

COMMISSION IMPLEMENTING REGULATION (EU) 2019/687**of 2 May 2019****imposing a definitive anti-dumping duty on imports of certain organic coated steel products originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council**

THE EUROPEAN COMMISSION,

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

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

Whereas:

1. PROCEDURE**1.1. Measures in force**

- (1) The Council, by Implementing Regulation (EU) No 214/2013 ⁽²⁾, imposed definitive anti-dumping duties on imports of certain organic coated steel products originating in the People's Republic of China ('China', 'the PRC' or 'the country concerned'). The anti-dumping duties currently in force range from 0 % to 26,1 % ('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 Council, by Implementing Regulation (EU) No 215/2013 ⁽³⁾, also imposed countervailing duties on imports of certain organic coated steel products originating in China. The countervailing duties currently in force range from 13,7 % to 44,7 %.
- (3) The level of the combined duties ranges from 13,7 % to 58,3 %.

1.2. Initiation of an expiry review

- (4) Following the publication of a notice of impending expiry of the definitive anti-dumping measures in force ⁽⁴⁾, on 13 December 2017 the Commission received a request for the initiation of an expiry review of these measures pursuant to Article 11(2) of Regulation (EU) 2016/1036 ('the basic Regulation'). The request was lodged by The European Steel Association ('EUROFER') on behalf of producers representing more than 70 % of the total Union production of certain organic coated steel products ('the applicant'). The request was based on the grounds that the expiry of the definitive anti-dumping measures would be likely to result in recurrence of dumping and injury to the Union industry.
- (5) On 14 March 2018, the Commission announced, by a notice published in the *Official Journal of the European Union* ⁽⁵⁾ ('the Notice of Initiation'), the initiation of an expiry review of the anti-dumping measures applicable pursuant to Article 11(2) of the basic Regulation.
- (6) The Commission, by a notice published in the *Official Journal of the European Union* on 14 March 2018 ⁽⁶⁾, also announced the initiation of an expiry review pursuant to Article 18 of Regulation (EU) 2016/1037 of the European Parliament and of the Council ⁽⁷⁾ of the definitive countervailing measures in force with regard to the product concerned originating in China.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Council Implementing Regulation (EU) No 214/2013 of 11 March 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain organic coated steel products originating in the People's Republic of China (OJ L 73, 15.3.2013, p. 1).

⁽³⁾ Council Implementing Regulation (EU) No 215/2013 of 11 March 2013 imposing a countervailing duty on imports of certain organic coated steel products originating in the People's Republic of China (OJ L 73, 15.3.2013, p. 16).

⁽⁴⁾ Notice of impending expiry of certain anti-dumping measures (OJ C 187, 13.6.2017, p. 60).

⁽⁵⁾ Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of certain organic coated steel products originating in the People's Republic of China, OJ C 96, 14.3.2018, p. 8.

⁽⁶⁾ Notice of initiation of an expiry review of the countervailing measures applicable to imports of certain organic coated steel products originating in the People's Republic of China, OJ C 96, 14.3.2018, p. 21.

⁽⁷⁾ Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union (OJ L 176, 30.6.2016, p. 55).

1.3. Investigation

1.3.1. Review investigation period and period considered

- (7) The investigation of a continuation or recurrence of dumping covered the period from 1 January 2017 to 31 December 2017 ('the review investigation period' or 'RIP'). The examination of the trends relevant for the assessment of the likelihood of continuation or recurrence of injury covered the period from 1 January 2014 to the end of the review investigation period ('the period considered').

1.3.2. Interested parties

- (8) In the Notice of Initiation, the Commission invited all interested parties to participate in the investigation. In addition, the Commission officially advised the following parties of the initiation of the expiry review: the applicant, the known producers in the Union and their relevant associations, the known exporting producers in China, the known unrelated importers in the Union, unrelated users in the Union known to be concerned and the authorities in the exporting country.
- (9) All interested parties were invited to make their views known, submit information and provide supporting evidence within the time limits set out in the Notice of Initiation. Interested parties were also granted the opportunity to request in writing a hearing by the Commission investigation services and/or the Hearing Officer in trade proceedings.

1.3.3. Sampling

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

1.3.3.1. Sampling of Union producers

- (11) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers, in accordance with Article 17(1) of the basic Regulation. Prior to the initiation, 21 Union producers had provided the information requested for the selection of the sample and expressed their willingness to cooperate with the Commission. On that basis, the Commission had provisionally selected a sample of three producers, which were found to be representative of the Union industry in terms of volume of production and sales of the like product in the Union. The sampled Union producers accounted for 28 % of the estimated total production of the Union industry and for 27 % of the total sales volume of the Union industry to unrelated customers in the Union during the review investigation period. The Commission invited interested parties to comment on the provisional sample. No comments were received and the provisional sample was thus confirmed. The sample was considered representative for the Union industry.

1.3.3.2. Sampling of importers

- (12) The request to initiate the expiry review identified nine unrelated importers which were invited to provide sampling information. None of them came forward.

1.3.3.3. Sampling of exporting producers in China

- (13) To decide whether sampling is necessary and, if so, to select a sample, the Commission asked all known exporting producers in China to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the People's Republic of China to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.
- (14) Two exporting producers returned the sampling forms but none of them produced organic coated steel products as defined in the Notice of Initiation. A third exporting producer made itself known six weeks after the deadline for replies to the sampling form. This exporting producer was given interested party status, but was considered non-cooperating since it never replied to the sampling form or attempted to reply to the exporting producer's questionnaire.
- (15) Therefore, there was no cooperation by exporting producers in China.

1.3.4. Questionnaires and verification visits

- (16) The Commission sent questionnaires to the three sampled Union producers, the applicant and the Government of China ('GOC'). Replies to the questionnaires were received from the three sampled Union producers and the applicant.
- (17) The Commission verified all the information it deemed necessary for a determination of the likelihood of a continuation or recurrence of dumping and injury and of the Union interest. Verification visits were carried out at the premises of the following interested parties:
- (a) Union producers:
- ArcelorMittal Belgium, Belgium
 - Marcegaglia Carbon Steel SpA, Italy
 - Tata Steel Maubeuge SA, France
- (b) Association of Union producers:
- EUROFER, Belgium

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

- (18) In view of the sufficient evidence available at the initiation of the investigation tending to show the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation, the Commission considered it appropriate to initiate the investigation on the basis of Article 2(6a) of the basic Regulation.
- (19) Consequently, in order to collect the necessary data for the eventual application of Article 2(6a) of the basic Regulation, in the Notice of Initiation the Commission invited all exporting producers the country concerned to provide the information requested in Annex III to the Notice of the Initiation regarding the inputs used for producing the product under review. The same two exporting producers that sent sampling replies also submitted the information requested in Annex III. Since they did not produce the product under review, no replies relevant to the product under review were received.
- (20) In order to obtain information it deems necessary for its investigation with regard to the alleged significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation, the Commission also sent a questionnaire to the GOC. No reply was received from the GOC.
- (21) In the Notice of Initiation, the Commission also invited all interested parties to make their views known, submit information and provide supporting evidence regarding the appropriateness of the application of Article 2(6a) of the basic Regulation within 37 days of the date of publication of this Notice in the *Official Journal of the European Union*. No submissions or additional evidence were received in that respect by the GOC or the exporting producers.
- (22) In the Notice of Initiation, the Commission also specified that, in view of the evidence available, it may need to select an appropriate representative country pursuant to Article 2(6a)(a) of the basic Regulation for the purpose of determining the normal value based on undistorted prices or benchmarks.
- (23) On 13 April 2018, the Commission published a first note for the file ('the Note of 13 April 2018') ⁽⁸⁾ seeking the views of the interested parties on the relevant sources that the Commission may use for the determination of the normal value, in accordance with Article 2(6a)(e) second indent of the basic Regulation. In that note, the Commission provided a list of all factors of production such as materials, energy and labour used in the production of the product under review by the exporting producers. In addition, based on the criteria guiding the choice of undistorted prices or benchmarks, the Commission identified six possible representative countries: Argentina, Colombia, Malaysia, Mexico, Thailand and South Africa.
- (24) The Commission gave all interested parties the opportunity to comment. The Commission received comments only from the applicant. Neither the authorities of the country concerned nor any of the exporting producers provided comments.

⁽⁸⁾ No. t18.003071.

- (25) The Commission addressed the comments received by the applicant on the Note of 13 April 2018 in a second note on the sources for the determination of the normal value of 3 July 2018 ('the Note of 3 July 2018')⁽⁹⁾. The Commission also established the list of factors of production and concluded that, at that stage, Mexico was the most appropriate representative country under Article 2(6a)(a), first indent of the basic Regulation. The Commission invited interested parties to comment. The Commission received comments only from the applicant. This Regulation addresses those comments.

1.3.6. *Subsequent procedure*

- (26) On 22 February 2019, the Commission made the disclosure of the essential facts and considerations on the basis of which it intended to impose anti-dumping duties ('final disclosure'). All parties were granted a period within which they could make comments on the disclosure.
- (27) No parties made any comments on the final disclosure.

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. **Product concerned**

- (28) The product concerned by this expiry review is the same as the one in the original investigation, that is certain organic coated steel products, i.e. flat-rolled products of non-alloy and alloy steel (not including stainless steel) which are painted, varnished or coated with plastics on at least one side, excluding so-called 'sandwich panels' of a kind used for building applications and consisting of two outer metal sheets with a stabilising core of insulation material sandwiched between them, excluding those products with a final coating of zinc-dust (a zinc-rich paint, containing by weight 70 % or more of zinc), and excluding those products with a substrate with a metallic coating of chromium or tin; currently falling within CN codes ex 7210 70 80, ex 7212 40 80, ex 7225 99 00, ex 7226 99 70 (TARIC codes 7210 70 80 11, 7210 70 80 91, 7212 40 80 01, 7212 40 80 21, 7212 40 80 91, 7225 99 00 11, 7225 99 00 91, 7226 99 70 11 and 7226 99 70 91), and originating in China ('the product under review' or 'OCS').
- (29) The product under review is obtained by applying an organic coating to flat-rolled steel products. The organic coating provides protection, and aesthetic and functional properties to steel products.
- (30) OCS are mainly used in the construction sector and for further processing in products used in construction. Other applications include home appliances.

2.2. **Like product**

- (31) No interested parties commented on the like product. Hence, as established in the original investigation, this expiry review investigation confirmed that product produced and sold on the domestic markets of China and the representative country Mexico, and the product produced and sold in the Union by the Union producers have the same basic physical and technical characteristics and end-uses. They are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

3. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING

3.1. **Preliminary remarks**

- (32) In accordance with Article 11(2) of the basic Regulation, the Commission examined whether the expiry of the measures in force would be likely to lead to a continuation or recurrence of dumping from the PRC.
- (33) As mentioned in recital 15, none of the Chinese exporting producers cooperated in the investigation. Thus, the exporting producers failed to submit questionnaire replies, including any data on export prices and costs, domestic prices and costs, capacity, production, investments, etc. Likewise, the GOC and the exporting producers failed to address the evidence on the case file, including 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'⁽¹⁰⁾ ('the Report'), and the additional evidence provided by the applicant, showing that such prices and costs were affected by substantial government interventions. Therefore, the Commission resorted to the use of facts available in accordance with Article 18 of the basic Regulation.

⁽⁹⁾ No. t18.007614.

⁽¹⁰⁾ SWD(2017) 483 final/2.

- (34) The Commission notified the Chinese authorities and the third exporting producer mentioned in recital 14 of the application of Article 18(1) of the basic Regulation and gave them the opportunity to comment. The Commission did not receive any comments.
- (35) On that basis, in accordance with Article 18(1) of the basic Regulation, the findings in relation to the likelihood of continuation or recurrence of dumping set out below were based on facts available, in particular, the information contained in the request for the expiry review, in the submissions by interested parties, and the statistics available in the Article 14(6) database.

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

- (36) For the review investigation period, the statistical data from the Article 14(6) database show that a small volume of OCS was imported into the Union from the PRC amounting to 6 338 tonnes and constituting 0,1 % of the total Union consumption. OCS was, however, imported to 16 Member States and the imports were spread over the whole review investigation period. Consequently, the Commission concluded that the actual imports in the review investigation period were representative and, therefore, examined whether dumping continued during the review investigation period.

3.2.1. Normal value

- (37) 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'.
- (38) However, according to Article 2(6a)(a) of the basic Regulation, '(i)n 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'. As further explained below, the Commission concluded in the present investigation that, based on the evidence available, and in view of the lack of cooperation of the GOC and the exporting producers, the application of Article 2(6a) of the basic Regulation was appropriate.

3.2.2. Existence of significant distortions

3.2.2.1. Introduction

- (39) Article 2(6a)(b) of the basic Regulation defines 'significant distortions as those distortions which occur when reported prices or costs, including the costs of raw materials and energy, are not the result of free market forces as they are affected by substantial government intervention. In assessing the existence of significant distortions regard shall be had, inter alia, to the potential impact of one or more of the following elements:
- the market in question being served to a significant extent by enterprises which operate under the ownership, control or policy supervision or guidance of the authorities of the exporting country;
 - state presence in firms allowing the state to interfere with respect to prices or costs;
 - public policies or measures discriminating in favour of domestic suppliers or otherwise influencing free market forces;
 - the lack, discriminatory application or inadequate enforcement of bankruptcy, corporate or property laws;
 - wage costs being distorted;
 - access to finance granted by institutions which implement public policy objectives or otherwise not acting independently of the state'.
- (40) Article 2(6a)(c) of the basic Regulation provides that '[w]here the Commission has well-founded indications of the possible existence of significant distortions as referred to in point (b) in a certain country or a certain sector in that country, and where appropriate for the effective application of this Regulation, the Commission shall produce, make public and regularly update a report describing the market circumstances referred to in point (b) in that country or sector'.

- (41) Interested parties were invited to rebut, comment or supplement the evidence contained in the investigation file at the time of initiation. In that respect, the Commission produced the Report showing the existence of substantial government intervention at many levels of the economy, including specific distortions in many key factors of production (such as land, energy, capital, raw materials and labour) as well as in specific sectors (such as steel and chemicals). The Report was placed in the investigation file at the initiation stage. The request also contained some relevant evidence complementing the Report.
- (42) The applicant referred in paragraph 71 and Annex 18 of the request to a US Department of Commerce ('US DOC') document ⁽¹¹⁾. According to the US DOC, the steel sector is classified under the 'basic and pillar industries' where the State must 'maintain relatively strong controlling power.' The US DOC document contains reference to the 'SASAC Document' ⁽¹²⁾ that divides economic sectors into three categories and related sub-categories, according to the perceived necessity for government control, namely: (1) strategic industries, which 'affect national security and the lifeblood of the economy', in which the state must 'maintain absolute controlling power'; (2) 'basic and pillar industries' in which the state must 'maintain relatively strong controlling power'; or (3) other industries in which the state must 'maintain influence'. Also, the SASAC Document sets a general goal of having, by 2010, a group of important backbone enterprises with fairly strong influence and driving force for the development of an industry, which entails establishing a strong foundation for important backbone enterprises in the petrochemical, telecoms, electricity, shipping, and construction industries to develop and become globally first-rate enterprises, and for important backbone enterprises in the automotive, machinery, and IT industries to become globally first-rate enterprises.
- (43) Regarding the hot-rolled steel ('HRS') and cold-rolled steel ('CRS') costs necessary for re-rolling production, the applicant referred to previous EU Regulations imposing countervailing duties ⁽¹³⁾ where the Commission established that both CRS and HRS flat products are subsidised. According to the applicant, this resulted in an artificially low cost price of the final products. In addition, the applicant quoted a report by ThinkDesk ⁽¹⁴⁾ and argued that this report also provided evidence that many Chinese producers were enabled to offer HRS flat products on the Chinese market at distorted prices.
- (44) Finally, the applicants also argued that current Chinese domestic HRS and CRS prices are still lower than international prices on the basis of data provided by Global Platts ⁽¹⁵⁾.
- (45) Regarding zinc and the domination of the mining industry by State-owned enterprises, in addition to the evidence contained in the Report, the applicants also provided evidence that a 30 % export tax on zinc is currently in place in China (see paragraphs 87–89 and Annex 18 of the request).
- (46) The applicant further claimed that there are significant distortions in chemical components, which in turn lead to significant distortions in paint and other chemical coating products used for organic coated steel production. They based themselves on the evidence contained in the Report (Chapter 16 'Chemical Sector' thereof). In particular, the Report mentioned on the basis of China Chemical Enterprise Management Association that the largest chemical companies (in 2015, based on sales revenue) in China are SOEs, including eight of the first ten largest chemical enterprises ⁽¹⁶⁾. In addition, the applicant referred to the KPMG report provided in Annex 18 of the request, which showed that the top 10 Chinese chemical companies are State-owned.

⁽¹¹⁾ United States Department of Commerce, 'China's Status as a non-market economy', A-570053, 26 October 2017, p. 57.

⁽¹²⁾ Xinhua News Agency, 'SASAC: State-owned Economy Should Maintain Absolute Controlling Power over Seven, Industries', December 18, 2006.

⁽¹³⁾ See Implementing Regulation (EU) No 215/2013 and 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).

⁽¹⁴⁾ ThinkDesk Report, 'Analysis of state-business interaction and subsidization in the hot-rolled flat (HRF) segment of the Chinese steel industry', 28 February 2016, provided in Annex 18 of the request.

⁽¹⁵⁾ Data provided in Annex 20 of the request.

⁽¹⁶⁾ China Chemical Enterprise Management Association (CCEMA). (2016). List of Top 500 Chinese Chemical Companies in 2016. China Petroleum & Chemical Industry Federation (CPCIF). (2016). 29 June 2016. <http://www.cpcia.org.cn/html/13/20166/155709.html>; referred to in the Report, p. 403.

- (47) Regarding electricity, in addition to the Report, the applicant claimed that OCS producers enjoy preferential electricity rates ⁽¹⁷⁾ and Chongqing Wanda Steel Strip is said to have benefited from an electricity rate lower than the rate generally applicable for large industrial enterprise ⁽¹⁸⁾. Finally, the applicant submitted publicly available information, according to which Shougang Group and Inner Mongolia Baotou Steel Union have benefited from electricity price subsidies ⁽¹⁹⁾.
- (48) Regarding preferential loans and other financial support, in addition to the Report, the applicant pointed to a recent press report alleging that the GOC's control over local banks has been further reinforced by legislative developments in 2017 ⁽²⁰⁾. The applicant also quoted the US DOC's findings that the sector 'remains fundamentally distorted from both a risk pricing and a resource allocation standpoint. In addition, (...) an analysis of interest rate dynamics suggest that interest rates are still closely tied to government-published 'reference rates', and are thus not yet market-determined. Soft budget constraints, non-arm's-length pricing, implicit government guarantees and government policy directives directly or indirectly distort the formal banking sector, the interbank market, the bond market, and 'shadow banking'. These distortions can be directly tied to government ownership and control to the state's pervasive and intrusive role in China's financial system' ⁽²¹⁾.
- (49) The applicant recalled that the Commission established in its previous investigations that major OCS producers received subsidies in the form of preferential lending, debt for equity swaps, equity infusions, and relieve to pay dividends to the Chinese government as the main shareholder ⁽²²⁾. In addition, the applicant identified a number of other OCS producers having benefitted from preferential lending on the basis of their annual reports ⁽²³⁾.
- (50) Finally, the applicant quoted a report prepared by ThinkDesk, which identified at least six OCS producers to which benefited from government support measures in the form of Deleveraging and Debt to Equity Swaps in the Chinese Steel Industry in the years 2016-2017. Those measures were identified as subsidies by ThinkDesk ⁽²⁴⁾.
- (51) The request identified a number of alleged additional distortions in the form of fiscal support and low environmental standards in China, already indicated in the Report. In particular, the applicant referred to past findings by the Commission of various direct tax exemptions and reduction programmes that artificially reduced the taxable income of the steel companies, indirect tax (VAT) and import tariff programmes, and various (ad-hoc) grant programmes ⁽²⁵⁾. The applicant further claimed that these programs are still active and available today.
- (52) Regarding environmental standards, the applicant quoted an OECD report provided in Annex 18 of the request ⁽²⁶⁾, which arguably shows that the GOC offers indirect support to steel manufacturers by failing to enforce basic environmental standards, by contrast to Union producers which are subject to much stricter environmental standards, especially given the recent development that the REACH Regulation prohibited ongoing use of chromates in the pre-treatment stage of the OCS production (discussed also in paragraphs 12-16 of the request).
- (53) The Commission will examine whether it is appropriate or not to use domestic prices and costs in China, due to the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation. The Commission will do so on the basis of the evidence available on the file, including the evidence contained in the Report, which relies on publicly available sources. That analysis will cover the examination of the substantial government interventions in its economy in general, but also the specific market situation in the relevant sector including the product under review. As specified in recitals 16-20, neither the GOC nor the exporting producers

⁽¹⁷⁾ Implementing Regulation (EU) No 215/2013 and Implementing Regulation (EU) 2017/969 referred to above.

⁽¹⁸⁾ Implementing Regulation (EU) No 215/2013, recitals 140-145.

⁽¹⁹⁾ 'Overview of the subsidies enjoyed by Chinese steel producers', p. 6 provided in Annex 18 of the request.

⁽²⁰⁾ CHEN Y., BRC's New Supervisory Storm is here-implications for foreign banks in China, China Law Insight, 13 April 2017, provided in Annex 18 of the request.

⁽²¹⁾ US Department of Commerce, 'China's Status as a Non-Market Economy', October 26, 2017, provided in Annex 18 of the request.

⁽²²⁾ For details see paragraphs 106-107 of the request.

⁽²³⁾ See 'Overview of the subsidies enjoyed by Chinese steel producers', p. 6-7, provided in Annex 18 of the request.

⁽²⁴⁾ ThinkDesk Report, 'Deleveraging and Debt Equity Swaps in the Chinese Steel Industry', 31 October 2017, provided in Annex 18 of the request.

⁽²⁵⁾ Implementing Regulation (EU) No 215/2013 recitals 314-396; and Implementing Regulation (EU) 2017/969, recitals 312-394.

⁽²⁶⁾ Environmental Enforcement and Compliance in China, an Assessment of Current Practices and Ways Forward (OECD) 2006.

commented or provided 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.

3.2.2.2. Significant distortions affecting the domestic prices and costs in the PRC: general economic context

- (54) The very foundation of the Chinese economic system, namely the concept of the so-called 'socialist market economy', is at odds with the notion of free play of market forces. That concept is enshrined in the Chinese Constitution and determines the economic governance of China. The core principle is the 'socialist public ownership of the means of production, namely, ownership by the whole people and collective ownership by the working people'. The State-owned economy is considered the 'leading force of the national economy' and the State has the mandate 'to ensure its consolidation and growth' ⁽²⁷⁾. Consequently, the overall setup of the Chinese economy not only allows for substantial government interventions into the economy, but such interventions are expressly mandated. The notion of supremacy of public ownership over the private one permeates the entire legal system and is emphasized as a general principle in all central pieces of legislation. The Chinese property law is a prime example: it refers to the primary stage of socialism and entrusts the State with upholding the basic economic system under which the public ownership plays a dominant role. Other forms of ownership are tolerated, with the law permitting them to develop side by side with the State ownership ⁽²⁸⁾.
- (55) In addition, according to relevant Chinese legislation, the socialist market economy is developed under the leadership of the Chinese Communist Party (CCP). The structures of the Chinese State and of the CCP are intertwined at every level (legal, institutional, personal), forming a superstructure in which the roles of CCP and the State are indistinguishable. Following an amendment of the Chinese Constitution in March 2018, the leading role of the CCP was given an even greater prominence by being reaffirmed in the text of Article 1 of the Constitution. Following the existing first sentence of the provision: '[t]he socialist system is the basic system of the People's Republic of China' a new second sentence was inserted which reads: '[t]he defining feature of socialism with Chinese characteristics is the leadership of the Communist Party of China.' ⁽²⁹⁾. This illustrates the unquestioned and ever growing control of the CCP over the economic system of China. This control is inherent to the Chinese system and goes well beyond the situation customary in other countries where the governments exercise broad macroeconomic control within the boundaries of which free market forces are at play.
- (56) The Chinese State engages in an interventionist economic policy in pursuance of goals, which coincide with the political agenda set by the CCP rather than reflecting the prevailing economic conditions in a free market ⁽³⁰⁾. The interventionist economic tools deployed by the Chinese authorities are manifold, including the system of industrial planning, the financial system, as well as various facets of the regulatory environment.
- (57) First, on the level of overall administrative control, the direction of the Chinese economy is governed by a complex system of industrial planning which affects all economic activities within the country. The totality of these plans cover a comprehensive and complex matrix of sectors and crosscutting policies and is present on all levels of government. Plans at provincial level tend to be fairly detailed while national plans tend to set somewhat broader targets. Plans also specify the tool box in order to support the relevant industries/sectors as well as the timeframes in which the objectives need to be achieved. Some plans still contain explicit output targets while this was a regular feature in previous planning cycles. Under the plans, individual industrial sectors and/or projects are being singled out as (positive or negative) priorities in line with the government priorities and specific development goals are attributed to them (industrial upgrade, international expansion etc.). The economic operators, private and State-owned alike, must effectively adjust their business activities according to the realities imposed by the planning system. This is not only because of the formally binding nature of the plans. Crucially, the relevant Chinese authorities at all level of government adhere to the system of plans and they use their vested powers accordingly, thereby inducing the economic operators to comply with the priorities set out in the plans (see also section 3.2.2.5 below) ⁽³¹⁾.
- (58) Second, on the level of allocation of financial resources, the financial system of China is dominated by the State-owned commercial banks. Those banks, when setting up and implementing their lending policy need to align themselves with the government's industrial policy objectives rather than primarily assessing the economic merits of a given project (see also section 3.2.2.8 below) ⁽³²⁾. The same applies to the other components of the

⁽²⁷⁾ Report — Chapter 2, p. 6-7.

⁽²⁸⁾ Report — Chapter 2, p. 10.

⁽²⁹⁾ <http://en.pkulaw.cn/display.aspx?cgid=311950&lib=law>.

⁽³⁰⁾ Report — Chapter 2, p. 20-21.

⁽³¹⁾ Report — Chapter 3, p. 41, 73-74.

⁽³²⁾ Report — Chapter 6, p. 120-121.

Chinese financial system, such as the stock markets, bond markets, private equity markets etc. Even though of lesser significance than the banking sector, these parts of the financial sector are institutionally and operationally set up in a manner not geared towards maximizing the efficient functioning of the financial markets but towards ensuring control and allowing intervention by the State and the CCP ⁽³³⁾.

- (59) Third, on the level of regulatory environment, the interventions by the State into the economy take a number of forms. For instance, the public procurement rules are regularly used in pursuit of policy goals other than economic efficiency, thereby undermining market based principles in the area. The applicable legislation specifically provides that public procurement shall be conducted in order to facilitate the achievement of goals designed by State policies. However, the nature of these goals remains undefined, thereby leaving broad margin of appreciation to the decision-making bodies ⁽³⁴⁾. Similarly, in the area of investment, the Chinese government maintains significant control and influence over destination and magnitude of both State and private investment. Investment screening as well as various incentives, restrictions, and prohibitions related to investment are used by authorities as an important tool for supporting industrial policy goals, such as maintaining State control over key sectors or bolstering domestic industry ⁽³⁵⁾.
- (60) In sum, the Chinese economic model is based on certain basic axioms which provide for and encourage manifold government interventions. Such substantial government interventions are at odds with free play of market forces, resulting in distorting the effective allocation of resources in line with market principles ⁽³⁶⁾.

3.2.2.3. Significant distortions according to Article 2(6a)(b), first indent of the basic Regulation: the market in question being served to a significant extent by enterprises which operate under the ownership, control or policy supervision or guidance of the authorities of the exporting country

- (61) Against that background of State intervention and dominance of State ownership in the Chinese economic model, State-owned enterprises ('SOEs') represent an essential part of the Chinese economy. The government and the CCP maintain structures that ensure their continued influence over SOEs. The State party not only actively formulates and oversees the implementation of general economic policies by individual SOEs, but it also claims its rights to participate in operational decision making in SOEs. This is typically done through rotation of cadres between government authorities and SOEs, through presence of party members on SOEs executive bodies and of party cells in companies (see also section 3.2.2.4), as well as through shaping the corporate structure of the SOE sector ⁽³⁷⁾. In exchange, SOEs enjoy a particular status within the Chinese economy, which entails a number of economic benefits, in particular shielding from competition and preferential access to relevant inputs, including finances ⁽³⁸⁾.
- (62) Specifically in the steel sector, a substantial degree of ownership by the Chinese government persists. 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 ⁽³⁹⁾. At the same time, while the top ten producers only took up some 36 % of total industry output in 2016, the Chinese government is aiming to consolidate 60 % to 70 % of iron and steel production to around ten large-scale enterprises by 2025 ⁽⁴⁰⁾. Such consolidation may entail forced mergers of profitable private companies with underperforming SOEs ⁽⁴¹⁾.
- (63) With the high level of government intervention in the steel industry and a high share of SOEs in the sector, even privately owned steel producers are prevented from operating under market conditions. Indeed, both public or privately owned enterprises in the steel sector are also subject to policy supervision and guidance as set out in section 3.2.2.5 below.
- (64) The state control and intervention on OCS is not excluded from the general framework described. Many of the major OCS producers are State-owned. The evidence available thus suggests that OCS producers in the PRC are subject to the same ownership, control or policy supervision or guidance by the Chinese government and thus do not operate in accordance with market principles ⁽⁴²⁾.

⁽³³⁾ Report – Chapter 6, p. 122-135.

⁽³⁴⁾ Report – Chapter 7, p. 167-168.

⁽³⁵⁾ Report – Chapter 8, p. 169-170, 200-201.

⁽³⁶⁾ Report – Chapter 2, p. 15-16, Report – Chapter 4, p. 50, p. 84, Report – Chapter 5, p. 108-9.

⁽³⁷⁾ Report – Chapter 3, p. 22-24 and Chapter 5, p. 97-108.

⁽³⁸⁾ Report – Chapter 5, p. 104-9.

⁽³⁹⁾ 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.

⁽⁴⁰⁾ https://policyn.cn/policy_ticker/higher-expectations-for-large-scale-steel-enterprise/?iframe=1&secret=c8uthafuthefra4e.

⁽⁴¹⁾ 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.

⁽⁴²⁾ Report – Chapter 14, pp. 359-360.

3.2.2.4. Significant distortions according to Article 2(6a)(b), second indent of the basic Regulation: State presence in firms allowing the state to interfere with respect to prices or costs

- (65) Apart from exercising control over the economy by means of ownership of SOEs and other tools, the Chinese State is in position to interfere with prices and costs through State presence in firms. 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 ⁽⁴³⁾, CCP cells in enterprises, state owned and private alike, represent another channel through which the State can interfere with business decisions. According to China's company law, a CCP organisation is to be established in every company and the company is to 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 decision 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 ⁽⁴⁴⁾. 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 final say over the business decision within their respective companies ⁽⁴⁵⁾. These rules apply in general in the Chinese economy, including to the producers of OCS and the suppliers of their inputs.
- (66) Specifically in the steel sector (including the product under review and the suppliers of the main inputs), many of the major steel producers (including OCS producers) are owned by the State. Some are specifically referred to in the 'Steel Industry Adjustment and Upgrading plan for 2016-2020' ⁽⁴⁶⁾ as examples of the achievements of the 12th five-year planning period (such as Baosteel, Anshan Iron and Steel, Wuhan Iron and Steel, etc.). The public documents of the State-owned OCS producer sometimes stress the connection with the Chinese State. For example, Baoshan Iron & Steel (or Baosteel) stated in the 2016 Semi-Annual Report that '[t]he company committed itself to matching regional 13th Five Year planning and reached wide consensus with local governments in sharing resources, connecting urban industries and building ecological environment' ⁽⁴⁷⁾. In the recent anti-subsidy investigation of certain hot-rolled flat products of iron, non-alloy or other alloy steel ('HRF') originating in China ⁽⁴⁸⁾, the Commission established that three of the four sampled groups of exporting producers were SOEs. In all three groups, the Chairmen of the Board or the President also acted as the Party Committee Secretary of the group's CCP organisation.
- (67) The State's presence and intervention in the financial markets (see also section 3.2.2.8 below) as well as in the provision of raw materials and inputs further have a distorting effect on the market ⁽⁴⁹⁾. Thus, the State presence in firms, including SOEs, in the steel and other sectors (such as the financial and input sectors) allow the GOC to interfere with respect to prices and costs.

3.2.2.5. Significant distortions according to Article 2(6a)(b), third indent of the basic Regulation: public policies or measures discriminating in favour of domestic suppliers or otherwise influencing free market forces

- (68) The direction of the Chinese economy is to a significant degree determined by an elaborate system of planning which sets out priorities and prescribes the goals the central and local governments must focus on. Relevant plans exist on all levels of government and cover virtually all economic sectors, the objectives set by the planning instruments are of binding nature and the authorities at each administrative level monitor the implementation

⁽⁴³⁾ Report – Chapter 5, p. 100-1.

⁽⁴⁴⁾ Report – Chapter 2, p. 31-2.

⁽⁴⁵⁾ See <https://www.reuters.com/article/us-china-congress-companies-idUSKCN1B40JU>.

⁽⁴⁶⁾ The full text of the plan is available on the MIIT website:

<http://www.miit.gov.cn/n1146295/n1652858/n1652930/n3757016/c5353943/content.html>.

⁽⁴⁷⁾ Baoshan Iron & Steel Co., Ltd 2016 Semi-annual Report, http://tv.baosteel.com/ir/pdf/report/600019_2016_2e.pdf.

⁽⁴⁸⁾ See Recital 64 of Implementing Regulation (EU) 2017/969.

⁽⁴⁹⁾ Report – Chapters 14.1 to 14.3.

of the plans by the corresponding lower level of government. Overall, the system of planning in China results in resources being driven to sectors designated as strategic or otherwise politically important by the government, rather than being allocated in line with market forces ⁽⁵⁰⁾.

- (69) The steel industry, including the production of OCS as a high-end steel product, is regarded as a key industry by the Chinese government ⁽⁵¹⁾. 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'. This Plan states that the steel industry is 'an important, fundamental sector of the Chinese economy, a national cornerstone' ⁽⁵²⁾. The main tasks and objectives set out in this Plan cover all aspects of the development of the industry ⁽⁵³⁾.
- (70) The 13th Five-Year Plan on Economic and Social Development ⁽⁵⁴⁾ envisages support to enterprises producing high-end steel product types ⁽⁵⁵⁾. It also focuses on achieving product quality, durability and reliability by supporting companies using technologies related to clean steel production, precision rolling and quality improvement ⁽⁵⁶⁾.
- (71) The 'Catalogue for Guiding Industry Restructuring (2011 Version) (2013 Amendment)' ⁽⁵⁷⁾ ('the Catalogue') lists iron and steel as encouraged industries. In particular, the Catalogue encourages the '[d]evelopment and application of technologies for higher-performance, high-quality, and upgrading steel products, including but not limited to high-strength automobile sheets of not less than 600 MPa, high performance pipeline steel for oil and gas transmission, high-strength wide and thick plates for vessels, marine engineering steel, moderate thickness plates of not less than 420 MPa for buildings, bridges and other structures, steel for high-speed and heavy-haul railways, low-iron loss and high-magnetic induction silicon steel, corrosion- and wear-resistance steel, alloy resource-saving stainless steel (modern ferritic stainless steel, duplex stainless steel, and nitrogen stainless steel), special steel bars and wire rods for high-performance basic parts (high-performance gears, bolts at or above Grade 12.9, high-strength spring, and long service life bearings), and high-quality special steel forged materials (tool and mould steel, stainless steel, and steel for machinery, among others)'. The applicability of the Catalogue was confirmed by the recent anti-subsidy investigation of certain hot-rolled flat products of iron, non-alloy or other alloy steel ('HRF') originating in China ⁽⁵⁸⁾.
- (72) The GOC further guides the development of the sector in accordance with a broad range of policy tools and directives related, inter alia: to market composition and restructuring, raw materials ⁽⁵⁹⁾, investment, capacity elimination, product range, relocation, upgrading, etc. Through these and other means, the GOC directs and controls virtually every aspect in the development and functioning of the sector ⁽⁶⁰⁾. The current problem of overcapacity is arguably the clearest illustration of the implications of the GOC's policies and the resulting distortions.
- (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 OCS as a high-end steel product and the raw materials used for producing it. Such measures impede market forces from operating normally.

⁽⁵⁰⁾ Report – Chapter 4, p. 41-42, 83.

⁽⁵¹⁾ Report, Part III, Chapter 14, p. 346 ff.

⁽⁵²⁾ Introduction to The Plan for Adjusting and Upgrading the Steel Industry.

⁽⁵³⁾ Report, Chapter 14, p. 347.

⁽⁵⁴⁾ The 13th Five-Year Plan for Economic and Social Development of the People's Republic of China (2016-2020), <http://en.ndrc.gov.cn/newsrelease/201612/P020161207645765233498.pdf>.

⁽⁵⁵⁾ Report – Chapter 14, p. 349.

⁽⁵⁶⁾ Report – Chapter 14, p. 352.

⁽⁵⁷⁾ Catalogue for Guiding Industry Restructuring (2011 Version) (2013 Amendment) issued by Order No 9 of the National Development and Reform Commission on 27 March 2011, and amended in accordance with the Decision of the National Development and Reform Commission on Amending the Relevant Clauses of the Catalogue for Guiding Industry Restructuring (2011 Version) issued by Order No 21 of the National Development and Reform Commission on 16 February 2013.

⁽⁵⁸⁾ See Recital 56 of Implementing Regulation (EU) 2017/969.

⁽⁵⁹⁾ The request contains ample additional evidence (annex 18 thereof) of distortions on the markets of a number of raw materials used for the production of OCS such as: domination of SOEs in the zinc, coal and iron ore mining industry and a 30 % export tax on zinc; domination of SOEs in the Chemical industry producing paint and other chemical coating products; preferential rates for the use of electricity by a number of OCS producers. See also Report – Chapter 16.

⁽⁶⁰⁾ Report – Chapter 14, pp. 375-376.

3.2.2.6. Significant distortions according to Article 2(6a)(b), fourth indent of the basic Regulation: the lack, discriminatory application or inadequate enforcement of bankruptcy, corporate or property laws

- (74) The Chinese bankruptcy system appears inadequate to deliver on its own main objectives such as to fairly settle claims and debts and to safeguard the lawful rights and interests of creditors and debtors. This appears to be rooted in the fact that while the Chinese bankruptcy law formally rests on similar principles as corresponding laws in other countries, the Chinese system is characterised by systematic under-enforcement. The number of bankruptcies remains notoriously low in relation to the size of the country's economy, not least because the insolvency proceedings suffer from a number of shortcomings, which effectively function as a disincentive for bankruptcy filings. Moreover, the role of the State in the insolvency proceedings remains strong and active, often having direct influence on the outcome of the proceedings ⁽⁶¹⁾.
- (75) In addition, the shortcomings of the system of property rights are particularly obvious in relation to ownership of land and land-use rights in China ⁽⁶²⁾. All land is owned by the Chinese State (collectively owned rural land and State-owned urban land). Its allocation remains solely dependent on the State. There are legal provisions that aim at allocating land use rights in a transparent manner and at market prices, for instance by introducing bidding procedures. However, these provisions are regularly not respected, with certain buyers obtaining their land for free or below market rates ⁽⁶³⁾. Moreover, authorities often pursue specific political goals including the implementation of the economic plans when allocating land ⁽⁶⁴⁾.
- (76) Therefore, the Chinese bankruptcy and property laws do not appear to properly work, resulting in distortions when maintaining insolvent firms afloat and in relation to the land provision and acquisition in the PRC. Those considerations, on the basis of the evidence available, appear to be fully applicable also in the steel sector and more specifically with respect to OCS. In particular, the Commission has established that OCS ⁽⁶⁵⁾ as well as its raw material hot-rolled steel ⁽⁶⁶⁾ benefited from the provision of land use rights for less than adequate remuneration.

3.2.2.7. Significant distortions according to Article 2(6a)(b), fifth indent of the basic Regulation: wage costs being distorted

- (77) A system of market-based wages cannot fully develop in China as workers and employers are impeded in their rights to collective organisation. China has not ratified a number of essential conventions of the International Labour Organisation (ILO), in particular those on freedom of association and on collective bargaining ⁽⁶⁷⁾. Under national law, only one trade union organisation is active. However, this organisation lacks independence from the State authorities and its engagement in collective bargaining and protection of workers' rights remains rudimentary ⁽⁶⁸⁾. Moreover, the mobility of the Chinese workforce is restricted by the household registration system, which limits access to the full range of social security and other benefits to local residents of a given administrative area. This typically results in workers who are not in possession of the local residence registration finding themselves in a vulnerable employment position and receiving lower income than the holders of the residence registration ⁽⁶⁹⁾. Those findings lead to the distortion of wages costs in China.
- (78) No evidence was submitted to the effect that the steel sector, including OCS, would not be subject to the Chinese labour law system described. The OCS sector is thus affected by the distortions of wage costs both directly (when making the product concerned) as well as indirectly (when having access to capital or inputs from companies subject to the same labour system in China).

⁽⁶¹⁾ Report – Chapter 6, p. 138-149.

⁽⁶²⁾ Report – Chapter 9, p. 216.

⁽⁶³⁾ Report – Chapter 9, p. 213-215.

⁽⁶⁴⁾ Report – Chapter 9, p. 209-211.

⁽⁶⁵⁾ See recitals 107-126 of Implementing Regulation (EU) No 215/2013.

⁽⁶⁶⁾ See recitals 281-311 of Implementing Regulation (EU) 2017/969.

⁽⁶⁷⁾ Report – Chapter 13, p. 332-337.

⁽⁶⁸⁾ Report – Chapter 13, p. 336.

⁽⁶⁹⁾ Report – Chapter 13, p. 337-341.

3.2.2.8. Significant distortions according to Article 2(6a)(b), sixth indent of the basic Regulation: access to finance granted by institutions which implement public policy objectives or otherwise not acting independently of the State

- (79) Access to capital for corporate actors in China is subject to various distortions.
- (80) Firstly, the Chinese financial system is characterised by strong position of State-owned banks ⁽⁷⁰⁾, which, when granting access to finance, take into consideration criteria other than economic viability of a project. Similarly to non-financial SOEs, the banks remain connected to the State not only through ownership but also via personal relations (the top executives of the large State-owned financial institutions are ultimately appointed by the CCP) ⁽⁷¹⁾ and, again just like non-financial SOEs, the banks regularly implement public policies designed by the government. In doing so, the banks comply with an explicit legal obligation to conduct their business in accordance with the needs of the national economic and social development and under the guidance of the industrial policies of the State ⁽⁷²⁾. This is compounded by additional existing rules, which direct finances into sectors designated by the government as encouraged or otherwise important ⁽⁷³⁾.
- (81) While it is acknowledged that various legal provisions refer to the need to respect normal banking behaviour and prudential rules such as the need to examine the creditworthiness of the borrower, the overwhelming evidence, including findings made in trade defence investigations, suggests that these provisions play only a secondary role in the application of the various legal instruments.
- (82) Furthermore, bond and credit ratings are often distorted for a variety of reasons including the fact that the risk assessment is influenced by the firm's strategic importance to the Chinese government and the strength of any implicit guarantee by the government. Estimates strongly suggest that Chinese credit ratings systematically correspond to lower international ratings.
- (83) This is compounded by additional existing rules, which direct finances into sectors designated by the government as encouraged or otherwise important ⁽⁷⁴⁾. This results in a bias for lending to SOEs, large well-connected private firms and firms in key industrial sectors, which implies that the availability and cost of capital is not equal for all players on the market.
- (84) Secondly, borrowing costs have been kept artificially low to stimulate investment growth. This has led to the excessive use of capital investment with ever lower returns on investment. This is illustrated by the recent growth in corporate leverage in the state sector despite a sharp fall in profitability, which suggests that the mechanisms at work in the banking system do not follow normal commercial responses.
- (85) Thirdly, although nominal interest rate liberalization was achieved in October 2015, price signals are still not the result of free market forces, but are influenced by government induced distortions. Indeed, the share of lending at or below the benchmark rate still represents 45 % of all lending and recourse to targeted credit appears to have been stepped up, since this share has increased markedly since 2015 in spite of worsening economic conditions. Artificially low interest rates result in under-pricing, and consequently, the excessive utilization of capital.
- (86) Overall credit growth in China indicates a worsening efficiency of capital allocation without any signs of credit tightening that would be expected in an undistorted market environment. As a result, non-performing loans have increased rapidly in recent years. Faced with a situation of increasing debt-at-risk, the Chinese government has opted to avoid defaults. Consequently, bad debt issues have been handled by rolling over debt, thus creating so called 'zombie' companies, or by transferring the ownership of the debt (e.g. via mergers or debt-to-equity swaps), without necessarily removing the overall debt problem or addressing its root causes.
- (87) In essence, despite the recent steps that have been taken to liberalize the market, the corporate credit system in China is affected by significant systemic issues and distortions resulting from the continuing pervasive role of the state in the capital markets.

⁽⁷⁰⁾ Report – Chapter 6, p. 114-117.

⁽⁷¹⁾ Report – Chapter 6, p. 119.

⁽⁷²⁾ Report – Chapter 6, p. 120.

⁽⁷³⁾ Report – Chapter 6, p. 121-122, 126-128, 133-135.

⁽⁷⁴⁾ Report – Chapter 6, p. 121-122, 126-128, 133-135.

- (88) No evidence was submitted to the effect that the steel sector, including OCS, would be exempted from the above-described government intervention in the financial system. To the contrary, a report by ThinkDesk provided by the applicant indicated that many Chinese producers of OCS had benefited from non-market conform financial operations. The Commission has also established that OCS ⁽⁷⁵⁾ as well as its raw material hot-rolled steel ⁽⁷⁶⁾ benefited from preferential lending constituting subsidies. Therefore, the substantial government intervention in the financial system leads to the market conditions being severely affected at all levels.

3.2.2.9. Systemic nature of the distortions described

- (89) The Commission noted that the distortions described in the Report are not limited to the steel sector in general or the OCS sector in particular. On the contrary, the evidence available shows that the facts and features of the Chinese system as described above in Sections 3.2.2.1-3.2.2.5 as well as in Part A of the Report apply throughout the country and across the sectors of the economy. The same holds true for the description of the factors of production as set out above in Sections 3.2.2.6-3.2.2.8 above and in Part B of the Report.
- (90) In order to produce OCS, a broad range of inputs is needed. There is no evidence on the file that these inputs are not sourced in China. When the OCS producers 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 which applies across all levels of government and sectors.
- (91) As a consequence, not only the domestic sales prices of OCS cannot be used but all the input costs (including raw materials, energy, land, financing, labour, etc.) are also tainted because their price formation is affected by substantial government intervention, as described in Parts A and B of the Report. Indeed, the government interventions described in relation to the allocation of capital, land, labour, energy and raw materials are present throughout the PRC. This means, for instance, that an input that in itself was produced in China 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. No evidence or argument has been adduced by the GOC or the exporting producers in the present investigation on the contrary.

3.2.2.10. Conclusion

- (92) The analysis laid out in sections 3.2.2.2. to 3.2.2.9., which includes an examination of all the available evidence relating to China's intervention in its economy in general as well as in the steel sector (including the product concerned) showed that prices or costs, 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. On that basis, and in the absence of any cooperation from the GOC and the exporting producers, the Commission concluded that it is not appropriate to use domestic prices and costs to establish normal value in this case.
- (93) 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 discussed in the following section. The Commission recalled that no exporting producer cooperated with the investigation and that no claim was presented that some domestic costs would be undistorted under the third indent of Article 2(6a)(a) of the basic Regulation.

3.2.3. Representative country

3.2.3.1. General remarks

- (94) The choice of the representative country was based on the following criteria:

— A level of economic development similar to the PRC. For this purpose, the Commission used countries with a gross national income similar to the PRC on the basis of the database of the World Bank ⁽⁷⁷⁾;

⁽⁷⁵⁾ See recitals 157-215 of Implementing Regulation (EU) No 215/2013.

⁽⁷⁶⁾ See recitals 83-244 of Implementing Regulation (EU) 2017/969.

⁽⁷⁷⁾ 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 ⁽⁷⁸⁾;
- Availability of relevant public data in that country;
- Where there is more than one possible representative country, preference was given, where appropriate, to the country with an adequate level of social and environmental protection.

(95) As explained in recitals 24 to 25, in the Note of 13 April 2018, the Commission informed interested parties that it had identified six possible representative countries: Argentina, Colombia, Malaysia, Mexico, South Africa, and Thailand and invited interested parties to comment and suggest other countries.

3.2.3.2. A level of economic development similar to the PRC

- (96) Argentina, Colombia, Malaysia, Mexico, South Africa, and Thailand are regarded by the World Bank as countries with a similar level of economic development as the PRC, i.e. they are all classified as 'upper-middle income' countries on a gross national income (hereinafter 'GNI') basis.
- (97) The applicant claimed that Mexico's membership of NAFTA integrates it into a North American Free Trade Zone with a level of economic development that is much higher than that of the PRC, possibly having an influence on costs in Mexico. The Commission made an analysis of the appropriateness of the possible representative countries on the basis of the World Bank database on GNI. The latter qualifies Mexico as part of the upper middle-income countries, thus with a level of development comparable to that of the PRC. That category of countries includes countries with GNI per capita between USD 3,896 and USD 12,055 in 2017, the year with the latest trade data available. The rankings apply to each single country and not to groups of countries belonging to free trade areas, customs unions, etc. The Commission considered that all six possible representative countries identified were equally comparable in terms of economic development with the PRC. Consequently, this claim was rejected.

3.2.3.3. Production of the product under review in the representative country and availability of the relevant public data in the representative country

- (98) In the Note of 13 April 2018 the Commission indicated that production of the product under review was known to take place in Argentina, Colombia, Malaysia, Mexico, South Africa and Thailand.
- (99) The Commission identified that for three of the countries, namely Argentina, Colombia and Thailand, the availability of public data needed to be further verified in particular as far as public financial data from a producer of the product under review was concerned.
- (100) For Colombia and Thailand no publicly available financial data from a producer of the product under review were found. Regarding Argentina, the publicly available financial data identified concerned the Ternium group, which was producing the product under review in that country. However, it was not clear from the financial data available for the group which part of the data related to the group's activities in Argentina, since the group reported its data relating to Argentina together with other countries such as Bolivia, Chile, Paraguay and Uruguay. Therefore, the data was not sufficiently precise in order to be used as appropriate benchmarks.
- (101) In its comments to the Note of 13 April 2018, the applicant repeated the request indicating that South Africa would be the most appropriate representative country. There were two producers of the product under review. For one producer, namely Safal Steel (Pty) Ltd, the financial data was not publicly available. Although the financial data was available for the other one, namely ArcelorMittal South Africa, the company was loss-making during the investigation period but also during the whole period considered. This rendered it unsuitable to be selected since the financial data of a loss making company would lack the profit element, which is to be replaced. Having found no other producers of the product under review with publicly available financial data in South Africa, the Commission did consider this country inappropriate as representative country.
- (102) In its comments to the Note of 3 July 2018, the applicant claimed that the Commission incorrectly rejected South Africa as a representative country, because the fact that the producer of the product under review was loss-making during one year could not be a decisive factor in selecting a representative country.

⁽⁷⁸⁾ 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.

- (103) Since the Commission had ample choice for selecting a representative country, it decided to select a country where a reasonable amount for administrative, selling and general ('SG&A') costs and for profits could be sourced from the publicly available data of a company in that country in accordance with the last paragraph of Article 2(6a)(a) of the basic Regulation.
- (104) Therefore, the fact that ArcelorMittal South Africa was loss-making was a decisive factor in the Commission's assessment on selecting the representative country and the applicant's claim was rejected.
- (105) Regarding Malaysia, financial data were publicly available for CSC Steel Holdings Berhad, a subsidiary of the Taiwanese company China Steel Corporation. CSC Steel Holdings Berhad produced the product under review and was profit making during the review investigation period.
- (106) The applicant claimed that relying on publicly available data from foreign owned companies may lead to unreliable data. The Commission considered that the analysis of the reliability of publicly available data has to be done on a case-by-case basis. In the case at hand, no evidence was at the Commission's disposal or was submitted by the applicant which would justify disregarding the financial data of CSC Steel Holdings Berhad. Consequently, that claim was rejected.
- (107) For Mexico, the Commission found publicly available data for Ternium group, in particular its Annual Report for 2017. That group is a producer of the product under review in Mexico, and Mexico represents more than 55 % in terms of its consolidated sales, which are reported separately from other geographical regions. In addition, Ternium group was profit making during the review investigation period.
- (108) Consequently, the Commission considered that the final choice of representative country was between Malaysia and Mexico.
- (109) In its comments, the applicant referred to the United States practice of using a basket of companies 'active in the metal sector', such as aluminium producers. However, the Commission gave its preference whenever possible to publicly available data of companies actually producing the product under review. Only if there is no such production or other factors render unsuitable the use of companies producing the product under review in any country with a similar level of economic development, the Commission will consider other suitable alternatives. In the case at hand, this was not necessary since there are actual producers of OCS with publicly available data. Consequently, that claim was rejected.

3.2.3.4. Level of social and environmental protection

- (110) Having established that there were two possible countries suitable to be chosen as representative, Mexico and Malaysia, the Commission assessed their level of social and environmental protection to choose the preferable one in accordance with last sentence of Article 2(6a)(a) first indent of the basic Regulation.
- (111) The Commission established that Malaysia lags behind in complying with relevant international labour standards and ratification of the ILO conventions referred to in Annex Ia of the basic Regulation. In particular, Malaysia did not ratify three out of the eight ILO core conventions (on freedom of association, on abolition of forced labour, and on non-discrimination). Furthermore, Malaysia has signed but not ratified one of the major environmental agreements ⁽⁷⁹⁾.
- (112) By contrast, Mexico has a higher level of compliance with ILO labour standards as it ratified all core conventions except for the Convention on Right to Organize and to Bargain Collectively. In addition, it has signed and ratified all major environmental conventions.

3.2.3.5. Conclusion

- (113) In view of the above analysis, Mexico met all 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. In particular, Mexico has a substantial production of the product under review and a complete set of data available for all factors of production, manufacturing overheads, SG&A and profit. In addition, Mexico has a higher level of social and environmental protection.

⁽⁷⁹⁾ It has signed but not ratified the Stockholm convention on Persistent Organic Pollutants, signed on 22 May 2001.

3.2.4. *Manufacturing overhead costs, SG&A and profits*

- (114) In the Note of 3 July 2018, the Commission informed interested parties that for the construction of the normal value it would include SG&A costs and profits from the company Ternium S.A. Mexico, in accordance with Article 2(6a)(a), fourth paragraph of the basic Regulation. In addition, the Commission will include from the same company a value for manufacturing overhead costs in order to cover costs not included in the factors of production referred to above.
- (115) In its comments to the Note of 3 July 2018, the applicant claimed that it is preferable to use the non-consolidated data of ArcelorMittal South Africa (a local company) rather than the consolidated data of the Ternium group (a global group) of which the production in Mexico represents more than 55 % of the consolidated sales. The argument was based on the observation that unconsolidated data represented the results of the local company and not the global group, and as such allegedly better reflect the fixed manufacturing overhead, SG&A and profit of the representative country. However, since the data from ArcelorMittal South Africa could not be used, as this company is loss-making, that claim became without object and was therefore rejected.
- (116) In its comments to the Note of 3 July 2018, the applicant also claimed that, although Mexico is an appropriate representative country, Ternium S.A. Mexico is part of an international company, Ternium group, whose financial data reflect operations in countries with a different level of economic development.
- (117) Regardless of the fact that Ternium group is an international company, the Commission concluded that the publicly available data of Ternium S.A. Mexico was specific enough to the production of the product under review in Mexico and therefore rejected that claim. In view of the analysis in section 3.2.3, the Commission decided to use the financial data from Ternium S.A. Mexico, which are available for 2017, thus covering the review investigation period.

3.2.5. *Sources used to establish undistorted costs*

- (118) In the Note of 3 July 2018, 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 Global Trade Atlas ('GTA') to establish the undistorted cost of most of the factors of production. The Commission used Doing Business 2018 for electricity costs, national statistics on natural gas, Fiscal Code of the Federal District for water costs and the financial data from Ternium S.A. Mexico to establish SG&A costs, profits and overhead costs.

3.2.6. *Factors of production*

- (119) As already stated in recital 23, in the Note of 13 April 2018, the Commission sought to establish an initial list of factors of production and sources intended to be used for all factors of production such as materials, energy and labour used in the production of the product under review by the cooperating exporting producer.
- (120) In the absence of cooperation by Chinese exporting producers, the Commission relied on the applicant in order to specify the factors of production used in the production of OCS. Indeed, based on the information publicly available on the website of Chinese OCS producers, their production process and materials used appear to be identical to the one provided by the applicant.
- (121) The departure point in the process of production was chosen to be the substrate or base coil, as the applicant's production process started from that basis. In addition, based on the information obtained in the initial investigation as best evidence available, the Commission established that the exporting producers also commenced production of OCS based on the substrate. Indeed, in the original case, no integrated producers cooperated.
- (122) In the absence of cooperation, the Commission did not have more detailed tariff codes than the 6-digit HS codes provided by the applicant. The HS codes matched fully with the Mexican tariff codes.

- (123) Considering all the information submitted by the applicant, the following factors of production and HS codes, where applicable, have been identified:

Table 1

Factor of Production	HS Code	Unit import value
Raw Materials		
Substrate – Hot Dip Galvanized Steel Coil:		
— plated or coated with zinc	7210 49	0,84 EUR/kg
— plated or coated with zinc alloys	7210 49	0,84 EUR/kg
Metallic Coating – Zinc ingot (for zinc coating):		
— < 99,99 % zinc	7901 12	Not applicable
— zinc alloys	7901 20	Not applicable
Organic Coating		
— polyester paint	3208 10	4,33 EUR/kg
— polyurethane paint	3208 90	4,91 EUR/kg
— polyvinylidene fluoride paint	3209 90	3,36 EUR/kg
Labour		
Labour wages in manufacturing sector	[N/A]	1,37 EUR/hour
Energy		
Electricity	[N/A]	0,06 EUR/kWh
Natural Gas	[N/A]	0,0034 EUR/MJ
Compressed air	2853 90	Not applicable
Water	[N/A]	3,81 EUR/m ³
By product/waste		
Scrap galvanized steel	7204 29	0,18 EUR/kg

3.2.6.1. Materials

- (124) The applicant confirmed that hot dip galvanized steel coil is predominantly used as the substrate for the most representative type of the product under review. Therefore, in the absence of cooperation from exporting producers and comments from interested parties, the Commission did not collect data on other possible substrates, such as hot-rolled steel coil or cold-rolled steel coil.
- (125) In respect of metallic coating, the applicant confirmed that the use of zinc coating prevails. Therefore, in the absence of cooperation from exporting producers and comments from interested parties, the Commission did not find it necessary to collect data on metallic coating by means of aluminium.
- (126) It is to be noted that the substrate hot dip galvanized steel coil already includes the metallic coating by either zinc or zinc alloys. The data on the use of metallic coating was only collected to allow for adjustments in the calculation of the normal value based on different volumes of zinc or zinc alloys used for metallic coating of the various product types.

- (127) The records of the applicant did not allow for determining the consumption of auxiliaries per unit of the product under review. The applicant treated the auxiliaries as manufacturing overheads. Therefore, in the absence of this information, the Commission could not establish usage ratios and undistorted values for the auxiliaries used. However, the Commission established that all auxiliaries taken together amounted to an insignificant proportion of costs of manufacturing per ton of a finished product. In order to properly take into account these costs in the calculation of the constructed normal value, the Commission increased the undistorted costs of manufacturing (covering materials, labour, energy and water) from Mexico by a percentage equal to the share of auxiliaries on the costs of manufacturing provided by the applicant. The Commission considered that this method adequately reflected the share of auxiliaries in the total costs of manufacturing in the constructed normal value.
- (128) The applicant did not report any usage of LPG, hydrogen or nitrogen. Therefore, these originally identified factors of production were not used for constructing the normal value.
- (129) The applicant further reported that scrap produced in the production process of OCS should be taken into account. In order to do so, the nature of scrap and the corresponding HS code needed to be identified. In this case scrap of galvanized steel was identified (see the table in recital 123).
- (130) For all materials and scrap, absent any information on the Mexican market, the Commission relied on import prices. 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. The Commission decided to exclude the imports from PRC into the representative country as it concluded in recital 92 that in the present case 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). On the basis of the evidence available, and absent any rebuttal by interested parties, the Commission considered that the same distortions affected export prices. After excluding PRC, the imports from other third countries remained representative ranging from 94 % to 100 % of total volumes imported to Mexico.
- (131) In order to establish undistorted price of materials as delivered at the gate of the exporting producer's factory as provided by Article 2(6a)(a), first indent, the Commission applied import duty of the representative country, Mexico, to the import price and added domestic transport costs. In the absence of cooperation by the exporting producers, the Commission relied on the information on domestic transport costs provided by the applicant.

3.2.6.2. Labour

- (132) The ILO statistics provided information on monthly wages in the manufacturing sector and weekly hours worked in Mexico for the review investigation period. The applicant claimed that the data available for South Africa could be adjusted for inflation using the Consumer Price Index or the indices for labour costs in the manufacturing sector published by the South African Reserve Bank. However, since the Commission decided to use Mexico as the appropriate representative country for which these data are available, this claim became moot.

3.2.6.3. Electricity

- (133) The price of electricity was readily available in the Doing business 2018 report. This report used a standardised methodology to identify the price of kWh in Mexico.
- (134) Alternatively, the Commission considered using the electricity tariffs published by the electricity producers and distributors in Mexico. In Mexico, CFE (Comisión Federal de Electricidad), a state owned company, is the dominant supplier of electricity.
- (135) The applicant claimed that the electricity costs quoted in Doing Business 2018 seem artificially low compared to most countries and therefore proposed to use the rates in the area where the product under review was produced, taking into account possible adjustments for the supply channel, specific charges, and VAT.
- (136) The applicant failed to provide sufficient evidence showing that such adjustments for VAT, specific charges and supply channels are indeed necessary and applicable to the Chinese exporting producers. Consequently, the Commission rejected this claim and decided to use the most comprehensive and unambiguous data from the Doing business 2018 report.

3.2.6.4. Natural gas

- (137) The price of natural gas in Mexico is available in the statistical database maintained by the Commission for Energy Regulation (Comisión Reguladora de Energía). The data provided covers the months of July to December 2017.
- (138) The applicant claimed that for South Africa, import price per ton of liquefied natural gas (HS code 2711 11) retrieved from the GTA database could be used and subsequently converted to price per gigajoule. Since the Commission decided to use Mexico as the representative country for which these data are available, it rejected that claim.

3.2.6.5. Compressed air

- (139) In addition to the factors of production identified in the Note of 13 April 2018, the applicant informed the Commission that compressed air is being used in the production of the product under review. The compressed air is being purchased in the form of liquid air.
- (140) The Commission determined that the appropriate HS code for liquid air is 2853 90. That HS code, however, covers a number of other chemicals. The national tariff schedule of Mexico suggests that there is no further detailed classification. Data obtained from GTA database would, therefore, contain imports of other inorganic compounds (including distilled or conductivity water and water of similar purity) and amalgams, other than amalgams of precious metals.
- (141) For the reasons described in the previous recital, the Commission deemed the use of the GTA database inappropriate. It should be noted that the compressed air amounted to an insignificant proportion of costs of manufacturing per ton of finished product. In order to take into account those costs in the calculation of the undistorted normal value, the Commission increased the undistorted costs of manufacturing (covering materials, labour, energy and water) by a percentage equal to the share of the compressed air on the costs of manufacturing provided by the applicant. The Commission considered that this method adequately reflected the share of the compressed air in the total costs of manufacturing in the constructed normal value.

3.2.6.6. Water

- (142) In Mexico, water tariffs are decided at the municipal level. In addition, CONAGUA (Comisión Nacional del Agua), the governmental authority for water regulation in Mexico, publishes statistics on water in Mexico, which also provide an overview of the price of water for industrial use in selected municipalities. The most recent edition is, however, from 2016 and covers year 2015.
- (143) Consequently, in order to use the prices applicable during the review investigation period, the Commission used the water tariffs of Mexico City. They were readily available in the Fiscal Code of the Federal District as amended in December 2016 and were applicable as of 1 January 2017.

3.2.6.7. Calculations

- (144) In order to establish the constructed normal value, the Commission followed the following two steps.
- (145) First, the Commission established the undistorted manufacturing costs. In the absence of cooperation by the exporting producers, the Commission then multiplied the usage factors as observed at the level of the applicant's production process for materials, labour, energy and water by the undistorted costs per unit observed in the representative country Mexico. In addition, for those factors of production for which no precise usage factors were provided by the applicant (in particular, auxiliaries and compressed air), the Commission applied a percentage equal to the share of those factors of production on the costs of manufacturing reported by the applicant to the undistorted direct manufacturing costs.
- (146) Second, to the manufacturing costs identified above the Commission applied the Ternium S.A. Mexico's manufacturing overhead costs, SG&A and profit. They were identified on the basis of Ternium S.A. Mexico's annual report of 2017 and were expressed as the following percentages:

- (147) Manufacturing overheads ⁽⁸⁰⁾ of 14,12 % applied to the costs of manufacturing (covering the consumption of materials, labour, energy and water);
- (148) SG&A ⁽⁸¹⁾ of 12,56 % applied to the sum of costs of manufacturing and manufacturing overheads;
- (149) A profit ⁽⁸²⁾ of 15,09 % applied to the sum of costs of manufacturing, manufacturing overheads, and SG&A.
- (150) On that basis, the Commission constructed the normal value per product type on an ex-work basis in accordance with Article 2(6a)(a) of the basic Regulation. Due to the fact no exporting producers cooperated, the normal value was established on a countrywide basis and not for each exporter and producer separately.

3.2.7. *Export price*

- (151) In the absence of cooperation of Chinese exporting producers, the export price was determined based on CIF Eurostat data corrected to ex-works level.

3.2.8. *Comparison and dumping margins*

- (152) The Commission compared the constructed normal value in accordance with Article 2(6a)(a) of the basic Regulation with the export price on an ex-works basis.

3.2.9. *Conclusion*

- (153) On that basis, the weighted average dumping margin, expressed as a percentage of the CIF Union frontier price, duty unpaid, was 134 %.
- (154) The Commission therefore concluded that dumping continued during the review investigation period.

3.3. **Likelihood of recurrence of dumping from the PRC**

- (155) As established above, imports of OCS from the PRC were found to be dumped during the review investigation period, but the level of imports was relatively limited. For the sake of completeness, the Commission also investigated the likelihood of recurrence of dumping should the measures be repealed. The following additional elements were analysed: the production capacity and spare capacity in the PRC, pricing behaviour of exporting producers in the PRC in other markets, the availability of other markets, and the attractiveness of the Union market.

3.3.1. *Exports to third countries*

- (156) During the review investigation period, the volume of imports of OCS from the PRC to the Union, although considered representative as concluded in recital 36, was quite small (around 0,1 % of the total Union consumption). Therefore, the Commission decided to also analyse the data concerning sales of OCS from the PRC to third countries to confirm its finding of continuation of dumping. Dumping calculations were made using the prices for sales to third countries, based on Chinese export statistics.

3.3.1.1. Normal value

- (157) The normal value to assess dumping from the PRC to third countries followed recitals 37 to 150.

⁽⁸⁰⁾ Including Repairs and maintenance, Security services, Insurance, and Office expenses as referred to in Note 6 – Cost of sales, p. 79 of the Annual report 2017.

⁽⁸¹⁾ Referred to in Note 7 – Selling, general and administrative expenses, p. 80, and including Other operating income (expenses) as referred to in Note 9, p. 81 and Other financial income (expenses) as referred to in Note 10, p. 81 of the Annual report 2017.

⁽⁸²⁾ Referred to in the Consolidated income statements, p. 45 of the Annual report 2017.

3.3.1.2. Export price

- (158) As there was no cooperation from the Chinese producers, the export price to third countries was based on the data from the China export database as provided by the applicant. From this data presented at FOB level in the database, the Commission deducted the costs of port handling and domestic transport costs in China as estimated by the applicant to calculate the export price at ex-works level.

3.3.1.3. Comparison

- (159) The Commission compared the constructed normal value and the export price to countries other than the Union on an ex-works basis.

3.3.1.4. Dumping margin

- (160) The above comparison showed a countrywide dumping margin for exports to all third countries (excluding the Union) of 118 %, with the countrywide dumping margin for export to five most important exporting markets (India, Philippines, Russian Federation, South Korea, and Vietnam) ranged from 112 % to 160 %. This further confirmed that the dumping margin determined for exports to the Union was reasonable in spite of the very low volumes of sales.

3.3.2. *Production capacity and spare capacity in the PRC*

- (161) Given the non-cooperation, production capacity and spare capacity in the PRC were established on the basis of facts available and in particular the information provided by the applicant, in accordance with Article 18 of the basic Regulation.
- (162) The production capacity in the PRC substantially exceeded the current production volumes. According to China Iron and Steel Association (CISA), the production capacity of colour-coated steel amounted to 40 million tonnes in 2013. With production volumes at the level of 7,5 million tonnes, the capacity utilisation reached only approximately 20 %. Would the measures be repealed, the Chinese producers have sufficient spare capacity estimated at 32,5 million tonnes to flood the Union market, where consumption is 4,5 million tonnes, with dumped OCS.
- (163) Based on the above, the Commission concluded that the Chinese exporting producers have significant spare capacity, which they could use to produce OCS to export to the Union market if measures were repealed.

3.3.3. *Availability of other markets*

- (164) Trade defence measures against Chinese OCS exports are in place in India, Malaysia, Pakistan, Turkey and Vietnam, illustrating the same type of pricing behaviour as observed for Chinese exports to the Union.
- (165) Therefore, the Commission concluded that, should the current measures be repealed, it is likely that the Chinese exporting producers would redirect exports towards the Union at dumped prices.

3.3.4. *Attractiveness of the Union market*

- (166) During the review investigation period, the Union sales price was by 194-338 EUR per tonne of OCS (or by 28-59 %) higher than the Chinese export price at CIF level to the five main export markets as described in recital 160. It was also by 211-226 EUR per tonne of OCS (or 31-33 %) higher than the average Chinese export price at CIF level to all third countries (excluding the Union). The Chinese exports to the five most important export markets amounted to 48 % of the Union consumption in the review investigation period.
- (167) Consequently, would the measures be repealed, the Chinese exporting producers could potentially redirect the exports of substantial volumes of OCS from third countries to the Union market.

3.3.5. Conclusion on the likelihood of recurrence of dumping

- (168) In view of the above, the Commission also concluded that, regardless of whether there was dumping during the review investigation period, there is a strong likelihood that dumping will recur should the measures lapse.

3.4. Overall conclusions on the likelihood of continuation or recurrence of dumping

- (169) The investigation showed that Chinese imports continued to enter the Union market at dumped prices during the review investigation period. Despite the low import volumes, the dumping margins found correspond to those observed when examining China's exports to third countries. In view of the elements examined in sections 3.3.2 to 3.3.4, the Commission concluded that it is highly likely that Chinese producers would export significant quantities of OCS to the Union at dumped prices, should the measures lapse. Thus, there is evidence of likelihood of continuation of dumping.
- (170) In any event, in the alternative, the Commission also found that there was evidence that dumping will likely recur should the measures lapse. The spare capacity in the PRC was very significant in comparison with the Union consumption during the review investigation period. In addition, other markets had in place anti-dumping measures applicable to imports of the product under review from the PRC. This pricing behaviour of the Chinese exporting producers in third markets supports the likelihood of continuation of dumping to the Union, should the measures be allowed to lapse. Finally, the attractiveness of the Union market in terms of size and prices, and the fact that other markets remain closed due to anti-dumping measures, indicated that it is likely that Chinese exports and spare capacity would be directed towards the Union market, should the measures be allowed to lapse. Consequently, the Commission concluded that there was a strong likelihood that the repeal of the anti-dumping measures would result in increased exports of OCS from the PRC to the Union at dumped prices.
- (171) In the light of the above, the Commission concluded that the expiry of the anti-dumping measures would be likely to lead to a continuation and, in any case, recurrence of dumping.

4. INJURY

4.1. Union production and Union industry

- (172) During the review investigation period OCS was manufactured by more than 20 known producers in the Union, some of them related to one another. Several of those producers belong to steelmaking groups.
- (173) The total Union production was estimated at 4 752 003 tonnes during the review investigation period on the basis of the questionnaire responses submitted by the sampled Union producers and data submitted the applicant. The Union producers accounting for the total Union production constitute the Union industry within the meaning of Article 4(1) of the basic Regulation.

4.2. Consumption in the Union

- (174) The investigation found that a share of the Union industry uses its production for captive use, that is it is often simply transferred (without invoice) and/or delivered at transfer prices within the same company or group of companies for further downstream processing. In order to provide as complete a picture as possible of the situation of the Union industry, data was obtained and analysed for the entire OCS activity.
- (175) As in the original investigation (recitals 68-69 thereof), it was considered that economic indicators such as production, capacity, capacity utilisation, investments, stocks, employment, productivity, wages and ability to raise capital depend upon the whole activity, regardless of whether the production is for captive use or sold on the free market. However, sales volume and sales prices on the Union market, market share, growth, export volume and prices focus on the situation prevailing on the free market (and thus, excluding captive activities). Thus, the injury indicators were corrected for the known captive use and sales in the Union industry, and captive use and sales were analysed separately.

(176) The Union consumption was established on the basis of (i) import statistics at TARIC level using information collected on the basis of Article 14(6) of the basic Regulation and (ii) sales volumes of the Union industry (including captive transactions) in the Union as submitted by the applicant. Those sales volumes were cross-checked and updated when necessary as regards sampled Union producers as a result of the verification visits to their premises.

(177) During the period considered the Union consumption developed as follows:

Table 2

	2014	2015	2016	RIP
Union consumption (tonnes)	3 840 088	3 965 150	4 375 791	4 525 677
Index (2014 = 100)	100	103	114	118

Source: Verified questionnaire replies and Article 14(6) database.

(178) During the period considered, the Union consumption increased by 18 %.

4.3. Imports into the Union from China

(179) The Commission established the volume of imports and prices on the basis of import statistics at TARIC level using information collected on the grounds of Article 14(6) of the basic Regulation.

4.3.1. Volume and market share

(180) Over the period considered imports from China into the Union developed as follows:

Table 3

Imports from China	2014	2015	2016	RIP
Volume of imports (tonnes)	5 619	4 217	2 958	6 338
Index (2014 = 100)	100	75	53	113
Market share (%)	0,1	0,1	0,1	0,1

Source: Article 14(6) database.

(181) During the period considered the volume of imports from the PRC was low. The Chinese market share fluctuated slightly during the period considered and was 0,1 % in the review investigation period.

(182) The imports have remained at a low level since the imposition of the provisional anti-dumping measures in September 2012. It is assumed that their low level is the result of the anti-dumping measures in force.

4.3.2. Price and price undercutting

(183) Over the period considered the price of imports from China into the Union developed as follows:

Table 4

Imports from China	2014	2015	2016	RIP
Average import price (EUR/tonne)	341	747	697	637
Index (2014 = 100)	100	219	204	187

Source: Article 14(6) database.

- (184) Over the period considered the prices of Chinese imports increased by 87 %. It can be reasonably assumed that this trend is at least partly due to increasing raw material prices.
- (185) The average sales prices of the cooperating Union producers to unrelated customers on the Union market were compared to the average prices of imports from China. In the absence of cooperation from Chinese exporting producers, no reliable product type per product type comparisons could be made and imports statistics for the product under review as a whole were used for establishing the average Chinese import price. Due to lack of cooperation from unrelated importers in this expiry review, the estimates contained in the request on the level of the adjustment for post-importation costs were used.
- (186) On the basis of that methodology, the comparison showed that during the review investigation period the imports of the product under review undercut the Union industry's prices by 27,8 % (that is, very similar to the undercutting found during the original investigation).
- (187) In addition, the analysis of Chinese export prices to other third markets showed that China was selling in some of its main export markets at prices similar to or sometimes even lower than those to the Union, thus reinforcing the conclusion that the current level of Chinese prices would undercut the sales prices of the Union industry in the Union market.

4.4. Imports into the Union from third countries

- (188) Table 5 shows the development of imports to the Union from third countries during the period considered in terms of volume and market share, as well as the average price of these imports.

Table 5

	2014	2015	2016	RIP
Volume of imports from India (tonnes)	191 015	136 208	152 511	247 237
<i>Index (2014 = 100)</i>	100	71	80	129
Market share (%)	5,0	3,4	3,5	5,5
Average price (EUR/tonnes)	755	770	680	818
Volume of imports from The Republic of Korea (tonnes)	155 634	131 959	184 637	222 448
<i>Index (2014 = 100)</i>	100	85	119	143
Market share (%)	4,0	3,3	4,2	4,9
Average price (EUR/tonnes)	899	934	785	925
Volume of imports from other third countries	117 938	113 679	134 352	201 981
<i>Index (2014 = 100)</i>	100	96	114	171
Market share (%)	3,1	2,9	3,1	4,5
Average price (EUR/tonnes)	793	798	714	838

Source: Article 14(6) database.

- (189) Over the period considered the volume of imports from third countries increased to reach a market share of 14,8 %. Most of these imports were from India and Korea, followed by Turkey and Taiwan.
- (190) In general the average price of imports from third countries was higher than the average prices at which Chinese imports entered the Union. Depending on the years the average price of imports from third countries was either higher or lower than the average selling prices of Union producers in the Union.

4.5. Economic situation of the Union industry

- (191) Pursuant to Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Union industry included an evaluation of all economic factors and indices having a bearing on the state of the Union industry during the period considered.
- (192) The macroeconomic indicators (production, production capacity, capacity utilisation, sales volume, market share, employment, productivity, growth, magnitude of dumping margins and recovery from the effects of past dumping) were assessed at the level of the whole Union industry. The assessment was based on the information provided by the applicant, cross-checked with the verified questionnaire replies of the sampled Union producers.
- (193) The analysis of microeconomic indicators (stocks, sale prices, profitability, cash flow, investments, return on investments, ability to raise capital, and wages) was carried out at the level of the sampled Union producers. The assessment was based on their information which was duly verified during an on-spot verification visit.
- (194) Given that one of the three sampled companies is not represented by the applicant, pursuant to Article 19 of the basic Regulation the data in Tables 9 to 14 are provided in ranges so as to preserve confidentiality of business-sensitive information.

4.5.1. Macroeconomic indicators

4.5.1.1. Production, production capacity and capacity utilisation

- (195) Over the period considered production, production capacity and capacity utilisation of the Union industry developed as follows:

Table 6

	2014	2015	2016	RIP
Production (tonnes)	4 402 079	4 404 178	4 769 698	4 752 003
Index (2014 = 100)	100	100	108	108
Production capacity (tonnes)	5 076 892	5 113 417	5 361 693	5 339 200
Index (2014 = 100)	100	101	106	105
Capacity utilisation (%)	87	86	89	89

Source: Verified questionnaire replies.

- (196) Over the period considered there was a modest increase in production volume (+ 8 %) and capacity (+ 5 %), while the capacity utilisation increased by 2 %, to reach 89 %.

4.5.1.2. Sales volume and market share in the Union

- (197) Over the period considered sales in the Union by the Union industry (captive transactions included) developed as follows:

Table 7

	2014	2015	2016	RIP
Sales volume (tonnes)	3 369 883	3 579 087	3 901 334	3 847 673
Index (2014 = 100)	100	106	116	114
Market share (of Union consumption) (%)	87,6	90,2	89,1	84,9

Source: Verified questionnaire replies.

(198) The sales by the Union industry on the Union market increased by 14 % during the period considered.

(199) The market share of the Union industry decreased during the period considered to 84,9 %.

4.5.1.3. Employment and productivity

(200) Over the period considered employment level and productivity within the Union industry developed as follows:

Table 8

	2014	2015	2016	RIP
Number of employees (full time equivalent)	5 667	5 685	5 938	6 021
<i>Index (2014 = 100)</i>	100	100	105	106
Productivity (tonnes per employee)	777	775	803	789
<i>Index (2014 = 100)</i>	100	100	103	102

Source: Verified questionnaire replies.

(201) Both employment and productivity of the Union producers' workforce, measured as output (tonnes) per person employed per year, increased during the period considered. Those increases reflect the overall increase in production and sales volume.

4.5.1.4. Growth

(202) The Union industry managed to benefit from growth on the Union market even if facilities that had been more affected by the lower capacity utilisation observed during the original investigation are still in a recovery phase. The Union industry kept significant market shares during the whole period considered.

4.5.1.5. Magnitude of dumping and recovery from past dumping

(203) Dumping continued during the review investigation period at a significant level, as explained under section 3 above. It is noted that Chinese producers undercut Union industry's sales prices to a significant extent and that the Union industry is still in a fragile situation.

(204) Since the volumes of the dumped imports from China were much lower than during the original investigation period, the Commission concluded that the impact of the magnitude of the dumping margin on the Union industry was significantly less pronounced than in the original investigation.

4.5.2. Microeconomic indicators

4.5.2.1. Stocks

(205) Over the period considered stocks levels of the sampled Union producers developed as follows:

Table 9

	2014	2015	2016	RIP
Stocks (tonnes)	68 500 – 71 500	52 000 – 55 000	72 000 – 75 000	83 000 – 86 000
<i>Index (2014 = 100)</i>	100	77	106	120

Source: Verified questionnaire replies of the sampled Union producers.

- (206) The Union producers increased their stock in the period considered. This indicator, however, is not considered to be very relevant to assess the economic situation of the Union producers. OCS is mostly produced on the basis of orders. In any event, the stocks merely represented around 2 % of the total sales during the RIP.

4.5.2.2. Average unit sales prices in the Union and cost of production

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

Table 10

	2014	2015	2016	RIP
Average unit sales price to unrelated parties (EUR/tonne)	805 - 820	760 - 775	740 - 755	895 - 910
<i>Index (2014 = 100)</i>	100	94	92	111
Unit cost of production (EUR/tonne)	800 - 850	750 - 800	650 - 730	850 - 900
<i>Index (2014 = 100)</i>	100	94	87	106

Source: Verified questionnaire replies of the sampled Union producers.

- (208) Over the period considered, the Union industry managed to increase its sales prices by 11 %. Following price decreases between 2014 and 2015 and then between 2015 and 2016, prices went up again between 2016 and 2017. Both the decreases and the increase are closely connected to the changes in raw material prices.

4.5.2.3. Profitability and cash flow

Table 11

	2014	2015	2016	RIP
Profitability (%)	- 1,5 - 0	- 0,5 - 1	2,5 - 4	3,5 - 5
<i>Index (2014 = 100)</i>	- 100	101	413	506

Source: Verified questionnaire replies of the 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. The net cash flow is the ability of the Union producers to self-finance their activities.
- (210) During the period considered the Union industry stopped making losses. The improvement of the profitability was clearly related to the fact that the Union industry managed to increase its sales and production volume as well as sales prices in the years following the imposition of the original measures. However, profitability remained below the target profit that was considered healthy and sustainable in the original investigation (i.e. 6,7 %).

Table 12

	2014	2015	2016	RIP
Cash flow (EUR)	- 18 000 000 – (- 15 000 000)	28 000 000 – 31 000 000	30 000 000 – 34 000 000	34 000 000 – 37 000 000
<i>Index (2014 = 100)</i>	- 100	273	295	311

Source: Verified questionnaire replies of the sampled Union producers.

- (211) During the period considered the evolution of the cash flow reflects mainly the development of the overall profitability of the Union industry.

4.5.2.4. Investment, return on investments and ability to raise capital

Table 13

	2014	2015	2016	RIP
Investments (EUR)	12 000 000 – 17 000 000	20 000 000 – 25 000 000	27 000 000 – 32 000 000	25 000 000 – 30 000 000
Index (2014 = 100)	100	159	200	180
Return on investments (net assets) (%)	– 2,2	0,0	7,0	11,0

Source: Verified questionnaire replies of the sampled Union producers.

- (212) During the period considered the Union industry, highly capital-intensive, made regular investments for the optimisation and upgrading of the existing production machinery. In addition, significant investments were made in order to comply with legal requirements for environment protection and increased safety. Depending on the company, there were investments aimed at costs reduction, energy optimisation and/or also at revamping facilities that had been negatively affected by the lower capacity utilisation observed during the original investigation period.
- (213) Return on investments is the profit in percentage of the net book value of investments. The return on investments during the period considered followed closely the profitability trend.
- (214) Since the imposition of measures the ability to raise capital has improved.

4.5.2.5. Wages

Table 14

	2014	2015	2016	RIP
Labour costs per employee (EUR)	63 000 – 72 000	63 000 – 72 000	64 000 – 73 000	64 000 – 73 000
Index (2014 = 100)	100	101	102	102

Source: Verified questionnaire replies of the sampled Union producers.

- (215) The average wage levels increased slightly over the period considered, but less than the unit cost of production.

4.6. Conclusion

- (216) The injury analysis shows that the situation of the Union industry improved significantly in the period considered. The imposition of the definitive anti-dumping measures in March 2013 allowed the Union industry to slowly but steadily recover from the injurious effects of the dumping. The fact that the Union industry has significantly benefited from the measures is illustrated, inter alia, by increase in production and Union sales volumes, positive cash flow and return on investments, selling prices in general higher than the unit cost of production, minimum increase in labour costs and significantly improved profitability.
- (217) However, even if the Union industry has largely recovered from the past injury and seems to be on the right track to further improve its condition in the long-run, it is still in a fragile situation due to its limited profitability, which is still below the target profit.

5. LIKELIHOOD OF RECURRENCE OF INJURY

- (218) As shown in section 4.6 above the Union industry has largely recovered from the past injury caused by the Chinese dumped imports. Nonetheless, this section will examine whether the precarious situation of the Union industry will further deteriorate leading to recurrence of material injury should the measure are allowed to lapse.

5.1. Impact of the projected volume of imports and price effects in case of repeal of measures

- (219) Should the measures be repealed, the volume of imports from China is expected to increase dramatically. It is recalled that imports during the original investigation period amounted to more than 702 000 tonnes, while they amounted to 6 338 tonnes during the review investigation period.
- (220) China's overcapacity in steel production is well established ⁽⁸³⁾. The applicant submitted data from Plantfacts indicating that China's OCS capacity amounts to 7 million tonnes (i.e. more than 4 times China's OCS apparent consumption). This appears to be a conservative estimate. The applicant also provided detailed information dating from 2013 according to which the China Iron and Steel Association published that China colour coated steel production capacity was almost 40 million tonnes in that year.
- (221) Although the Chinese export volumes to the Union shrank after the imposition of the original measures, Chinese producers manufacture significant volumes of product under review and export more than 80 % of it. According to the data published by the World Steel Association, China produced more than 8 million tons of OCS per year in the years 2013-2014. One of the companies supporting the complaint provided figures from the China Metallurgical Newsletter of the China Metallurgical Information and Standardization Research Institute & the Metallurgical Council of the China Council for the Promotion of International Trade suggesting that China produced some 8 million tons of OCS per year in the years 2015-2017. According to the same submission of that applicant, it is estimated that in the period 2015-2017 Chinese OCS apparent consumption ranged 1-1,8 million tons per year.
- (222) However, as important as export markets are for Chinese industry, China faces more and more difficulties accessing them. Between 2016 and 2018 countries such as India, Malaysia, Vietnam, Pakistan or Turkey imposed trade defence measures that affect OCS originating in China. As to the USA, since January 2018 steel (OCS included) from many countries of origin, including China, is subject to a 25 % tariff ⁽⁸⁴⁾.
- (223) The Union is the largest OCS market after the Asian and the North/Central America ones.
- (224) The Chinese database shows that in the recent past China exported significant volumes to countries outside the Union at low prices. In 2017 Chinese FOB prices to the Union were 10,5 % higher than for instance to Korea, China's main export market for this product. During the review investigation period, the volumes exported to countries outside the Union were bigger than the total Union industry production and the apparent consumption in the Union. Because of the attractiveness of the Union market in terms of pricing, openness (there are no customs duties for this product) and increased apparent consumption, it is considered that if the measures are terminated, Chinese exporters are likely to re-direct significant volumes of OCS to the more lucrative Union market. The fact that the Union recently adopted safeguards on certain steel products, including OCS, does not alter this conclusion. The import volumes under the tariff rate quotas are set at levels which may allow China to export significant amounts of OCS.
- (225) Furthermore, as described in section 4.3.2, Chinese imports on the Union market significantly undercut the Union producers' prices during the RIP, in particular when discounting the effect of the anti-dumping duties.
- (226) The market for OCS products is very price competitive as the competition mainly takes place on the basis of prices. The potential pressure on the Union industry's prices is further exacerbated by the fact that, according to the request, Chinese sales usually take place for relatively big quantities. If cheap and dumped imports are sold in significant quantities on the Union market, the Union producers will lose large sales volumes. The ability to raise capital and to invest could be hindered if the profitability of Union producers drops further or becomes negative.

5.2. Conclusion

- (227) Therefore, the Commission concluded that the repeal of measures on the imports from China would likely result in a recurrence of injury to the Union industry.

⁽⁸³⁾ See e.g. Global forum on steel excess capacity, *Ministerial report 20 September 2018*, https://www.g20.org/sites/default/files/gfsec_ministerial_report_2018.pdf, in which Chinese overcapacity in the sector as a whole is confirmed, by all parties including China. With a steel capacity of 1018,3 million MT in 2017, China accounts for the largest share of global capacity (45 %, according to page 42). Table 1 of the report illustrates that China reduced capacity by 10 % in the period 2014-2017. Page 51 reads that China 'set clear goals for reducing excess capacity, that is, to reduce 100-150 million MT of crude steel capacity from 2016 to 2020'.

⁽⁸⁴⁾ Section 232 Tariffs on Aluminum and Steel, <https://www.cbp.gov/trade/programs-administration/entry-summary/232-tariffs-aluminum-and-steel>.

6. UNION INTEREST

6.1. Introduction

- (228) In accordance with Article 21 of the basic Regulation, it was examined whether the maintenance of the existing anti-dumping measures would not be against the interest of the Union as a whole. The determination of the Union interest was based on an appreciation of the various interests involved, that is those of the Union industry on the one hand, and those of importers and users on the other hand.
- (229) It should be recalled that, in the original investigation, the adoption of measures was considered not to be against the interest of the Union. Furthermore, the fact that the present investigation is a review, thus analysing a situation in which anti-dumping measures have already been in place, allows for the assessment of any undue negative impact on the parties concerned by the current anti-dumping measures.
- (230) On this basis it was examined whether, despite the conclusions on the likelihood of continuation of dumping and recurrence of injury, it could be concluded that it would not be in the Union interest to maintain measures in this particular case.

6.2. Interest of the Union industry

- (231) The investigation showed that should the measures expire, this would likely have a significant negative effect on the Union industry. The Union industry's situation would quickly deteriorate in terms of lower sales volumes and sales prices resulting in a strong decrease in profitability. The continuation of measures would allow the Union industry to further exploiting its potential on a Union market that is a level-playing field.
- (232) Therefore, maintaining the anti-dumping measures in force is in the interest of the Union industry.

6.3. Interest of importers

- (233) As mentioned in recital (12) above, nine known importers were contacted in this investigation and invited to cooperate. None came forward or cooperated in any way in the investigation.
- (234) It is recalled that in the original investigation it was found that, given the importers' profits and sources of supply, any negative impact of the imposition of measures on importers, if any, would not be disproportionate.
- (235) In the current investigation there is no evidence on file suggesting the opposite, and it can thus accordingly be confirmed that the measures currently in force had no substantial negative effect on the financial situation of importers and that the continuation of the measures would not unduly affect them.

6.4. Interest of users

- (236) Some sixty known users were contacted in this investigation and invited to cooperate. No user came forward or cooperated in any way in the investigation.
- (237) It is recalled that in the original investigation ten users submitted questionnaire replies. At that time it was found that, given the users' profits and sources of supply, the impact of the imposition of measures on users, if any, would not be disproportionate.
- (238) In the current investigation there is no evidence on file suggesting that the measures in force affected them in any negative way. In fact the applicant submitted evidence that key users experienced improvements in profitability during the period under review. According to the request, the measures in place do not have a sizeable impact on users and consumers as OCS represents a negligible part of the cost of downstream products (for example 0,42 EUR of the cost of producing a washing machine or 0,4 % of the investment of an empty factory building).
- (239) On that basis it is confirmed that the measures currently in force had no substantial negative effect on the financial situation of users and that the continuation of the measures would not unduly affect them.

6.5. Conclusion

- (240) Therefore, the Commission concluded that there are no compelling reasons of Union interest against the maintenance of the definitive anti-dumping measures on imports of OCS originating in the PRC.

7. ANTI-DUMPING MEASURES

- (241) Consequently, as provided for by Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of certain organic coated steel products originating in China should be maintained.
- (242) A company may request the application of individual anti-dumping duty rates if it changes subsequently the name of its entity. The request must be addressed to the Commission ⁽⁸⁵⁾. 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 notice informing about the change of name should be published in the *Official Journal of the European Union*.
- (243) In view of Article 109 of Regulation (EU, Euratom) No 2018/1046 of the European Parliament and of the Council ⁽⁸⁶⁾, 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.
- (244) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is imposed on imports of certain organic coated steel products, i.e. flat-rolled products of non-alloy and alloy steel (not including stainless steel) which are painted, varnished or coated with plastics on at least one side, excluding so-called 'sandwich panels' of a kind used for building applications and consisting of two outer metal sheets with a stabilising core of insulation material sandwiched between them, excluding those products with a final coating of zinc-dust (a zinc-rich paint, containing by weight 70 % or more of zinc), and excluding those products with a substrate with a metallic coating of chromium or tin, currently falling within CN codes ex 7210 70 80, ex 7212 40 80, ex 7225 99 00, ex 7226 99 70 (TARIC codes 7210 70 80 11, 7210 70 80 91, 7212 40 80 01, 7212 40 80 21, 7212 40 80 91, 7225 99 00 11, 7225 99 00 91, 7226 99 70 11 and 7226 99 70 91), and originating in the People's Republic of China.

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

Company	Duty (%)	TARIC Additional Code
Union Steel China	0	B311
Zhangjiagang Panhua Steel Strip Co., Ltd, Chongqing Wanda Steel Strip Co., Ltd, and Zhangjiagang Free Trade Zone Jiaxinda International Trade Co., Ltd	26,1	B312
Zhejiang Huadong Light Steel Building Material Co. Ltd and Hangzhou P.R.P.T. Metal Material Company, Ltd	5,9	B313
Angang Steel Company Limited	16,2	B314
Anyang Iron Steel Co., Ltd	0	B315
Baoshan Iron & Steel Co., Ltd	0	B316
Baoutou City Jialong Metal Works Co.,Ltd	16,2	B317
Changshu Everbright Material Technology Co.,Ltd	16,2	B318

⁽⁸⁵⁾ European Commission, Directorate-General for Trade, Directorate H, Rue de la Loi 170, 1040 Brussels, Belgium.

⁽⁸⁶⁾ 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).

Company	Duty (%)	TARIC Additional Code
Changzhou Changsong Metal Composite Material Co.,Ltd	16,2	B319
Cibao Modern Steel Sheet Jiangsu Co., Ltd	0	B320
Inner Mongolia Baotou Steel Union Co.,Ltd	16,2	B321
Jiangyin Ninesky Technology Co.,Ltd	0	B322
Jiangyin Zhongjiang Prepainted Steel Mfg Co.,Ltd	0	B323
Jigang Group Co., Ltd	16,2	B324
Maanshan Iron&Steel Company Limited	16,2	B325
Qingdao Hangang Color Coated Sheet Co., Ltd	16,2	B326
Shandong Guanzhou Co., Ltd	16,2	B327
Shenzen Sino Master Steel Sheet Co.,Ltd	16,2	B328
Tangshan Iron And Steel Group Co.,Ltd	16,2	B329
Tianjin Xinyu Color Plate Co.,Ltd	16,2	B330
Wuhan Iron And Steel Company Limited	16,2	B331
Wuxi Zhongcai New Materials Co.,Ltd	0	B332
Xinyu Iron And Steel Co.,Ltd	0	B333
Zhejiang Tiannu Color Steel Co., Ltd	16,2	B334
All other companies	13,6	B999

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

4. The Commission may amend paragraph 2 in order to include a new exporting producer and to attribute to that producer the appropriate weighted average anti-dumping duty rate applicable to the cooperating companies not included in the sample of the original investigation, where a new exporting producer in the People's Republic of China provides sufficient evidence to the Commission that:

- (a) it did not export to the Union the product described in paragraph 1 in the period between 1 October 2010 and 30 September 2011 (original investigation period),
- (b) it is not related to any exporter or producer in the People's Republic of China which is subject to the anti-dumping measures imposed by this Regulation, and
- (c) it has either actually exported to the Union the product under review or it has entered into an irrevocable contractual obligation to export a significant quantity to the Union after the end of the original investigation period.

5. The application of the individual anti-dumping duty rates specified for the companies listed in paragraph 2 shall be conditional upon presentation of a valid commercial invoice to the customs authorities of the Member States. On the commercial invoice 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 certain organic coated steels sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in the (country concerned). I declare that the information provided in this invoice is complete and correct.' If no such invoice is presented, the duty rate applicable to 'all other companies' shall apply.

Article 2

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

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

Done at Brussels, 2 May 2019.

For the Commission

The President

Jean-Claude JUNKER
