- (203) Throughout the period considered, sales prices on the Union market to unrelated parties (the free market) decreased by 5 %. A detailed analysis shows that from 2018 to 2020, the sales prices decreased by 15 % before increasing again in the review investigation period by 12 %. During the same period the cost of production fluctuated but was almost 10 % higher in the review investigation period than in 2018. Apart from 2018, the average cost of production was higher than the average sales price in all years. Although sales prices increased significantly between 2020 and the review investigation period, the Union industry had not yet been able to increase the sales price to the level sufficient to cover the cost of production.

## 4.4.3.2. Labour costs

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

Table 8

**Average labour costs per employee**

	2018	2019	2020	Review Investigation period
Average labour costs per employee (EUR)	91 664	97 412	93 113	97 981
<i>Index</i> (2018 = 100)	100	106	102	107

Source: Sampled Union producers

- (205) During the period considered average labour costs fluctuated but showing an overall increase of 7 %. While the number of employees went down, the overall labour costs also went down but to a lesser degree.

#### 4.4.3.3. Inventories

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

Table 9

#### Inventories

	2018	2019	2020	Review Investigation period
Closing stocks (tonnes)	488 722	429 657	284 572	262 487
<i>Index</i> (2018 = 100)	100	88	58	54
Closing stocks as a percentage of production	4	4	3	2
<i>Index</i> (2018 = 100)	100	88	65	55

Source: Sampled Union producers

- (207) During the period considered, the Union industry's stock have continuously decreased. Normally any changes in stocks of CRF follow the same trends as those for production, which also decreased during the period considered as shown in Table 4 <sup>(70)</sup>. During the period considered, however, certain restructuring activities took place in one of the sampled companies, which involved a partial demerger including the stocks. In addition, one of the sampled companies had issues with several pieces of equipment during a certain time, which necessitated more sales from stock than anticipated. However, as also established in the original investigation, stocks are not considered an important injury indicator for this industry since most types of the like product are produced by the Union industry based on specific orders of the users <sup>(71)</sup>.

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

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

Table 10

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

	2018	2019	2020	Review Investigation period
Profitability of sales in the Union to unrelated customers (% of sales turnover)	16,1	- 2,8	- 14,7	- 3,1

<sup>(70)</sup> This was also confirmed in the original investigation, see recital 136 of Implementing Regulation (EU) 2016/181.

<sup>(71)</sup> Implementing Regulation (EU) 2016/181, recital 136.

<i>Index</i> (2018 = 100)	100	- 17	- 92	- 20
Cash flow (EUR)	1 197 337 649	1 024 735 660	744 992 480	822 335 704
<i>Index</i> (2018 = 100)	100	86	62	69
Investments (EUR)	65 866 851	75 059 376	61 159 498	72 616 722
<i>Index</i> (2018 = 100)	100	114	93	110
Return on investments (%)	5	0	- 3	- 1
<i>Index</i> (2018 = 100)	100	- 8	- 69	- 12

Source: Sampled Union producers

- (209) The Commission established the profitability of the sampled Union producers by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales.
- (210) Due to the imposition of the anti-dumping measures, the Union industry had been able to improve its profitability since the original investigation period, and even exceed the target profit set in that investigation <sup>(72)</sup>. However, after the peak in 2018, the decrease in Union consumption on the free market coupled with decreasing sales prices in the following years, as shown in Table 7 above, resulted in a unit cost of production that became higher than the average sales price. The reduction in the Union consumption of CRF did not allow the Union industry to set sales prices at a level which would, at least, cover the cost of production.
- (211) The net cash flow is the ability of the Union producers to self-finance their activities. The trend in net cash flow developed to a large extent in line with profitability, where it was at its peak in 2018 before declining substantially in 2019 and 2020, while recovering somewhat during the investigation period but still below the levels of 2018 and 2019.
- (212) The return on investments is the profit in percentage of the net book value of investments. While investments increased overall during the period considered, during 2020 and the review investigation period they remained below the 2019 level. The return on investment developed negatively and followed the same trend as that of the profitability.

#### 4.5. Conclusion on injury

- (213) All macroeconomic indicators showed a negative trend over the period considered such as production, capacity utilization, sales volume on the Union market (both the captive and the free market), market share, employment and productivity. Similarly, most microeconomic indicators showed a negative trend over the period considered such as sales prices on the Union free market, cost of production, profitability, closing stocks, cash flow and return on investments. Only investments showed a positive trend.

<sup>(72)</sup> Implementing Regulation (EU) 2016/1328.

- (214) Even though the Union industry managed to increase prices in the review investigation period, the Union industry still had a negative profit margin of -3,1 % in the review investigation period. The cash flow and return on investments also deteriorated, which makes it more difficult for the Union industry to raise capital and grow.
- (215) On the basis of the above, the Commission concluded that until 2018 the Union industry had recovered from past material injury within the meaning of Article 3(5) of the basic Regulation caused by dumped imports from China and Russia. However, during the period considered, the injury picture deteriorated and the Union industry was back in an economically fragile and injurious situation during the review investigation period.
- (216) Following disclosure, the Russian government disagreed with the Commission's conclusion regarding the Union industry's situation during the review investigation period. According to the Russian government, the situation improved during the review investigation period compared with the previous year, except for the unit cost of production.
- (217) However, while it is correct that some of the injury indicators improved somewhat between 2020 and the review investigation period, as also pointed out in the analysis above (for example in recital 193 or 211), the indicators showed a deterioration during the period considered. The improvement noted in the review investigation period was however not sufficient to lift the Union industry from the economically fragile situation which it faced since 2018. The Commission therefore rejected this claim.
- (218) Due to the negligible levels of imports from the countries concerned throughout the period considered, the Commission concluded that imports from China and Russia could not have caused the injury suffered by the Union industry.
- (219) Therefore, the Commission further examined the likelihood of recurrence of injury originally caused by dumped imports from China and Russia if the measures were repealed.

## 5. LIKELIHOOD OF RECURRENCE OF INJURY

- (220) The Commission concluded in recital 215 that the Union industry was in an economically fragile situation during the review investigation period. The Commission also concluded in recital 218 that the injury to the Union industry observed during the review investigation period could not have been caused by dumped imports from China and Russia due to their very limited volume. Therefore the Commission assessed, in accordance with Article 11(2) of the basic Regulation, whether there would be a likelihood of recurrence of injury caused by the dumped imports from China and Russia if the measures were allowed to lapse.
- (221) In this regard, the Commission examined the production capacity and spare capacity in the countries concerned, the relation between export prices to third countries and the price level in the Union and the impact of potential imports and price levels of such imports from these countries on the Union industry's situation should the measures be allowed to lapse.

### 5.1. Spare capacity in China and Russia and the attractiveness of the Union market

- (222) As already described in sections 3.1.11.2 and 3.2.3.2, the exporting producers in China and Russia have significant spare capacities, which together exceed substantially the current production volumes and internal demand in those countries. These spare capacities could be used to produce the product under review for export to the Union if measures were allowed to lapse. The quantities that could be exported by Chinese and Russian exporting producers are significant compared to the size of the Union market. Indeed, the spare capacities represent more than twice the total Union consumption on the free market during the review investigation period.

- (223) As described in sections 3.1.11.1 and 3.2.3.1, the Chinese and Russian exporting producers exported to their main third markets at prices significantly below the normal value as established, which, in addition, were lower than the average (target) sales prices of the Union producers on the Union market during the review investigation period. Therefore, taking into account the price level of exports from China and Russia to other third markets, exporting to the Union is potentially much more attractive for exporters from those countries. Consequently, it can be reasonably expected that, should the measures be repealed, Russian and Chinese exporting producers would again start to export high volumes of the product under review to the Union. This expectation is further reinforced by the availability of substantial spare capacity in China and Russia. As noted in recital 167, although there is currently an Union import ban on certain steel products exported from Russia including CRF <sup>(73)</sup>, it is likely that this will be a temporary measure and there is no way to foresee its duration in relation to the duration of the extension of the current measures. It therefore does not affect the conclusions about the attractiveness of the Union market.
- (224) The three Russian exporting producers claimed that the applicant in its request, overestimated the attractiveness of the Union market with respect to Russia. According to the Russian companies, if they were to increase their exports to third countries, such exports would rather be destined for Russia's preferential trading partners than for the Union. However, as also pointed out by the applicant, there is no reason why the Russian spare capacity should be used for increasing exports to Russia's preferential trading partners. Indeed, such exports benefit already currently from a 0 % duty, so they could have already now have exported duty-free. By contrast, exports to the Union are currently subject to duties and a comparison of Russian and Chinese prices to third countries plus the Union anti-dumping duty would not result in undercutting the target price while a removal of the anti-dumping duty would. Hence, it is not convincing to argue that exports to such trading partners would increase as they had not identified any change that could occur between now and the foreseeable future that would increase exports from Russia to such countries. The Commission therefore rejected the Russian exporters' claim.
- (225) Following disclosure, the three Russian exporting producers and the Russian government claimed that there would be no likelihood of recurrence of injurious dumping from Russia. In the view of those parties, 'EU law and practice prove that EU sanctions are a long-term policy instrument', while 'EU anti-dumping measures do not have a pre-established lifetime' <sup>(74)</sup>. The Russian exporting producers claimed that there is no indication that the sanctions against Russia would be relaxed or lifted. However, even if the sanctions were to be lifted, the EU market is not attractive for Russian exporters 'due to high risks of introduction of severe trade restrictions'.
- (226) As also set out in recitals 165 and 166, no evidence was provided to show why the Union market would be less attractive to Russian exporters under a scenario without sanctions. In addition, recitals 172, 223 and 248 in this regulation explain why the Commission found that the sanctions cannot have a bearing on the conclusions in this proceeding. Consequently, these claims were rejected.

## 5.2. Effect on the Union industry situation

- (227) In order to establish how the imports from China and Russia would affect the Union industry should the measures be terminated, the Commission performed a prospective and comparative price analysis without the existence of anti-dumping measures.
- (228) Due to the lack of cooperation from the exporting producers in the countries concerned in combination with the very low quantities imported in the Union from these countries, no reliable import prices could be established during the review investigation period. It was therefore not possible to perform a meaningful calculation of price undercutting on this basis. Under these circumstances, in order to estimate the likely price at which Chinese and

<sup>(73)</sup> See Regulation (EU) 2022/428 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.

<sup>(74)</sup> According to the Russian exporting producers, any anti-dumping measure 'shall be terminated as the conditions underlying its impositions ceased to exist' while the Commission uses anti-dumping measures 'as a long-term trade protection tool'.

Russian producers would sell when exporting to the Union market, the Commission made a price comparison between the sample Union producers average price (ex-works) to the corresponding weighted average price of the product under review when exported to third countries <sup>(75)</sup> from China and Russia.

- (229) The result of the comparison was expressed as a percentage of the sampled Union producers' turnover during the review investigation period. It showed a price difference of almost 13 % for Russia. Therefore, the Commission found that Russian prices would undercut Union prices at a similar level in the Union market, should the measures be allowed to lapse.
- (230) The same comparison for China found that export prices from China to third countries were not lower than Union prices. However, further analysis showed that these prices were still below the Union's target price. Using the same target profit as in the original investigation (9,9 %) <sup>(76)</sup> imports from China at the level of Chinese export prices to third countries were found to be 10 % lower than the Union's target price. It would thus be likely that imports from China would cause injury if the measures were not maintained.

### 5.3. Conclusion

- (231) On the basis of the above, the Commission concluded that the absence of measures would in all likelihood result in a significant increase of dumped imports from China and Russia at injurious prices, which would likely lead to a recurrence of material injury.

## 6. UNION INTEREST

- (232) In accordance with Article 21 of the basic Regulation, the Commission examined whether maintaining the existing anti-dumping measures would clearly be against the interest of the Union as whole. The determination of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, importers, and users.

### 6.1. Interest of the Union industry

- (233) The Union industry is located in 14 Member States (Germany, Slovak Republic, Italy, Slovenia, Luxembourg, Greece, Belgium, the Netherlands, Austria, Finland, Sweden, Portugal, Hungary and Spain). It employs over 9 000 employees in relation to the product under review.
- (234) Although the anti-dumping measures in force prevented dumped imports from the Russia and China to enter the Union market to a large extent, the Union industry was in an economically fragile situation during the review investigation period, as confirmed by the negative trends of the injury indicators.
- (235) On the basis of the above, the Commission established that there is a strong likelihood of recurrence of injury originally caused by imports from the countries concerned should the measures expire. The influx of substantial volumes of dumped imports from Russia and China would worsen the already very fragile economic situation of Union industry and threaten its viability.
- (236) The Commission thus concluded that maintaining the anti-dumping measures against Russia and China is in the interest of the Union industry.

### 6.2. Interest of users and unrelated importers

- (237) The Commission contacted all known users and unrelated importers. No users or unrelated importers came forward and cooperated in this investigation by submitting a questionnaire reply.

<sup>(75)</sup> This price was established on a CIF basis, as reported in GTA (<https://www.gtis.com/gta/>), with appropriate adjustments for post-importation costs.

<sup>(76)</sup> Implementing Regulation (EU) 2016/1328, recital 156.

- (238) One unrelated importer, Duferco S.A, and one user, ATS S.A., provided a submission on initiation. According to Duferco S.A, steel prices have significantly increased, creating shortages in the supply chain. The Russian government also pointed to Union users and consumers suffering from a sharp increase of CRF prices. ATS S.A. and the three Russian exporting producers refer to a price hike in the first half of 2021, which they claimed had harmed users and consumers of CRF. In addition, the parties claimed that the existing safeguard measures on imports of steel products constitute a standalone instrument of trade protection which contributes to price growth and a demand-supply imbalance <sup>(7)</sup>.
- (239) In this respect, safeguard measures have a different rationale and objective than that of anti-dumping measures. As explained in recital 132 above, the safeguard measures are not sufficient to protect the Union market against imports in significant quantities at dumped prices. In addition, the data supplied by Duferco S.A in support of their statement dates back to April and July 2021, covering trends observed during the review investigation period. As the analysis in section 4.4.2 showed, the Union industry's capacity utilisation was only at 68 % during the same period, while their sales prices were at a relatively low level. This indicated that there was ample room for increased production at competitive prices.
- (240) No evidence was provided by ATS S.A. or the Russian exporting producers to substantiate the statements made in their submissions. As shown in the analysis in section 4.4.3, the data for the review investigation period, which includes the first half of the year 2021, did not corroborate the statements by ATS S.A. In fact, Union industry prices were not at an abnormally high level. They were below unit cost and even below the export prices of some third countries including China, as well as the Union industry's target price.
- (241) Since none of the interested parties mentioned in recital 238, nor any other user or unrelated importer provided a questionnaire reply or any other information apart from the above-mentioned submissions, the Commission had insufficient information at its disposal to conclude that the continuation of the measures would be detrimental to the interest of the users or importers.

### 6.3. Conclusion on Union interest

- (242) On the basis of the above, the Commission concluded that there were no compelling reasons of Union interest against the maintenance of the existing measures on imports of the product under review originating in Russia and China.

## 7. CLAIMS FOR SUSPENSION/TERMINATION OF MEASURES

- (243) Three Russian exporting producers and one user (ATS S.A.) claimed that the current measures should be suspended. In addition, even before initiation of the expiry review investigation, an unrelated importer located in the United Kingdom (Stemcor London Limited) had also made a similar claim.
- (244) The arguments provided by the different parties referred to the alleged recent high price increase in the Union since the end of 2020, the diminishing imports of CRF from the countries concerned and an alleged imbalance between demand and supply. The evidence and data provided to support these arguments, albeit limited, related almost entirely to a period of time covered by the review investigation period. None of the parties had provided any data related to the period following the review investigation period or future forecast data to support their arguments, except for Union sales prices in the third quarter of 2021 and the mention of a moderate downward trend in at the end of 2021. The three Russian exporting producers claimed that 'an analytical forecast of future market developments in 2022 -2023 would be uncertain and envisage a large number of alternative, even contradictory scenarios. Even the most complex economic indicators cannot shed light on future developments.' Thus, at this stage, it is difficult to draw any conclusion on this basis as regards the existence of a temporary change in market conditions.

<sup>(7)</sup> Commission Implementing Regulation (EU) 2022/978 of 23 June 2022 amending Implementing Regulation (EU) 2019/159 imposing a definitive safeguard measure on imports of certain steel products (OJ L 167, 24.6.2022, p. 58).



- (245) The Commission recalled in this respect that Article 14(4) of the basic Regulation provides that, in the Union interest, anti-dumping measures may be suspended where market conditions have temporarily changed to an extent that injury would be unlikely to resume as a result of such suspension.
- (246) With respect to the second element, and as set out in the sections on injury, recurrence of injury and Union interest above (recital 174 and further), the Commission noted that the Union industry was still in a fragile situation during the RIP and that, in any event, there was a strong likelihood that material injury originally caused by dumped imports from China and Russia at injurious prices would recur if the measures expire. In addition, the Commission found no compelling reasons of Union interest against maintaining the measures. Therefore, on the basis of the information available in this investigation, the Commission could not conclude at this stage that that injury would be unlikely to resume as a result of a suspension, and that it would be in the Union interest to suspend the measures pursuant to Article 14(4) of the basic Regulation. Consequently, the Commission rejected the claim. The Commission reserved its right to further examine the need for suspending measures in accordance with Article 14(4) of the basic Regulation in due course.
- (247) In addition, the NLMK Group, the Severstal Group and the MMK Group claimed that because Russian CRF supplies to the Union have been fully halted by sanctions, there was no legal basis to maintain the measures either as an outcome of the ongoing expiry review or during the statutory period of measures application. The exporting producers argued that the fundamental trade flows reorientation brought about by those sanctions was of lasting nature. According to this argument, measures would not serve their purpose of protecting the Union industry and market from unfair trade practices by foreign exporters and, therefore not necessary under Article 11(1) of the basic Regulation.
- (248) The Commission noted that after the initiation of the investigation, due to the military aggression by the Russian Federation against Ukraine, the Union imposed successive packages of sanctions against Russia which also affected steel products and/or the steel companies producing and exporting the product under review after the review investigation period. However, contrary to the exporting producers' assertion, the current situation cannot be considered of a lasting nature. Indeed, as set out in recitals 167 and 172 the Commission found that those sanctions cannot have a bearing in its conclusions in this investigation. In particular, the Commission found that despite of the current sanctions, measures were still necessary within the meaning of Article 11(1) and (2) of the basic Regulation.

## 8. ANTI-DUMPING MEASURES

- (249) On the basis of the conclusions reached by the Commission on recurrence of dumping, recurrence of injury and Union interest, the anti-dumping measures on CRF from Russia and China should be maintained.
- (250) Special measures are needed to ensure the application of the individual anti-dumping duties. The companies with individual anti-dumping duties must present a valid commercial invoice to the customs authorities of the Member States. The invoice must conform to the requirements set out in Article 1(3) of this regulation. Imports not accompanied by that invoice should be subject to the anti-dumping duty applicable to 'all other companies'.
- (251) While presentation of this invoice is necessary for the customs authorities of the Member States to apply the individual rates of anti-dumping duty to imports, it is not the only element to be taken into account by the customs authorities. Indeed, even if presented with an invoice meeting all the requirements set out in Article 1(3) of this regulation, the customs authorities of Member States must carry out their usual checks and may, like in all other cases, require additional documents (shipping documents, etc.) for the purpose of verifying the accuracy of the particulars contained in the declaration and ensure that the subsequent application of the lower rate of duty is justified, in compliance with customs law.

- (252) Should the exports by one of the companies benefiting from lower individual duty rates increase significantly in volume after the imposition of the measures concerned, such an increase in volume could be considered as constituting in itself a change in the pattern of trade due to the imposition of measures within the meaning of Article 13(1) of the basic Regulation. In such circumstances and provided the conditions are met an anti-circumvention investigation may be initiated. This investigation may, inter alia, examine the need for the removal of individual duty rate(s) and the consequent imposition of a country-wide duty.
- (253) The individual company anti-dumping duty rates specified in this Regulation are exclusively applicable to imports of the product under review originating in the countries concerned and produced by the named legal entities. Imports of the product under review produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other companies'. They should not be subject to any of the individual anti-dumping duty rates.
- (254) A company may request the application of these individual anti-dumping duty rates if it changes subsequently the name of its entity. The request must be addressed to the Commission <sup>(78)</sup>. The request must contain all the relevant information enabling to demonstrate that the change does not affect the right of the company to benefit from the duty rate which applies to it. If the change of name of the company does not affect its right to benefit from the duty rate which applies to it, a regulation about the change of name will be published in the *Official Journal of the European Union*.
- (255) In view of Article 109 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council <sup>(79)</sup> when an amount is to be reimbursed following a judgment of the Court of Justice of the European Union, the interest to be paid should be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union* on the first calendar day of each month.
- (256) By Commission Implementing Regulation (EU) 2019/159 <sup>(80)</sup>, the Commission imposed a safeguard measure with respect to certain steel products for a period of three years. By Implementing Regulation (EU) 2021/1029, the safeguard measure was prolonged until 30 June 2024. The product under review is one of the product categories covered by the safeguard measure. Consequently, once the tariff quotas established under the safeguard measure are exceeded, both the above-quota tariff duty and the anti-dumping duty would become payable on the same imports. As such cumulation of anti-dumping measures with safeguard measures may lead to an effect on trade greater than desirable, the Commission decided to prevent the concurrent application of the anti-dumping duty with the above-quota tariff duty for the product under review for the duration of the imposition of the safeguard duty.
- (257) This means that where the above-quota tariff duty referred to in Article 1(6) of Implementing Regulation (EU) 2019/159 becomes applicable to the product under review and exceeds the level of the anti-dumping duties pursuant to this Regulation, only the above-quota tariff duty referred to in Article 1(6) of Implementing Regulation (EU) 2019/159 shall be collected. During the period of concurrent application of the safeguard and anti-dumping duties, the collection of the duties imposed pursuant to this Regulation shall be suspended. Where the above-quota tariff duty referred to in Article 1(6) of Implementing Regulation (EU) 2019/159 becomes applicable to the product under review and is set at a level lower than the level of the anti-dumping duties in this Regulation, the above-quota tariff duty referred to in Article 1(6) of Implementing Regulation (EU) 2019/159 shall be collected in addition to the difference between that duty and the higher anti-dumping duties imposed pursuant to this Regulation. The part of the amount of anti-dumping duties not collected shall be suspended.

<sup>(78)</sup> European Commission, Directorate-General for Trade, Directorate G, Rue de la Loi 170, 1040 Brussels, Belgium.

<sup>(79)</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

<sup>(80)</sup> Commission Implementing Regulation (EU) 2019/159 of 31 January 2019 imposing definitive safeguard measures against imports of certain steel products (OJ L 31, 1.2.2019, p. 27).

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

HAS ADOPTED THIS REGULATION:

#### Article 1

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

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

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

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

Country	Company	Anti-dumping duty (%)	TARIC additional code
PRC	Angang Steel Company Limited, Anshan	19,7	C097
	Tianjin Angang Tiantie Cold Rolled Sheets Co. Ltd., Tianjin	19,7	C098
	Other cooperating companies listed in Annex	20,5	
	All other companies	22,1	C999
Russia	Magnitogorsk Iron & Steel Works OJSC, Magnitogorsk	18,7	C099
	PAO Severstal, Cherepovets	34	C100
	All other companies	36,1	C999

3. The application of the individual duty rates specified for the companies mentioned in paragraph 2 shall be conditional upon presentation to the Member States' customs authorities of a valid commercial invoice, on which shall appear a declaration dated and signed by an official of the entity issuing such invoice, identified by his/her name and function, drafted as follows: 'I, the undersigned, certify that the (volume) of (product under review) sold for export to the

European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in [country concerned]. I declare that the information provided in this invoice is complete and correct.' If no such invoice is presented, the duty applicable to all other companies shall apply.

4. Article 1(2) may be amended to add new exporting producers from the People's Republic of China and make them subject to the appropriate weighted average anti-dumping duty rate for cooperating companies not included in the sample. A new exporting producer shall provide evidence that:

- (a) it did not export the goods described in Article 1(1) originating in the People's Republic of China during the period between 1 April 2014 to 31 March 2015 (original investigation period);
- (b) it is not related to an exporter or producer subject to the measures imposed by this Regulation; and
- (c) it has either actually exported the product under review or has entered into an irrevocable contractual obligation to export a significant quantity to the Union after the end of the original investigation period.

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

#### *Article 2*

1. Where the above-quota tariff duty referred to in Article 1(6) of Implementing Regulation (EU) 2019/159 becomes applicable to flat-rolled products of iron or non-alloy steel, or other alloy steel but excluding of stainless steel, of all widths, cold-rolled (cold-reduced), not clad, plated or coated and not further worked than cold-rolled (cold-reduced) and exceeds the level of the anti-dumping duty set out in Article 1(2), only the above-quota tariff duty referred to in Article 1(6) of Implementing Regulation (EU) 2019/159 shall be collected.

2. During the period of application of paragraph 1, the collection of the duties imposed pursuant to this Regulation shall be suspended.

3. Where the above-quota tariff duty referred to in Article 1(6) of Implementing Regulation (EU) 2019/159 becomes applicable to flat-rolled products of iron or non-alloy steel, or other alloy steel but excluding of stainless steel, of all widths, cold-rolled (cold-reduced), not clad, plated or coated and not further worked than cold-rolled (cold-reduced) and is set at a level lower than the anti-dumping duty set out in Article 1(2), the above-quota tariff duty referred to in Article 1(6) of Implementing Regulation (EU) 2019/159 shall be collected in addition to the difference between that duty and the higher anti-dumping duty set out in Article 1(2).

4. The part of the amount of anti-dumping duty not collected pursuant to paragraph 3 shall be suspended.

5. The suspensions referred to in paragraphs 2 and 4 shall be limited in time to the period of application of the above-quota tariff duty referred to in Article 1(6) of Implementing Regulation (EU) 2019/159.

#### *Article 3*

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

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

Done at Brussels, 26 October 2022.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN

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## ANNEX

Chinese cooperating exporting producers not sampled:

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