

COMMISSION IMPLEMENTING REGULATION (EU) 2015/1429**of 26 August 2015****imposing a definitive anti-dumping duty on imports of stainless steel cold-rolled flat products originating in the People's Republic of China and Taiwan**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community ⁽¹⁾, and in particular Article 9(4) thereof,

Whereas:

1. PROCEDURE**1.1. Provisional measures**

- (1) The European Commission ('the Commission') by Implementing Regulation (EU) 2015/501 ⁽²⁾ ('the provisional Regulation') imposed provisional anti-dumping duties on imports of stainless steel cold-rolled flat products originating in the People's Republic of China ('the PRC') and Taiwan ('the countries concerned').
- (2) The Commission initiated the investigation following a complaint lodged on 13 May 2014 by Eurofer ('the complainant') on behalf of complaining Union producers of stainless steel cold rolled flat products ('SSCR'). The complainant represents around 50 % of the total Union production of SSCR. The complaint contained evidence of dumping and of resulting material injury that was sufficient to justify the initiation of the investigation.

1.2. Registration

- (3) Following a request by the complainant supported by the required evidence, the Commission adopted on 15 December 2014 Implementing Regulation (EU) No 1331/2014 ⁽³⁾ making imports of stainless steel cold-rolled flat products originating in the PRC and Taiwan subject to registration as of 17 December 2014 ('the Registration regulation').
- (4) Interested parties claimed that the decision for registration of imports was unfounded, as the conditions were not met pursuant to Article 14(5) of the basic Regulation. However, these claims were not substantiated or based on factual evidence. At the time the decision was taken to register imports the Commission had sufficient *prima facie* evidence justifying the need to register imports: imports and market shares from these countries sharply increased. The claims in this regard had therefore to be rejected.

1.3. Subsequent procedure

- (5) Subsequent to the disclosure of the essential facts and considerations on the basis of which it was decided to impose provisional anti-dumping measures ('the provisional disclosure'), several interested parties made written submissions making known their views on the provisional findings. One Chinese exporter, one Taiwanese exporter and the complainant requested and were afforded hearings in the presence of the Hearing Officer in trade proceedings on 24 April 2015, 27 April 2015 and 7 July 2015 respectively. The Hearing Officer in trade proceeding was also available, upon request by any interested party, to verify how confidential information had been used by the Commission services responsible for the investigation.

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

⁽²⁾ Commission Implementing Regulation (EU) 2015/501 of 24 March 2015 imposing a provisional anti-dumping duty on imports of stainless steel cold-rolled flat products originating in the People's Republic of China and Taiwan (OJ L 79, 25.3.2015, p. 23).

⁽³⁾ Commission Implementing Regulation (EU) No 1331/2014 of 15 December 2014 making imports of stainless steel cold-rolled flat products originating in the People's Republic of China and Taiwan subject to registration (OJ L 359, 16.12.2014, p. 90).

- (6) The Commission continued to seek and verify all information it deemed necessary for its definitive findings. The oral and written comments submitted by the interested parties were considered and, where appropriate, the provisional findings were modified accordingly.
- (7) In addition, verification visits were carried out at the premises of the following companies:
- Analogue country producers:
- AK Steel Corporation, Ohio, USA
 - NAS North American Stainless, Kentucky, USA
- Unrelated importers:
- Acciai Vender SpA, Parma, Italy
 - Inox Market Service S.R.L., Padova, Italy
 - Nova Trading SA, Torun, Poland
- Users:
- Franke SpA, Peschiera del Garda, Italy
 - Indesit Company SpA, Fabriano, Italy
- (8) All interested parties were informed of the essential facts and considerations on the basis of which it was intended to impose a definitive anti-dumping duty on imports of SSCR originating in the countries concerned and the definitive collection of the amounts secured by way of provisional duty ('the final disclosure'). All parties were granted a period within which they could make comments on the final disclosure.
- (9) The comments submitted by the interested parties were considered and taken into account where appropriate.

1.4. **Sampling**

- (10) One company contested the finding in recital 14 of the provisional Regulation that it was not an exporting producer. However, the company did not provide any additional information that could change the position taken by the Commission in the provisional Regulation as described in recital 14 of the provisional Regulation.
- (11) In the absence of other comments concerning the method of sampling of Union producers, exporting producers in the PRC and Taiwan and unrelated importers, the provisional findings in recitals 7 to 22 of the provisional Regulation are confirmed.

1.5. **Investigation period and period considered**

- (12) As stated in recital 25 of the provisional Regulation, the investigation of dumping and injury covered the period from 1 January 2013 to 31 December 2013 ('the investigation period'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2010 to the end of the investigation period ('the period considered').

2. **PRODUCT CONCERNED AND LIKE PRODUCT**

2.1. **Introduction**

- (13) As set out in recital 26 of the provisional Regulation, the product concerned is flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced) originating in the PRC and Taiwan, currently falling within CN codes 7219 31 00, 7219 32 10, 7219 32 90, 7219 33 10, 7219 33 90, 7219 34 10, 7219 34 90, 7219 35 10, 7219 35 90, 7220 20 21, 7220 20 29, 7220 20 41, 7220 20 49, 7220 20 81 and 7220 20 89 ('the product concerned').

- (14) Stainless steel cold-rolled flat products are used in a wide range of applications, for example in the production of household appliances (for example the interior of washing machines and dishwashers), welded tubes and medical devices as well as in the food processing and automotive industries.
- (15) The investigation has shown that the different types of the product concerned all share the same basic physical, chemical and technical characteristics and are basically used for the same purposes.

2.2. Claims regarding the product scope

- (16) Interested parties reiterated their claims brought forward at the provisional stage that narrow and precision strips should be excluded from the scope of the investigation. They reiterated their claim that the Directorate-General for Competition of the Commission had decided to exclude this product type from the relevant product market in its analysis of the Outokumpu/Inoxum merger case⁽¹⁾. In addition, interested parties argued that both demand-side and supply-side substitution between 'standard' SSCR and precision strips is limited. However, as already stated in recital 31 of the provisional Regulation, the market definition in an anti-dumping case is defined by the physical characteristics of the product concerned and not the demand-side and supply-side substitution.
- (17) Following final disclosure, one interested party reiterated their claim that the market definition in a merger case is relevant for the product definition in an anti-dumping case. In support of this argument, they state that in addition to physical, technical and chemical characteristics of the product, the EU institutions may take account of a number of other factors such as use, interchangeability, consumer perception, distribution channels, manufacturing process, cost of production and quality. Allegedly, the four parameters 'use, interchangeability, consumer perception and manufacturing process' are synonymous with demand-side and supply-side substitution.
- (18) Without assessing the claim whether 'use, interchangeability, consumer perception and manufacturing process' are indeed synonymous with demand-side and supply-side substitution, the list of elements given above goes far beyond these four criteria. The argument that the market definition in a merger case is relevant for the product definition in an anti-dumping case cannot therefore be accepted.
- (19) Following final disclosure, another interested party claimed that in the assessment of whether precision strips should fall under the definition of the product concerned, the issue that the Union industry was allegedly not able to sell this product type 'in the past' should be taken into account. In this respect, recital 30 of the provisional Regulation clearly states that the Union industry is able to fully supply this market segment. Without any more precise definition of 'in the past', it is impossible to check whether this claim is factually correct or even relevant. In any event, precision strips share the basic physical, technical and chemical characteristics of the product concerned.
- (20) An interested party claimed that even if imports of speciality products account for less than 1 % of the total imports, as the Commission set out in recital 101 of the provisional Regulation, allegedly the Commission discriminated part of the market by not excluding them. This party argued that the companies that deal with speciality products would allegedly not find other suppliers for these speciality products. No further substantiation was provided.
- (21) In this respect, it is noted that the statement in recital 101 of the provisional Regulation is taken out of context. The statement was made in the context of cumulative assessment of imports from the PRC and Taiwan, not in respect of the product scope of the investigation. Indeed, it is not disputed that these speciality products share the same basic physical characteristics as the 'standard' SSCR.
- (22) The Commission therefore rejected these claims and maintained the product scope of the investigation unchanged.

2.3. Conclusion

- (23) The provisional findings in recitals 26 to 32 of the provisional Regulation are confirmed.

⁽¹⁾ Commission Decision of 7 November 2012 addressed to: Outokumpu OY) declaring a concentration to be compatible with the internal market and the EEA agreement (Case COMP/M.6471 — Outokumpu/Inoxum).

3. DUMPING

3.1. The PRC

3.1.1. Market economy treatment ('MET')

- (24) As explained in recital 34 of the provisional Regulation, none of the exporting producers concerned by this investigation claimed MET.

3.1.2. Analogue country

- (25) In the provisional Regulation, the United States of America ('USA') were selected as an appropriate analogue country in accordance with Article 2(7)(a) of the basic Regulation. Two exporting producers claimed that the USA is not a suitable analogue country for the purpose of establishing the normal value due to the fact that the production process and the raw materials used are different in the PRC and in the USA. In addition, one exporting producer argued that Taiwan is a better choice for the analogue country, since the cost of production of Chinese mills is much closer to the one of Taiwanese mills than it is to the one of USA mills. According to the exporting producer, this is because major Taiwanese SSCR producers use substantial quantities of intermediate materials, namely black coils from the PRC. Those black coils are made from nickel pig iron ('NPI'), the raw material used almost exclusively in the PRC. Another exporting producer claimed that the producers in the USA are in one way or another related to certain Union producers and that the factual findings regarding the size of the market in the USA are inaccurate.
- (26) Differences between the USA and the PRC in the sourcing of nickel, one of the primary raw materials in the production of SSCR, do indeed exist. Whilst in both countries the SSCR producers use certain quantities of utility nickel, stainless steel scrap is the main source of nickel in the USA and NPI in the PRC. However, such a difference does not render the USA an inappropriate analogue country in this case, as the final products produced in the USA and in the PRC are still comparable as found in recital 29 of the provisional regulation and in recital 15 above. As explained in recitals 39 and 40 of the provisional Regulation, the USA is considered an appropriate analogue country on the basis of certain criteria. In light of the size of and the level of competition on the SSCR market in the USA, as well as taking into account the available cooperation of only two countries, the differences in the sourcing of nickel and the production process, do not invalidate the choice of the USA. On the other hand, an argument based on the use of NPI and the related production process in the PRC affects the appropriateness of Taiwan as an alternative analogue country as well as any other country in the world in the same manner. NPI is produced and, due to export barriers, traded and used almost exclusively in the PRC. It follows, and it was established, that NPI is not used in Taiwan, the alternative analogue country. The main raw materials used in the production of the product concerned in Taiwan are utility nickel and, as noted by one of the exporting producers, black coils purchased mainly from the PRC. As also stated in recital 39 of the provisional Regulation the raw materials used in the USA and Taiwan are mainly the same. Moreover, in line with Article 2(10) of the basic Regulation adjustments can be claimed in order to take into account certain differences provided that there is a demonstrated price effect and an adjustment is proven to be warranted taking into account the use of an analogue country under Article 2(7)(a) of the basic Regulation.
- (27) Second, regarding the costs of production of the Taiwanese producer using black coil purchased from the PRC, as explained in recital 76 of the provisional Regulation, the black coils in question were purchased from a related supplier in the PRC. This was the only case in the investigation where black coils from the PRC were used at a large scale. In its calculation the Commission replaced the cost of those purchased coils by the cost of the company's own production. In other words, the purchase prices of the black coils, which allegedly reflected the costs of production in the PRC, were replaced with the costs of production in Taiwan, where NPI was not used. Consequently, the claim that the use of black coils, which were produced in the PRC from NPI, leads to the proximity of the costs of production in Taiwan and the PRC is not valid.
- (28) Third, one of the producers in the USA is related to producers in the Union. However, this relation is irrelevant for the purpose of this investigation. The Commission notes that even if the producers in the analogue countries are related to Union producers, such a link does not invalidate or affect the determination of the normal value based on verified data. Furthermore, there is no specific reason for questioning the use of data of this analogue country producer. This claim is rejected.

- (29) Fourth, the claim that the factual findings regarding the size of the market in the USA were inaccurate was not substantiated further. This claim is thus rejected.
- (30) In view of the above, the claim that the USA is not a suitable analogue country is rejected. The provisional findings in recitals 39 to 40 of the provisional Regulation are confirmed.
- (31) The Commission confirms the selection of the USA as the analogue country within the meaning of Article 2(7) of the basic Regulation.
- (32) Two interested parties reiterated their objections to the use of the USA as the analogue country insisting that the production process of the producers in the USA is not similar to that of some Chinese producers and suggested again Taiwan.
- (33) The Commission carefully analysed the additional comments concerning the possible choice of Taiwan over the USA as the analogue country. The Commission considers that the comments do not bring any new specific arguments into light, and confirms therefore the reasoning outlined in recitals 25 to 29 above.

3.1.3. *Normal value*

- (34) In the absence of comments regarding the determination of the normal value, recitals 43 to 49 of the provisional Regulation are confirmed.

Export price

- (35) In the absence of any comments regarding export price determination, recital 65 of the provisional Regulation is confirmed.

3.1.4. *Comparison*

- (36) Two exporting producers argued that, should the USA remain as the analogue country, an adjustment on the account of different raw materials being used should be made. One exporting producer noted that one of the producers in the USA has additional costs related to internal transport. The exporting producer argued that this should result in the adjustment of the normal value. One of the exporting producers noted that for establishing the normal value the Commission dropped parameters for thickness, width and edges from the pre-defined product control numbers ('PCNs'). The exporting producer argued that thickness and, to a lesser extent, width are important factors because they have a direct impact on the costs of production and prices on a per ton basis.
- (37) First, considering the adjustment on the account of difference in the raw material, it follows from Article 2(10) of the basic Regulation that dumping calculations are based on price and not costs. Differences in the use of raw materials and production processes are therefore of no consequence, unless they have a demonstrated price effect and an adjustment is proven to be warranted taking into account the use of an analogue country under Article 2(7)(a) of the basic Regulation. Any claims for adjustments must be substantiated. The Commission is not aware of any indications that the difference in raw material and production process would affect the price comparability. The exporting producers did not demonstrate the price effect of the use of different raw materials and therefore the adjustments are not considered warranted.
- (38) Second, according to Article 2(10)(e) of the basic Regulation an adjustment shall be made for differences in the directly related costs incurred for conveying the product concerned from the premises of the exporter to an independent buyer, where such costs are included in the prices charged. This provision does not cover the costs for internal transport and therefore no adjustment is warranted on this ground.

- (39) Third, the Commission notes that those PCN parameters were dropped at the provisional stage in order to facilitate comparison with the like product in the analogue country. Subsequently, the Commission increased the matching and managed to compare the majority of the transactions on the basis of full PCNs, including parameters for thickness, width and edges. For the transactions where this was not possible, the comparison was based on the most complete PCN possible. This led to an amendment of the dumping margins, as explained in recital 49 below.
- (40) Two interested parties argued that, when using the data from the USA, the Commission should have made an adjustment to the normal value on the account of the difference in the raw materials being used in the PRC and the USA. One interested party argued that NPI is cheaper as its nickel content is low and its iron content is provided for free. In order to demonstrate that the difference in costs of the raw materials affects the prices the same party argued that Chinese domestic prices are lower than those in the Union and the USA. According to the interested party this price difference cannot be attributed to the alleged subsidy as the Commission has terminated the parallel anti-subsidy investigation against the PRC. Another interested party noted that costs and prices in the steel business are linked.
- (41) Regarding the adjustments to the normal value, the Commission notes that if a party requests adjustments under Article 2(7)(a) or 2(10) of the basic Regulation, it must prove that its claim is justified. The burden of proof that such adjustment must be made thus lies with those who wish to rely on them. The Commission must refuse an adjustment for differences in factors which have not been shown to affect prices, and therefore their comparability.
- (42) When comparing the normal value and the export price, the Commission has to take into account differences affecting price and price comparability of the products, not the costs incurred for their manufacture. Regarding the prices of NPI, the Commission notes that, similarly to the raw materials used in the Union and the USA, those prices follow the global price of nickel. Even if NPI is cheaper due to its low content of nickel, producers using NPI would have to use more of it in order to arrive at the nickel content prescribed by the international SSCR standards. Concerning the argument that iron in NPI is provided for free, the Commission notes that SSCR producer in the Union and the USA also do not pay the full price for the iron contained in ferronickel. Regarding the comparison between domestic SSCR prices in the PRC, Union and the USA as a proof of price effect of the use of NPI in the PRC, the Commission notes that Chinese domestic prices reflect the situation in a non-market economy country. The USA is a market economy country.
- (43) The Commission recalls that it has been long established that the provisions of Article 2(10) of the basic Regulation cannot be used in order to render Article 2(7)(a) of that Regulation ineffective. In that respect, it was found that the normal value established in the analogue country is fully compliant with the provisions of Article 2(7), as explained in recital 31 above. No further adjustment to this already appropriate normal value is therefore warranted under Article 2(7)(a).
- (44) Regarding the argument that lower SSCR domestic prices in the PRC cannot be an effect of a subsidy, the Commission notes that the parallel anti-subsidy investigation was terminated due to the withdrawal of the complaint by the complainants, and as a result no findings about subsidisation were reached. For these reasons the Commission considers that the exporting producers in the PRC did not demonstrate that the adjustment on the account of different raw materials being used in the PRC and the USA is justified.
- (45) An interested party claimed that when the Commission compared the export price with the normal value on the basis of a reduced PCN, it should have made an adjustment for price comparability. The same interested party claimed that it was restricted in its ability to demonstrate or propose the actual level of adjustment due to the confidentiality of the information received from the analogue country producers.
- (46) The Commission reiterates that the majority of the exported products (69 %) were compared on the basis of the full PCN. Moreover, even within the constraints imposed by the protection of the confidential data of the analogue country producers, the interested party could have proposed a level of adjustment for physical characteristics since it knew the criteria which were disregarded and the parameters foreseen in the PCN structure for these criteria. Since no such quantified request was made, this claim was rejected.

- (47) An interested party asked whether the analogue country producers made sales to end users and, if so, requested a level of trade adjustment on PCN basis. As explained in recital 53 of the provisional Regulation, the Commission compared the normal value and the export price on an ex-work basis and that was at the same level of trade. No adjustment as claimed was deemed necessary. In any event, this claim not being further substantiated, had to be rejected.

3.1.5. Dumping margins

- (48) In the absence of comments, the methodology used for calculating the dumping margins, as set out in recitals 55 to 60 of the provisional Regulation, is confirmed.
- (49) Taking into account the adjustments made to the normal value, as well as the increased comparison, and in the absence of any further comments, the definitive dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Table 1

Dumping margins, the PRC

Company	Dumping margin (%)
Baosteel Group: Baosteel Stainless Steel Co., Ltd; Ningbo Baoxin Stainless Steel Co., Ltd	42,2
TISCO Group: Shanxi Taigang Stainless Steel Co., Ltd; Tianjin TISCO & TPCO Stainless Steel Co Ltd	50,2
Other cooperating companies	49,1
All other companies	50,2

3.2. Taiwan

3.2.1. Normal value

- (50) The normal value calculation method used as explained in recitals 63 to 66 of the provisional Regulation did not take into account the domestic sales to distributors and traders.
- (51) This was done due to the specific market situation in Taiwan, where the distributors export significant amounts of the production, which at the same time was reported as sales for domestic consumption by the exporting producers.
- (52) This conclusion was based on and justified by two key elements. Firstly, one of the main distributors in Taiwan further exported most of the purchased volumes from the producers, therefore those sales were not domestic sales for the purposes of the calculation of the normal value in Taiwan. Secondly, production data of known producers and Taiwanese trade statistics show that the domestic sales reported by the known exporting producers accounted for more than 90 % of the exports to the Union and that also included around 50 % sales, which were exported.
- (53) Two exporting producers contested the statistics based element. They argued that the Commission only considered cooperating companies with some exports to the Union in determining the total Taiwanese production. Another argument was that the Commission should consider the total Taiwanese statistical imports as being further exported in the analysis described in recital 52 above.

- (54) The Commission examined production and domestic sales information from all known Taiwanese producers, which comprised also those suggested by one of the exporting producers. This was done to achieve the closest possible matching with the statistical data. The additionally gathered information had a downward impact on the result of the analysis described in recital 52 above. On that basis, the reported domestic sales were found to include around 40 % of sales which were exported.
- (55) As regards the consideration described in recital 53 above of total statistical imports as being further fully exported, the exporting producer did not present any evidence to prove so. Normally, imports for re-export are falling within a special customs regime and are not considered in trade statistics as genuine exports. The Commission therefore cannot draw any useful conclusion from this claim.
- (56) Furthermore, two exporting producers claimed that the level of domestic sales not taken into account by the Commission was not proportionate to the percentage stated in recital 52 above. They reiterated their claim that the destination of the sales of their domestic customers was not known to them. The Commission considers that lack of knowledge about the final destination of a sale is not decisive. The Commission analysed again the situation on the basis of the evidence available in the current investigation and revised the sales to be excluded from the normal value determination accordingly in order to reflect as accurately as possible the individual situation of the exporting producers investigated. When warranted, some of the sales that had been excluded at provisional stage for the purposes of the normal value calculation were used in the normal value calculation.
- (57) An interested party challenged the inclusion of domestic sales to traders and distributors for the determination of the normal value. Arguments to that effect were presented in written comments and during the hearing held before the Hearing Officer in trade proceedings on 7 July 2015.
- (58) As set out in recital 56 above, after the imposition of the provisional measures, the Commission continued examining the actual classification of the sales to distributors in view of reaching a more accurate and legally correct classification as domestic or as export sales for the purposes of the determination of the normal value, no longer relying on the presumption that all sales to distributors were destined for export. Comments received after the provisional disclosure were considered and further details were taken into account.
- (59) Instead of excluding sales to distributors as a whole on the basis of the presumption that all sales to distributors were destined for export, the Commission excluded only those sales to the distributor for which there was sufficient objective evidence that they were actually exported. The Commission examined the reported sales at issue and classified them as domestic or for export on the basis of the specific situation and data of each of the exporting producers concerned. The existence of export-oriented discounts was for example used as relevant evidence. To the contrary, subjective elements such as intention or knowledge, or lack thereof, did not play any role in the objective assessment made by the Commission.
- (60) One exporting producer contested rejection of certain scrap deduction from the cost of production. To support its claim it submitted additional information showing the production loss as conversion cost in its cost of production table. According to its claim, the production loss is the total of the material cost not converted into final product, plus the manufacturing overheads allocated to the production loss. The Commission examined carefully its claim but found the material cost included in the production loss far below the amount claimed as scrap deduction. After the final disclosure the company reiterated its claim that the scrap value should be compared to the total loss value, including the manufacturing overheads allocated to it. The Commission maintains its position that the scrap market value cannot be higher than the input material. The claim of the exporting producer has thus to be rejected.
- (61) In addition, the exporting producer did not substantiate its claim regarding the rejection of certain scrap deduction by providing the actual quantity of material consumed in the production of the product concerned that would allow the Commission to assess the loss. The company claimed that the consumption quantity and value for each type of raw material input was given in the worksheets submitted during the course of the on-site verification. The Commission found that this data covered more than the product concerned such as hot rolled coil transformed and sold as intermediate products. This does not allow the Commission to verify the material losses converted into scrap. As the losses and the scrap have only been reported in values, it was impossible to

consider, whether the material consumption for the production of the product concerned was sufficient to produce both the product concerned and the scrap, deducted from the cost of production. Therefore, it was not possible to reliably establish whether the reported loss included any material cost as claimed and what the amount of scrap deduction could be. The exporting producer repeated its claim after the final disclosure, without bringing to light any new facts.

- (62) The provisional findings in recitals 62 and 67 to 78 of the provisional Regulation are confirmed.

3.2.2. *Export price*

- (63) In its comments both after provisional and final disclosure one exporting producer contested the exclusion of certain export sales to the Union, which were reported based on the export certificates submitted by its customers. The export certificates however neither allow identifying the producer nor the sales transaction reported by the exporting producer. In addition, the export certificates were not collected consistently from all customers throughout the investigation period. Despite the great efforts by the exporting producer the destination of the sales provided was not verifiable and in any event it did not cover the entire investigation period. The Commission therefore could not reliably determine that those sales were export sales for the purposes of the dumping margin calculation. The claim is thus rejected.

3.2.3. *Comparison*

- (64) One exporting producer requested an allowance for foreign exchange rate using the rate of the liability settlement day. To be able to do a comparison under Article 2(10) of the basic Regulation, monthly exchange rates of the European Central Bank were consistently used for all exporting producers in Taiwan. The approach requested by the exporting producer would not be in line with the basic Regulation, which requires usage of the exchange rate applicable on the date of sale. This claim was thus rejected.
- (65) One exporting producer contested the use of monthly exchange rates of the European Central Bank and insisted on using its daily exchange rates. The exporting producer did not quantify what difference that application would cause. The Commission used the monthly rates for comparability and consistency purposes, as the dumping margin for this producer was a part of one dumping margin calculated for one group of related producers where only one claimed the use of daily exchange rates.

3.2.4. *Dumping margins*

- (66) Taking into account the changes in the normal value set out in recital 56 above, the definitive dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Table 2

Dumping margins, Taiwan

Company	Dumping margin (%)
Chia Far Industrial Factory Co., Ltd	0
Tang Eng Iron Works Co., Ltd and Yieh United Steel Corporation	6,8
Other cooperating companies	6,8
All other companies	6,8

4. INJURY

4.1. Definition of the Union industry and Union production

- (67) As set out in recital 90 of the provisional Regulation, the like product was manufactured by nine known producers in the Union during the investigation period. They constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.
- (68) In the absence of additional comments, the definition of the Union industry as set out in recitals 90 to 93 of the provisional Regulation is confirmed.

4.2. Union consumption

- (69) In the absence of comments concerning the union consumption, the provisional findings in recitals 94 to 96 of the provisional Regulation are confirmed.

4.3. Imports from the countries concerned

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

- (70) Following disclosure, interested parties reiterated their claims brought forward at the provisional stage that the Commission incorrectly cumulatively assessed the effects on the dumped imports from the PRC and Taiwan. They did not provide new elements substantiating this claim.
- (71) As set out in recital 66 above, following comments on provisional disclosure one Taiwanese exporting producer was found not to be dumping. Consequently, the exports of this company to the Union were deducted from the dumped imports from the PRC and Taiwan.
- (72) In the absence of other comments concerning the cumulative assessment, the provisional findings in recitals 97 to 102 of the provisional Regulation are confirmed.

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

- (73) As set out in recital 71 above, the imports from one Taiwanese exporting producer found not to be dumping were deducted from the dumped imports. For confidentiality reasons the volume and market share of these imports cannot be disclosed. However, the deduction of the negligible volume and market share of these imports, which is significantly less than 1 %, did not affect the trend of the development of the volume and the market share of the dumped imports from the countries concerned during the period considered.
- (74) In the absence of other comments concerning the volume and market share of the imports from the countries concerned and taking into account the revised findings set out in recital 73 above, the provisional findings in recitals 103 to 106 of the provisional Regulation are confirmed.

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

- (75) Following provisional disclosure, interested parties requested additional information concerning the nature of the 'post importation costs' referred to in recital 110(ii) of the provisional Regulation. These costs referred to the cost for handling and temporary storage of the imported products at the point of importation, customs clearance fee and bank costs.
- (76) The post importation costs were subject to verification during the visits at the importers' premises listed in recital 7 above. Following these verification visits the Commission established that the importation costs are lower than those established on the basis of the data available at the time of the provisional Regulation.

- (77) Following final disclosure, an interested party claimed to be unable to verify whether all costs related to importation until the delivery to the first customer in the Union were duly taken into account. In this respect, it is clarified that the price undercutting is a comparison between the ex-works Union industry's sales price and the customs-cleared price of the exporting producers at the Union frontier. Therefore, the costs between the port and the first independent customer are not taken into account in this comparison.
- (78) An interested party noted that a significant proportion of the like product in the Union is sold with a protective film ⁽¹⁾. The exporting producer argued that the use of the film should be reflected in the PCN used by the Commission, as it significantly affects the price.
- (79) This claim was brought forward very late, about 11 months after the initiation of the investigation and some 10 months after the PCN was made known to the parties. At this stage, the Commission was not in a position to identify the affected transactions individually.
- (80) The Commission made however an overall adjustment, based on the information provided by the Union industry in reaction to this claim.
- (81) Following final disclosure, the same interested party argued that the adjustment should not be made overall, but only to the transactions where the like product was actually covered by protective film. The party further disagrees with the assessment that their claim was made late, since this information was publically available before the initiation of this investigation.
- (82) As already explained, the Commission applied an overall adjustment as it was not possible to identify the affected transactions individually. It is known that the affected transactions are in a not insignificant proportion of all transactions. A party cannot merely rely on information being publically available, but has to put forward a substantiated claim to justify an adjustment.
- (83) The effect of recalculating these lower importation costs was largely offset by the adjustment referring to the protective film. The combined effect of those two adjustments showed an almost unchanged weighted average undercutting margin for the imports from the countries concerned on the Union market of between 9,8 % and 11,4 % (compared to between 9,6 % and 11,3 % in the provisional Regulation). The weighted average underselling margin for the imports from the countries concerned on the Union market also remained almost unchanged at between 23,1 % and 25,3 % (compared to between 22,9 % and 25,2 % in the provisional Regulation).
- (84) One interested party noted that the investigation showed that exporting producers almost exclusively sell to independent distributors or steel service centres, while the Union industry sold to distributors, integrated service centres and end users. This interested party claims that in order to compare those prices, the Commission must consider the fixed costs of the service centres as there is a difference in the level of trade. However, an adjustment for differences in the level of trade can only be made if it is demonstrated that there are consistent and distinct differences in price between those levels of trade, and not on the basis of cost differences. The actual comparison of prices on which the Union industry sold to both levels of trade on the Union market showed that, as indicated in recital 112 of the provisional Regulation, the difference in level of trade had no impact on prices. No information rebutting this finding was provided by any interested party. The conditions for a level of trade adjustment are therefore not met in this case.
- (85) Following final disclosure, the same party argued that a comparison of the sales prices of the Union industry's service centres with the prices of the exporting producers does allegedly not compare comparable products. In this respect, the party alleged that the sales of the Union industry's service centres are to a large extent further processed goods such as strips, narrow coils and discs, while the exporters are mainly selling standard coils.
- (86) In this respect it is noted that standard coils were not compared with narrow products such as strips or narrow coils. The width of the product was one element in the PCN, ensuring that only products with a similar width were compared. As regards discs, they were not included in the comparison at all since they were not exported by the sampled exporting producers to the Union.

⁽¹⁾ A thin material, often PVC, applied to the surface of SSCR in order to protect it against scratches and improve the quality of edges in case of cutting.

- (87) In the absence of other comments regarding the prices of the imports from the countries concerned and price undercutting, other conclusions reached in recitals 107 to 112 of the provisional Regulation are confirmed.

4.4. Economic situation of the Union industry

4.4.1. General Remarks

- (88) Interested parties reiterated their claims that the data of the sampled Union producers should be consistently used for the injury assessment instead of dividing the indicators into macroeconomic indicators and microeconomic indicators. However, such an approach would disregard available information at Union industry's level concerning namely production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity and magnitude of the dumping margin.
- (89) Following final disclosure, one interested party reiterated their argument that the fact that the largest Union producer Outokumpu is not part of the sample distorts the injury analysis. However, as already indicated in recital 93 of the provisional Regulation, the sample was considered representative, as the sample represented around 50 % of the total Union production of the like product. Therefore, the fact that Outokumpu did not cooperate in the investigation does not affect the representativeness of the selected sample and the quality of the verified data of the sampled producers.
- (90) Interested parties argued that when the injury indicators are divided into macroeconomic and microeconomic indicators, one cannot draw any meaningful conclusion as to what extent the sampled producers had suffered injury (if any). This argument is beside the point. In accordance with Article 3 of the basic Regulation the determination of injury is made at the Union industry's level. Sampling is a technique provided for in Article 17 of the basic Regulation that allows the Commission to limit the number of investigated parties (in this case the Union producers) when that number is large. However, the sampling does not limit the determination of the injury to the sample of Union producers. Certain injury indicators, such as, inter alia, market share and sales volume, are only meaningfully analysed at Union industry's level only. Moreover, findings with regard to the sample are considered representative for the Union industry's level. Therefore, any available information concerning the Union industry as a whole should be considered.
- (91) In the absence of any additional comments regarding the general remarks on the economic situation of the Union industry, the conclusions reached in recitals 107 to 112 of the provisional Regulation are confirmed.

4.4.2. Macroeconomic indicators

- (92) Concerning employment, interested parties argued that the decrease in employment was due to an increasing productivity of the Union industry. However, the increase of productivity of 6 % throughout the period considered was far lower than the decrease of employment of 11 %. This decrease is also influenced by the Union industry's production volume, which decreased by 5 % in a growing market.
- (93) As described above, due to the dumped imports from the countries concerned, the Union industry had to reduce their production in a growing market. If the Union industry would have been able to benefit from the market growth and increase its production in line with the increasing demand, this increased production would have counterbalanced the increasing productivity. The resulting loss in employment would have been substantially lower. It is therefore considered that the decreasing employment is mainly impacted by the dumped imports from the countries concerned, and that increasing efficiency of the Union industry only had only a minor impact.
- (94) Following final disclosure, an interested party argued that the employment of the Union industry significantly increased by 55 % since the period between 2004 and 2007. However, the employment figure stated in the provisional Regulation is the employment of the Union industry as a whole, while the employment figure given for the period between 2004 and 2007 only relates to part of the Union industry. These figures are therefore not comparable and do not show an increasing trend for employment.
- (95) In the absence of other comments regarding the macroeconomic indicators, the conclusions reached in recitals 121 to 132 of the provisional Regulation are confirmed.

4.4.3. *Microeconomic indicators*

4.4.3.1. Prices and factors affecting prices

- (96) Interested parties reiterated their claims that sales prices follow the raw material costs, mainly chromium and nickel, and that the trend of the Union industry's prices should be analysed excluding the 'alloy surcharge'.
- (97) These parties submitted additional information with regard to the base price fluctuation, referred to in recital 141 of the provisional Regulation. The data concerned the grade 304 SSCR with a thickness of 2 mm with finishing 2B sold by the Union producers (¹). According to these data, the base price continuously decreased throughout the period considered by around 11 % from 1 015 EUR/tonne in 2010 to 907 EUR/tonne in the investigation period. The level of the decrease is lower than the decrease from 1 200 EUR/tonne to 1 000 EUR/tonne mentioned in the provisional Regulation, but supports the finding of a significantly decreasing base price.
- (98) An interested party also claimed that the evidence provided in recital 141 of the provisional Regulation regarding the analysis of the base price is insufficient to support the finding that the base price has declined over the period considered for the Union industry, as it was allegedly presented by only one Union producer.
- (99) While the information was presented by one Union producer, it does not refer to one Union producer only. Indeed, this information refers to information published by CRU, a widely-known consultancy for the steel industry. CRU published the information for the German market as a whole, and not for prices of individual Union producers. In addition, the fact that base prices continuously decreased throughout the period considered was confirmed by information provided by other interested parties, as mentioned in recital 97 above.
- (100) It is therefore concluded that the decreasing sales prices of the Union industry are caused both by the decreasing raw material costs and the significant decrease of the base price which is unrelated to raw material cost developments. The latter part of the price decrease, namely the decrease of the base price, shows that the Union industry had to further decrease prices throughout the period considered despite being loss-making due to the price pressure exerted by the dumped imports from the countries concerned.
- (101) Following final disclosure, an importer claimed that the information concerning the base price development given above consists of 'subjective opinions' of the European producer which should be further verified. However, the information provided in recital 97 above was not provided by a European producer, but by an association of exporters, a party opposing the imposition of measures. Since this information is in line with publically available information provided by specialized consultancies, it is considered reliable.
- (102) Following final disclosure, another interested party argued that the decreasing base price was largely due to an exceptionally high value for the second quarter of 2010. The party did provide no arguments why this period should be disregarded for the analysis of the base price development. Since the analysis of the injury indicators has to cover the whole period considered, this argument cannot be accepted.
- (103) Following final disclosure, an interested party pointed out that according to Table 11 of the provisional Regulation, the average unit sales price of the Union industry was always above the unit cost of production throughout the period considered. This difference allegedly means that the losses suffered by the Union producers are unexplained.
- (104) In this respect it is noted that the unit cost of production in Table 11 of the provisional Regulation only included the cost of production without selling, administrative and general expenses. Therefore, a direct comparison of this unit cost with the unit sales price cannot show the profit achieved of the sampled Union producers.

4.4.3.2. Inventories

- (105) Interested parties commented on the 7 % decrease in inventories in the period considered, considering it an indication of a healthy situation of the Union industry.

(¹) For the years 2010-2012 the producers that data was used to calculate the average base price were Acerinox, AST, Aperam and Outokumpu and for the year 2013 Acerinox, Aperam and Outokumpu.

- (106) However, the decrease in inventories of 7 % in the period considered is merely following the production output of the sampled Union producers. Indeed, as shown in Table 13 of the provisional Regulation, the level of inventories accounted for around 15 % of the production throughout the period considered. The minor fluctuations between 14 % and 16 %, given their moderate level, should be considered normal variations in inventories.
- (107) Furthermore, interested parties argued that an inventory level of 15 % of annual production, translating into about 2 months' turnover, is high for an industry that produces mainly on order. This inventory level is caused by the time difference between production and different stages of the sales process as well as different sales patterns. Therefore, the stock level of 15 % of production cannot be considered particularly high.
- (108) The Commission confirms that the inventories are not considered a meaningful indicator for the purposes of the investigation.

4.4.3.3. Investments

- (109) Interested parties commented that the Union industry carried out massive investments exceeding one billion EUR/year during the whole period considered. The Commission established with regard to this claim that the level of investments referred to in the provisional Regulation was in fact the level of the total net book value of assets. The actual level of investments is given in the table below, that replaces the respective line in Table 14 in the provisional Regulation:

Table 3

Investments, all Union producers (part of the injury indicators)

	2010	2011	2012	Investigation period
Investments (EUR)	37 490 603	48 191 901	70 857 777	53 367 691
<i>Index (2010 = 100)</i>	100	129	189	142

- (110) Actual investments increased by 89 percentage points from 37 million EUR in 2010 to 70 million EUR in 2012, subsequently decreasing by 47 percentage points to 53 million EUR during the period considered. However, this nominal increase is due to a very low level of investments in 2010. Indeed, the level of investments was so low that the net book value of assets continuously decreased throughout the period considered, as shown in Table 14 of the provisional Regulation.
- (111) Even though this injury indicator nominally improved during the period considered, it does not affect the Commission's overall negative injury assessment as this indicator was depressed throughout the period considered.
- (112) Following final disclosure, an interested party argued that after revising the investments, the indicator for 'return on investment' should be equally revised. However, the indicator for return on investment is the profit in percentage of the net book value of investments, as stated in recital 150 of the provisional Regulation. Revising the indicator for investments therefore has no impact on the return on investment. As a consequence, the return on investment does not have to be revised as it was correctly stated in the provisional Regulation.
- (113) Following final disclosure, an interested party argued that a total investment of 209 million EUR throughout the period considered is contrary to the behaviour of injured companies. However, as indicated in recital 110 above, the level of investments was depressed throughout the period considered. The argument therefore cannot be accepted.

- (114) In the absence of other comments regarding the microeconomic indicators, the other conclusions reached in recitals 135 to 151 of the provisional Regulation are confirmed.

4.5. Conclusion on injury

- (115) On the basis of the above and in the absence of any other comments, the conclusions set out in recitals 152 to 155 of the provisional Regulation that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation were confirmed.

5. CAUSATION

- (116) In accordance with Article 3(6) of the basic Regulation, the Commission examined whether the dumped imports from the countries concerned caused material injury to the Union industry. In accordance with Article 3(7) of the basic Regulation, the Commission also examined whether other known factors could at the same time have injured the Union industry. The Commission ensured that any possible injury caused by factors other than the dumped imports from the countries concerned was not attributed to the dumped imports.
- (117) Interested parties (exporting producers and distributors) repeated the claims concerning causality brought forward during the provisional stage without advancing any new elements for consideration. These comments concerned among others: low level of imports, import prices following raw material prices, imports from other countries and the overcapacity of the Union industry). Since there were no new arguments, the comments are considered addressed in detail in recitals 156 to 208 of the provisional Regulation. For clarity, certain comments are also discussed below.

5.1. Effects of the dumped imports

- (118) Interested parties also repeated that imports from the countries concerned at the level of 4,3 % for the PRC and 5,1 % for Taiwan during the investigation period could not be the reason of injury of the Union industry, especially with a market share of the Union industry of around 80 % in the same period. The Commission established that during the investigation period the dumped imports from the countries concerned undercut the Union industry prices by between 9,8 % and 11,4 %, as explained in recital 83 above. While imports may not be a perfect competitive constraint, as already set out in recital 158 of the provisional Regulation this exerts price pressure on the Union industry and therefore has neither allowed the Union industry to maintain its market share nor to become profitable. In addition, as concluded in recital 70 above, the Commission determined that the conditions were met for cumulative assessment of the effects of imports from the PRC and Taiwan amounting jointly to 9,5 % during the investigation period.

5.2. Effects of other factors

5.2.1. *Non-dumped imports from Taiwan*

- (119) As explained in recital 66 above, following comments on provisional disclosure one Taiwanese exporting producer was found not to be dumping. The impact of these imports on the overall situation of the Union industry has therefore to be analysed, as they are no longer included in the dumped imports.
- (120) However, the volume of these imports was negligible throughout the period considered, always holding a market share significantly below 1 %. The Commission thus concluded that due to the negligible volume of the non-dumped imports from Taiwan, they did not contribute to the injury suffered by the Union industry to any significant degree.

5.2.2. Imports from other third countries

- (121) An exporting producer argued that the import prices from other countries such as South Korea and South Africa are lower than from the PRC, and together with imports from India, which are similarly priced as Chinese imports, could exert pressure on the prices of the sampled Union producers. The party further argues that average prices from these three countries are below the average non-injurious price of the sampled Union producers.
- (122) However, as already stated in recital 174 of the provisional Regulation, SSCR consist of various steel grades leading to significant price differences that could not be taken into account in the average price from Eurostat. It is therefore not meaningful to simply compare average prices, which do not take into account these differences. Indeed, price undercutting for the PRC and Taiwan was not established on the basis of average prices, but on the basis of a comparison on a type-by-type basis, as stated in recital 111 of the provisional Regulation.
- (123) The same party also argues that imports from India and South Korea showed significant increases, both in absolute and relative terms. An exclusion of these countries is therefore allegedly unobjective.
- (124) In respect of South Korea, the market share increased from 2,3 % to 2,8 % throughout the period considered, an increase of only 0,5 percentage points. While imports from India increased more rapidly, they held a very low market share of less than 2 % throughout the period considered. This shows that there are objective differences between the situation of the PRC and Taiwan on the one hand and India and South Korea on the other hand.
- (125) The same party also notes that the Commission does not present explanation as to what caused the overall price increase in 2011 and what caused the prices to decrease in 2012.
- (126) Recital 138 of the provisional Regulation explains that sales prices of the Union industry are driven by the development of raw material costs, mainly chromium and nickel. Since the prices from other third countries followed a similar trend, it can be assumed that the reasons for the price development are similar. However, as indicated in recital 174 of the provisional Regulation, SSCR consist of various steel grades leading to significant price differences that could not be taken into account in the average price from Eurostat.
- (127) Following final disclosure, one interested party argued that imports from South Korea, India and South Africa cannot be considered negligible, since they cumulatively hold a 6,3 % market share during the investigation period. However, none of these imports were considered negligible in the provisional Regulation and their effects were duly analysed.
- (128) The same party further argued that imports from the PRC were to a large extent of the 304 series. Other product types such as the 316, 316L and 321 series are higher priced, since they all have higher nickel content. Therefore, despite the statement in 174 of the provisional Regulation, imports from other third countries must either be in the 200 series (which is a niche product in the Union) or substantially dumped. The claim therefore suggests that the average price from the PRC is comparably low, as allegedly only niche products have a lower price than the most popular grade sold by the Chinese exporters.
- (129) This assessment however completely overlooks the low-priced 400 grade series, which is a commodity product in the Union, as stated in recital 189 of the provisional Regulation. Indeed, the PRC exported a comparably high proportion of the high-priced 300 series products. This is shown by the fact that the PRC and Taiwan had similar undercutting margin, despite Chinese prices during the investigation period being on average more than 100 EUR higher than Taiwanese prices, as shown in Table 7 of the provisional Regulation.

5.2.3. Export performance of the Union industry

- (130) One interested party argued that the decrease in export prices of 11 % as shown in Table 16 of the provisional Regulation shows that this price decrease has contributed to the injury suffered by the Union industry.

- (131) In this respect, recital 138 of the provisional Regulation explains that both costs and prices are driven by the development of raw material costs, mainly chromium and nickel. The price decrease on the export markets is similar to the price decrease on the Union market, and thereby driven by the same cost factors.
- (132) Following final disclosure, one interested party argued that no assessment or explanation has been provided concerning the decrease in export prices. In this respect, the previous recital clearly addresses this issue, explaining that the decreasing export price is driven by the development of raw material costs.

5.2.4. *Overcapacity*

- (133) Interested parties argued that the low capacity utilisation of the Union industry was caused by excess capacities installed before 2010. However, the year 2010 was the year with the highest capacity utilisation throughout the period considered. It is recalled that during the period considered the capacity utilisation decreased from 77 % to 70 %, mainly due to a decrease in production volumes. Due to the dumped imports from the countries concerned, the Union industry had to reduce their production in a growing market. It is therefore considered that the decreasing production capacity utilisation cannot be caused by excess capacities installed before 2010.

5.2.5. *Competition concerns*

- (134) With regard to the causation analysis of the competition concerns set out in recitals 183 to 194 in the provisional Regulation, one interested party commented that the Commission's analysis was insufficient. The Commission would have ignored its claims and misinterpreted the findings provided in the Outokumpu/Inoxum merger case and the facts of the present investigation. In support of its claim, they state that the four major Union producers are still dominant on the market by holding around 80 % of market share.
- (135) This claim is factually incorrect. The market share of the Union industry indeed was 80 % during the investigation period as stated in Table 9 of the provisional Regulation. However, as indicated in recital 90 of the provisional Regulation, the Union industry is made up of nine known producers. This includes the four major integrated producers and five smaller producers.
- (136) The same party argued that DG COMP found that 'only four major EU players are active on the market, followed by a fringe of small non-European players, each of them representing no more than 5 % of the market', referring to recital 351 of the Outokumpu/Inoxum Merger Decision.
- (137) This alleged quote is however incorrect. The correct quote states that 'only four major players are active on the market, followed by a fringe of small European and non-European players.' It is therefore clear that this party incorrectly quoted the Outokumpu/Inoxum Merger Decision, completely disregarding five smaller Union producers.
- (138) After final disclosure, the same party acknowledged the omission of the small European players from the quote because they represent each no more than 5 % of the market. Nevertheless, they insisted that the four major integrated producers have an 80 % market share, referring to recital 135 above. However, as stated in this recital, the 80 % market share refers to all nine known Union producers. The claim is therefore factually incorrect and can be rejected accordingly.
- (139) The same party referred to recital 187 of the provisional Regulation, claiming that the statement 'even if the constraint posed by imports may not be strong at present, it would be possible that it will increase in the future' is purely speculative and refers to a hypothetical event in the future. This assessment is incorrect. The quoted statement is taken from the Outokumpu/Inoxum Merger Decision, and the statement 'in the future' therefore refers to events after the Merger Decision was adopted. As explained in the same recital of the provisional

Regulation, imports from the PRC and Taiwan increased by 70 % during the period considered. Furthermore, the Registration Regulation stated that imports from the PRC further increased by 115 % for the PRC and 66 % for Taiwan in 2014 ⁽¹⁾. Such continuous increases in import volumes demonstrate that the statement was not speculative, and the increases were not 'hypothetical events in the future' but materialized between the adoption of the Outokumpu/Inoxum Merger Decision and the publication of the provisional Regulation.

- (140) In the absence of new reliable information in this regard, the Commission confirms its finding in recitals 183 to 194 of the provisional Regulation that the competition conditions in the Union could not have prevented the dumped imports from the countries concerned to cause injury to the Union industry.

5.2.6. *Alleged cyclical development of the import volumes*

- (141) In recital 105 of the provisional Regulation, it was concluded that imports steadily increased throughout the period considered, with the exception of 2012. Interested parties however claimed that the development of the import volumes did not show a consistent increasing trend during the period considered, but was rather subject to a cyclical development, 2010 and 2012 being 'import bottoms' and 2011 and 2013 being 'import peaks'. In order to assess this claim, the imports from the countries concerned reported by Eurostat was examined over a longer time period. For confidentiality reasons, the negligible imports from the Taiwanese exporting producer found not to be dumping have not been excluded. They have however no impact on the trend shown in Table 4.

Table 4

Import volumes from the countries concerned

	2009	2010	2011	2012	Investigation period	2014
Import volumes (tonnes)	87 517	184 140	269 845	220 151	312 517	583 460
<i>Index (2010 = 100)</i>	48	100	147	120	170	317

Source: Eurostat

- (142) These import statistics show that with regard to the period from 2009 to 2014, the year 2012 was the only exception in otherwise increasing volumes of imports from the countries concerned.

5.2.7. *Decreasing sales and production despite increasing orders*

- (143) One interested party claimed that the low production and sales volumes of the Union industry are decreasing despite increasing order volumes. Indeed, the information in the complaint suggests that the order volume exceeds the sales volume by a significant margin. However, these two figures are not directly comparable, as they are not reported on the same basis. Following provisional disclosure, the Union industry submitted additional information about the comparability of these figures in reaction to this claim. When comparing the information on orders and sales on a comparable basis, this difference is indeed negligible.

5.3. **Conclusion on causation**

- (144) In the absence of other comments regarding causation, the other conclusions reached in recitals 156 to 208 of the provisional Regulation are confirmed.

⁽¹⁾ Registration Regulation, recital 13.

6. UNION INTEREST

- (145) As set out in recital 209 of the provisional Regulation, in accordance with Article 21 of the basic Regulation, the Commission examined whether it could clearly conclude that it was not in the Union interest to adopt measures in this case, despite the determination of injurious dumping.

6.1. Interest of the Union industry

- (146) As described in recitals 210 to 212 of the provisional Regulation, the majority of the Union industry supports the imposition of measures with the largest Union producer (Outokumpu) that continued to remain silent. In addition, one producer of precision strips, as product concerned, came forward in support of the measures after the publication of the provisional Regulation.

6.2. Interest of unrelated importers and distributors

- (147) As already set out in recital 7 above, in order to assess the validity of the claims brought forward in detail, the Commission conducted verification visits at premises of three importers and two users, in Italy and Poland.

- (148) As described in recitals 213 to 217 of the provisional Regulation, unrelated importers and distributors were very active in the present case, generally opposing the measures.

- (149) One interested party commented on quality differences. It claimed that the quality offered by Indian and USA SSCR producers is not of the same standard level when comparing with the production of the Union industry or with imports from the PRC and Taiwan. This claim was not substantiated. As set out in recital 101 of the provisional Regulation, producers generally comply with the same worldwide standards, and no evidence that this is not the case for Indian or USA producers was provided.

6.3. Interest of users

- (150) A number of exporting producers and distributors repeated concerns regarding possible negative effects of measures on users. However, users themselves did not share these concerns and the degree of participation of users in this case remained very low.

6.4. Interest of other parties

- (151) Lastly, the German metalworking trade union (IG Metall) came forward in support of the measures. They expressed concerns about the negative impact of the dumped imports on the state of the Union industry. This trade union also represents workers in important user industries such as automotive and white goods.

6.5. Conclusion on Union interest

- (152) In the absence of other comments regarding Union interest, the conclusions reached in recitals 209 to 222 of the provisional Regulation are confirmed.

7. RETROACTIVITY

- (153) As concerns a possible retroactive application of anti-dumping measures, the criteria set out in Article 10(4) of the basic Regulation have to be evaluated. Pursuant to Article 10(4)(b), one key criterion which needs to be fulfilled is that there is 'a further substantial rise in imports' 'in addition to the level of imports which caused injury during the investigation period'.

- (154) A comparison of monthly average imports ⁽¹⁾ of SSCR during the investigation period with monthly average imports for the period under registration (17 December 2014-25 March 2015) shows a decrease of import volumes for the period under registration. Indeed, as stated in Table 6 of the provisional Regulation, the monthly average import quantity of SSCR from the countries concerned amounted to 26 043 tonnes ⁽²⁾ during the investigation. For comparison, during the period of registration the monthly average import volume of SSCR from the countries concerned was around 22 000 tonnes or around 15 % lower. Again, for confidentiality reasons the negligible imports from the Taiwanese exporting producer found not to be dumping have not been excluded.
- (155) Therefore, the criterion concerning a further substantial rise in imports is not met. As a consequence, it is concluded that the definitive anti-dumping duty shall not be levied retroactively prior to the date of application of provisional measures.
- (156) Following final disclosure, an interested party requested retroactive collection of the duty and argued that the Commission considered an incorrect period in determining whether to retroactively impose measures. The party claimed that the development of imports in the entire period after the investigation period should be considered when determining whether there is a further substantial rise in imports.
- (157) The party puts forward an increase of imports between February and December 2014, that is to say starting before the initiation of the investigation and ending around two weeks after the beginning of the registration of imports. Indeed the evolution of imports showed a rise in that period, however, such an increase did not create likelihood that the remedial effects of the measures to be imposed as of 26 March 2015 would be seriously undermined if further measures are not imposed as of 17 December 2014.
- (158) This is so because after July 2014 (shortly after the initiation of the investigation) and even more so after December 2014 (the beginning of the registration) the evolution of imports showed a decreasing trend, reaching import levels as those during the investigation period and even lower as observed in recital 154 above. For the period for which the party requests retroactive application of duties (a period limited to 90 days before the imposition of provisional measures, that is to say 26 December 2014-25 March 2015), the evolution of imports is certainly not characterised by an increase but by a decrease and therefore no undermining effect could be attributed to such imports.
- (159) On this basis, the Commission considered that the legal conditions for using its discretionary powers under Article 10(4) of the basic Regulation were not met.

8. DEFINITIVE ANTI-DUMPING MEASURES

- (160) In view of the conclusions reached with regard to dumping, injury, causation and Union interest, and in accordance with Article 9(4) of the basic Regulation, definitive anti-dumping measures should be imposed on imports of stainless steel cold-rolled flat products originating in the PRC and Taiwan, in accordance with the lesser duty rule under Article 7(2) of the basic Regulation.

8.1. Injury elimination level

- (161) Interested parties argued that the target profit should not be based on 2007, as this was allegedly an exceptionally good year for the steel industry. The information available to the Commission has however shown that for the period of 2004-2007, the year 2007 was indeed only the third best year with regard to profitability of the industry.
- (162) One interested party also argued that the year 2007 was indeed exceptional, as it is comprised of quarters with very different results. Indeed, during the first two quarters of 2007, the industry performed very well, achieving profit margins above 10 %. The second two quarters however showed a very different picture, showing profit margins slightly above the break-even point or being even negative.

⁽¹⁾ Since the period under registration is significantly shorter than the investigation period, a comparison of monthly average values is more useful than a comparison of total volumes of the two respective periods.

⁽²⁾ 312 517 tonnes from the PRC and Taiwan allocated to 12 months.

- (163) While it may indeed be the case that this development is exceptional, this also demonstrates that the overall average for 2007 cannot be exceptionally high, as it covers two quarters of good and two quarters of poor performance of the Union industry.
- (164) Following final disclosure, one interested party argued that the target profit is comparably higher than in other investigations concerning steel products such as welded tubes and pipes ⁽¹⁾ and grain-oriented flat-rolled products of silicon-electrical steel ("GOES") ⁽²⁾. The party does however not give any arguments why information concerning an industry producing a different product is more relevant than information concerning the Union industry of SSCR itself. Furthermore, the information used both in the welded tubes and pipes and GOES cases is not based on more recent information than in the present case either. This information is therefore not considered more relevant than the information used in the provisional Regulation.
- (165) Following final disclosure, an interested party argued that the profit obtained by the Union industry in the year 2007 cannot be considered reliable or representative, since the market conditions were abnormal, as described in recital 162 above. This party did however not question the fact that 2007 was only the third best year with regard to profitability of the industry, as stated in recital 161 above. Since the profit obtained by the Union industry is in line with the profitability achieved in the previous years 2004-2006, the argument that the profit of the year 2007 cannot be reliable or representative cannot be accepted.
- (166) One interested party argued that calculating the non-injurious price of the like product by adding to the Union industry's sales prices the actual loss incurred during the investigation period and further adding the above-mentioned profit margin of 8,1 %, the Commission departs from its alleged long-standing practice of establishing the non-injurious price by adding the target profit to the cost of production.
- (167) Both practices exist and apply. In absence of comparable sales by the Union industry, the non-injurious price may be established by adding the target profit to the total costs. In the present case, however, there were comparable sales. Moreover, the like product sold by the Union industry consisted of thousands of product types and all sampled Union producers had an extensive network of related companies, including steel service centres, which incurred costs. It was therefore considered impracticable to collect the cost information for each product type on a PCN level. Instead, the total costs were established by adding to the weighted average sales price the weighted average loss incurred. Then, the profit margin of 8,1 % was added to the total costs so established.
- (168) Following final disclosure, the same interested party provided additional arguments why the non-injurious price should be calculated by adding the target profit to the cost of production.
- (169) Firstly, the party noted that there is a significant price difference between the various PCNs of 150 % that cannot be explained by cost differences. However, this argument was not supported by any evidence. Indeed, it is confirmed that the various PCNs have very significant cost differences due to different steel grades, widths, thicknesses and finishing. It is indeed confirmed that the cost difference between the various PCNs can exceed 150 %.
- (170) Secondly, the party provided an example using a hypothetical cost of production and a hypothetical sales price for a hypothetical product type, which allegedly shows that calculating the target price on the basis of the sales price is unreasonable. However, since all information used in the example is hypothetical and does not refer to actual data, the result of this hypothetical example cannot demonstrate that the methodology used is unreasonable.
- (171) Thirdly, the party alleges that the Commission did simply not collect the cost of production data by PCN from the cooperating Union producers. This claim is incorrect. The cost of production data was requested by the Commission in the questionnaire, provided by the Union producers and verified.

⁽¹⁾ Commission Implementing Regulation (EU) 2015/110 of 26 January 2015 imposing a definitive anti-dumping duty on imports of certain welded tubes and pipes of iron or non-alloy steel originating in Belarus, the People's Republic of China and Russia and terminating the proceeding for imports of certain welded tubes and pipes of iron or non-alloy steel originating in Ukraine following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 (OJ L 20, 27.1.2015, p. 6).

⁽²⁾ Commission Implementing Regulation (EU) 2015/763 of 12 May 2015 imposing a provisional anti-dumping duty on imports of certain grain-oriented flat-rolled products of silicon-electrical steel originating in the People's Republic of China, Japan, the Republic of Korea, the Russian Federation and the United States of America (OJ L 120, 13.5.2015, p. 10).

- (172) Lastly, the party provided an example allegedly showing that the Commission added the target profit to a sales price that must have been sold at a very high profit. To support this argument, they compared the Union industry's sales price both with their own export price and the Union industry's sales price of a similar PCN.
- (173) However, both PCNs used in the example were exported in insignificant quantities and did therefore not have any impact on the injury margin for the company. Furthermore, the statement that the PCN must have been sold at a very high profit is not supported by evidence and also not supported by the findings of the investigation.
- (174) In the absence of other comments regarding the injury elimination level, the conclusions reached in recitals 224 to 229 of the provisional Regulation are confirmed.

8.2. Definitive anti-dumping duties

- (175) In view of the conclusions reached with regard to dumping, injury, causation and Union interest, and in accordance with Article 9(4) of the basic Regulation, definitive anti-dumping measures should be imposed on the imports of the product concerned at the level of the dumping or injury margins, in accordance with the lesser duty rule.
- (176) The definitive anti-dumping duty rates, expressed on the CIF Union border price, customs duty unpaid, should be as follows:

Table 5

Dumping margins, injury margins and anti-dumping duty rates

Country	Company	Dumping margin (%)	Injury margin (%)	Anti-dumping duty (%)
PRC	Baosteel Stainless Steel Co., Ltd	42,2	25,3	25,3
PRC	Ningbo Baoxin Stainless Steel Co., Ltd	42,2	25,3	25,3
PRC	Shanxi Taigang Stainless Steel Co., Ltd	50,2	24,4	24,4
PRC	Tianjin TISCO & TPCO Stainless Steel Co Ltd	50,2	24,4	24,4
PRC	Other cooperating companies	49,1	24,6	24,6
PRC	All other companies	50,2	25,3	25,3
Taiwan	Chia Far Industrial Factory Co., Ltd	0		0
Taiwan	Tang Eng Iron Works Co., Ltd	6,8	23,1	6,8
Taiwan	Yieh United Steel Corporation	6,8	23,1	6,8
Taiwan	Other cooperating companies	6,8	23,1	6,8
Taiwan	All other companies	6,8	23,1	6,8

- (177) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of this investigation. Therefore, they reflected the situation found during this investigation with respect to these companies. These duty rates are exclusively applicable to imports of the product concerned originating in the countries concerned and produced by the named legal entities. Imports of the product concerned produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other companies'. They should not be subject to any of the individual anti-dumping duty rates.
- (178) A company may request the application of these individual anti-dumping duty rates if it changes subsequently the name of its entity. The request must be addressed to the Commission ⁽¹⁾. 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 will be published in the *Official Journal of the European Union*.
- (179) To ensure a proper enforcement of the anti-dumping duties, the anti-dumping duty rate for 'all other companies' should apply not only to the non-cooperating exporting producers in this investigation, but to the producers which did not have exports to the Union during the investigation period.

8.3. Price undertaking offers

- (180) Following the final disclosure three exporting producers submitted price undertaking offers in accordance with Article 8 of the basic Regulation.
- (181) The Commission evaluated these offers and concluded that acceptance of such undertakings would be impractical within the meaning of Article 8 of the basic Regulation. This is mainly so for the reasons of the multitude of indistinguishable product types, covered by the offers, which vary significantly in price as well as the complex company/group structures of the exporting producers, which would make the monitoring of the undertakings impracticable.
- (182) The Commission explained to the exporting producers that the product concerned is not suitable for an undertaking. The Commission also explained that their company/group structures would make the monitoring of the undertakings impractical.
- (183) All three offers were therefore rejected.

8.4. Definitive collection of the provisional duties

- (184) One interested party argued that measures should exclude volumes already in transit at the time of the imposition of the provisional duty. This would in practice amount to an exemption of duties which would undermine the remedial effect of measures, and is therefore rejected.
- (185) In view of the dumping margins found and given the level of the injury caused to the Union industry, the amounts secured by way of the provisional anti-dumping duty, imposed by the provisional Regulation, should be definitively collected. The amounts secured in excess of the definitive rate of anti-dumping duties shall be released.
- (186) This Regulation is in accordance with the opinion of the Committee established by Article 15(1) of the basic Regulation,

⁽¹⁾ European Commission, Directorate-General for Trade, Directorate H, Rue de la Loi 170, 1040 Brussels, Belgium.

HAS ADOPTED THIS REGULATION:

Article 1

A definitive anti-dumping duty is imposed on imports of flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced), currently falling within CN codes 7219 31 00, 7219 32 10, 7219 32 90, 7219 33 10, 7219 33 90, 7219 34 10, 7219 34 90, 7219 35 10, 7219 35 90, 7220 20 21, 7220 20 29, 7220 20 41, 7220 20 49, 7220 20 81 and 7220 20 89 and originating in the People's Republic of China and Taiwan.

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

Country	Company	Definitive anti-dumping duty (%)	TARIC additional code
PRC	Shanxi Taigang Stainless Steel Co., Ltd, Taiyuan City	24,4	C024
PRC	Tianjin TISCO & TPCO Stainless Steel Co Ltd, Tianjin City	24,4	C025
PRC	Other cooperating companies listed in Annex	24,6	
PRC	All other companies	25,3	C999
Taiwan	Chia Far Industrial Factory Co., Ltd, Taipei City	0	C030
Taiwan	All other companies	6,8	C999

The application of the individual duty rates specified for the companies mentioned in paragraph 2 shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, on which must 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 stainless steel cold rolled product sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in (Taiwan/PRC). 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.

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

Article 2

The amounts secured by way of the provisional anti-dumping duty imposed by Implementing Regulation (EU) 2015/501 imposing a provisional anti-dumping duty on imports of stainless steel cold-rolled flat products originating in the People's Republic of China and Taiwan shall be definitively collected. The amounts secured in excess of the definitive rate of anti-dumping duty shall be released.

Article 3

Where any new exporting producer in the People's Republic of China provides sufficient evidence to the Commission that:

- it did not export to the Union the product described in Article 1(1) during the investigation period (1 January 2013 to 31 December 2013),
- it is not related to any of the exporters or producers in the People's Republic of China which are subject to the measures imposed by this Regulation,

- it has actually exported to the Union the product concerned after the investigation period on which the measures are based, or it has entered into an irrevocable contractual obligation to export a significant quantity to the Union,

Article 1(2) may be amended by adding the new exporting producer to the cooperating companies not included in the sample and thus subject to the weighted average duty rate.

Article 4

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

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

Done at Brussels, 26 August 2015.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Chinese cooperating exporting producers not sampled:

Country	Name	TARIC additional code
PRC	Lianzhong Stainless Steel Corporation, Guangzhou	C026
PRC	Ningbo Qi Yi Precision Metals Co., Ltd, Ningbo	C027
PRC	Tianjin Lianfa Precision Steel Corporation, Tianjin	C028
PRC	Zhangjiagang Pohang Stainless Steel Co., Ltd, Zhangjiagang City	C029