# COMMISSION IMPLEMENTING REGULATION (EU) 2021/635

## of 16 April 2021

## imposing a definitive anti-dumping duty on imports of certain welded pipes and tubes of iron or non-alloyed steel originating in Belarus, the People's Republic of China and Russia following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council

THE EUROPEAN COMMISSION,

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

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

Whereas:

### 1. PROCEDURE

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

(1) By Regulation (EC) No 1256/2008 ([2]), the Council imposed 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 ('PRC'), Russia, Thailand and Ukraine ('the original measures'). The measures took the form of an *ad valorem* duty ranging from 10,1 % to 90,6 %.

(2) By Commission Implementing Regulation (EU) 2015/110 ([3]), the Commission re-imposed a definitive anti-dumping duty on imports of certain welded tubes and pipes of iron or non-alloy steel originating in Belarus, the PRC and Russia and terminated the proceeding for imports originating in Ukraine, following an expiry review (hereinafter 'the previous expiry review').

(3) The anti-dumping duties currently in force are at rates of 10,1 % and 16,8 % on imports from the sampled exporting producers in Russia, 20,5 % on all other companies in Russia, 90,6 % on imports from all exporting producers in the PRC and 38,1 % on imports from all exporting producers in Belarus.

#### 1.2. Request for an expiry review

(4) Following the publication of a Notice of impending expiry ([4]), the European Commission ('the Commission') received a request for a review pursuant to Article 11(2) of the basic Regulation.

(5) The request for review was lodged on 25 October 2019 by the Defence Committee of the welded steel tubes industry of the European Union ('the applicant') acting on behalf of producers representing more than 25 % of the total Union production of certain welded pipes and tubes of iron or non-alloy steel. The request for review was based on the grounds that the expiry of the measures would be likely to result in continuation or recurrence of dumping and injury to the Union industry.

([1]) OJ L 176, 30.6.2016, p. 21.

([2]) Council Regulation (EC) No 1256/2008 of 16 December 2008 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 following a proceeding pursuant to Article 5 of Regulation (EC) No 384/96, originating in Thailand following an expiry review pursuant to Article 11(2) of the same Regulation, originating in Ukraine following an expiry review pursuant to Article 11(2) and an interim review pursuant to Article 11(3) of the same Regulation, and terminating the proceedings in respect of imports of the same product originating in Bosnia and Herzegovina and Turkey (OJ L 343, 19.12.2008, p. 1).

([3]) 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).

([4]) OJ C 166, 15.5.2019, p. 7.

1.3. **Initiation of an expiry review**

(6) Having determined, after consulting the Committee established by Article 15(1) of the basic Regulation, that sufficient evidence existed for the initiation of an expiry review, on 24 January 2020 the Commission initiated an expiry review with regard to imports of certain welded tubes and pipes of iron or non-alloy steel originating in Belarus, the PRC and Russia ('the countries concerned') on the basis of Article 11(2) of the basic Regulation. It published a Notice of Initiation in the *Official Journal of the European Union* ([5]) ('the Notice of Initiation').

1.4. **Review investigation period and period considered**

(7) The investigation of continuation or recurrence of dumping covered the period from 1 January 2019 to 31 December 2019 ('review investigation period' or 'RIP'). The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2016 to the end of the review investigation period ('the period considered').

1.5. **Interested parties**

(8) In the Notice of Initiation, interested parties were invited to contact the Commission in order to participate in the investigation. In addition, the Commission specifically informed the applicant, other known Union producers, trade unions, the known producers in Belarus, the PRC and Russia and the authorities of those countries, known importers, users, traders, as well as associations known to be concerned about the initiation of the expiry and invited them to participate.

(9) Interested parties had an opportunity to comment on the initiation of the expiry review and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

(10) At initiation, the Commission informed interested parties that it would have to seek cooperation by at least one exporting producer in an appropriate representative country for Belarus, pursuant to Article 2(7) of the basic Regulation. The Commission also informed authorities in Mexico, Russia, South Africa, South Korea, Thailand, Turkey, Ukraine and USA of the initiation and invited their exporting producers to participate. Interested parties had an opportunity to comment and to provide submissions in this regard (see below Section 3.1.2).

(11) After disclosure the authorities of Belarus argued that in the request for review the applicant did not properly demonstrate the likelihood of continuation or recurrence of injury.

(12) The Commission considered that the request for review contained sufficient evidence for the initiation of the investigation, as explained in recital (6). Moreover, as explained in Section 3.1.2 and 5, the investigation demonstrated the likelihood of continuation or recurrence of dumping and injury as regards the imports from Belarus.

(13) The argument was therefore dismissed.

1.5.1. *Sampling*

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

1.5.2. *Sampling of Union producers*

(15) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. The Commission selected the sample on the basis of production and sales volumes of the product under review, ensuring a good geographical spread. This sample consisted of three Union producers. The sampled Union producers accounted for around 40 % of the estimated total Union production and 38 % of the estimated total Union sales volume of the product under review.

([5]) OJ C 24, 24.1.2020, p. 17.

(16) The Commission invited interested parties to comment on the provisional sample. The Commission received no comments on the sample. The sample was thus considered representative of the Union industry.

1.5.3. *Sampling of importers*

(17) In order to decide whether sampling was necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation.

(18) No unrelated importers provided the requested information. Therefore, sampling was not necessary.

1.5.4. *Sampling of exporting producers in the countries concerned*

(19) In order to decide whether sampling was necessary and, if so, to select a sample, the Commission asked all exporting producers in Belarus, the PRC and Russia to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the Republic of Belarus to the European Union, the Mission of the People's Republic of China to the European Union and the Mission of the Russian Federation to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.

(20) Three exporting producers from Belarus provided the requested information and agreed to be included in the sample. Given the low number of producers that came forward, the Commission considered that sampling was not necessary. The three exporting producers were therefore requested to complete the questionnaire intended for the exporting producers.

(21) Two exporting producers from Russia came forward, expressing their willingness to participate in the investigation. Given the reduced number of producers that came forward, the Commission considered that sampling was not necessary. The two exporting producers were requested to complete the questionnaire intended for the exporting producers.

(22) No producers from the PRC provided the requested information and agreed to be included in the sample. Therefore, there was no cooperation from the Chinese producers and the findings with regard to the imports from the PRC are made on the basis of the facts available pursuant to Article 18 of the basic Regulation.

1.6. **Replies to the questionnaire**

(23) Copies of the questionnaires were made available on DG Trade's website when the case was initiated.

(24) Questionnaire replies were received from the three sampled Union producers and one distributor in the Union.

(25) Questionnaire replies were received also by the three cooperating producers in Belarus while only one of the two Russian exporting producers that came forward at initiation provided a questionnaire reply and cooperated with the proceeding.

1.7. **On spot verification and remote cross-checking**

(26) The Commission sought and checked all the information deemed necessary for the investigation.

(27) Prior to the entry into force of COVID-19 restrictions, the Commission made a verification visit to the premises of Arcelor Mittal Tubular Products in Poland. During this visit, the production process, raw-materials used and the by-products obtained were verified.

(28) For the verification of all other information and data required, in accordance with the Notice on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations ([6]), remote crosschecking by videoconference was carried out with the following companies:

***Union producers***

— Arcelor Mittal Tubular Products, Krakow, Poland and the related company Arcelor Mittal Tubular Products, Karvina, Czech Republic

— Celsa Atlantic, S.L., Vitoria-Gasteiz, Spain

— Arvedi Tubi Acciaio S.p.A., Cremona, Italy

***Exporting producers in Russia***

— PAO Severstal, Cherepovets, Russian Federation

### 1.8. **Subsequent procedure**

(29) On 2 February 2021, the Commission disclosed the essential facts and considerations on the basis of which it intended to maintain the anti-dumping duties in force regarding imports from the countries concerned. All parties were granted a period within which they could make comments on the disclosure.

(30) The comments made by four interested parties were considered by the Commission and taken into account, where appropriate. No requests for a hearing were received.

## 2. **PRODUCT UNDER REVIEW AND LIKE PRODUCT**

### 2.1. **Product under review**

(31) The product under review is the same as in the original investigation and the previous expiry review, namely welded tubes and pipes, of iron or non-alloy steel, of circular cross-section and of an external diameter not exceeding 168,3 mm, excluding line pipe of a kind used for oil or gas pipelines, casing and tubing of a kind used in drilling for oil or gas, precision tubes and tubes and pipes with attached fittings suitable for conducting gases or liquids for use in civil aircraft, currently falling under CN codes ex 7306 30 41, ex 7306 30 49, ex 7306 30 72 and ex 7306 30 77 (TARIC codes 7306 30 41 20, 7306 30 49 20, 7306 30 72 80 and 7306 30 77 80) originating in Belarus, the People's Republic of China and Russia ('the product under review' or 'WPT').

(32) WPT is mainly used for the transportation of gases and liquids in plumbing, heating, ventilation systems, etc.

### 2.2. **Like product**

(33) As established in the original investigation as well as in the previous expiry review, this expiry review investigation confirmed that the following products have the same basic physical, chemical and technical characteristics as well as the same basic uses:

— the product under review,

— the product produced and sold on the domestic market of the countries concerned, and

— the product produced and sold in the Union by the Union industry.

(34) These products 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**

(35) 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 Belarus, the PRC, or Russia.

([6]) OJ C 86, 16.3.2020, p. 6.

3.1. **Belarus**

3.1.1. *Continuation of dumping of imports during the review investigation period*

(36) As mentioned in recital (25), three producers in Belarus cooperated with the investigation and provided a reply to the questionnaire. However, none of the three producers reported a significant amount of export sales to the EU. In fact, during the review investigation period, imports of the product under review from Belarus virtually disappeared as compared to the investigation period of the original investigation (i.e. from July 2006 to June 2007). According to Comext statistics (Eurostat), imports of WPT from Belarus accounted for less than 4 tonnes in the review investigation period, compared to more than 29 000 tonnes during the original investigation. A similarly low level of imports was noted during the previous expiry review.

(37) In view of the virtual absence of imports of the product under review from Belarus, no conclusions could be drawn on the continuation of dumping to the EU during the review investigation period. Therefore, the Commission also investigated the likelihood of recurrence of dumping.

3.1.2. *Likelihood of recurrence of dumping should the measures be repealed*

(38) The Commission investigated in accordance with Article 11(2) of the basic Regulation the likelihood of recurrence of dumping, should the measures be repealed. The following additional elements were analysed: the production capacity and spare capacity in Belarus, relationship between prices in the Union and Belarus; relationship between export prices to third countries and prices in Belarus; relation between export prices to third countries and the price level in the Union and the attractiveness of the Union market.

(a) ***Normal value***

(39) In accordance with Article 2(7) of the basic Regulation, since Belarus is not a member of the WTO and is listed in Annex I to Regulation (EU) 2015/755 of the European Parliament and of the Council ([7]), normal value shall be determined on the basis of the price or constructed value in an appropriate representative country.

(40) After initiation, the Commission sought cooperation by at least one exporting producer located in a potential representative country. To this end, the Commission contacted the authorities in eight known steel producing countries, namely Mexico, Russia, South Africa, South Korea, Thailand, Turkey, Ukraine and USA.

(41) The Commission did not receive any cooperation from the above-mentioned countries; however, it did receive one full questionnaire reply, from a producer located in Russia, which was subject to the same investigation. Therefore, the Commission initially considered Russia to be an appropriate choice of representative country for Belarus.

(42) In accordance with Article 2(7) of the basic Regulation, all known producers concerned, and the authorities of the countries concerned, were consulted on the selection of the representative country. No comments were received from interested parties.

(43) However, following the remote cross-checking, the cooperation from the producer in Russia was considered to be insufficient (see Section 3.3.1 below). Pursuant to Article 2(7), 2nd subparagraph, of the basic Regulation, when selecting an appropriate representative country, due account shall be taken of '*any reliable information made available at the time of selection, and in particular of cooperation by at least one exporter and producer in that country*'. In the absence of sufficient cooperation and reliable information from any of the Russian producers of WPT, the Commission thus decided to disregard Russia as an appropriate representative country.

([7]) Regulation (EU) 2015/755 of the European Parliament and of the Council of 29 April 2015 on common rules for imports from certain third countries (OJ L 123, 19.5.2015, p. 33).

(44) As a consequence, in the absence of cooperation from any other producer in a potential representative country, the normal value was determined based on the prices actually paid in the Union for the like product, per basic product type on an ex-works basis, as stipulated in Article 2(7), 1st subparagraph, of the basic Regulation. Separate normal values were established for black and galvanized ([8]) products.

(45) After disclosure, the authorities of Belarus argued that the Commission failed to demonstrate that options other than the prices actually paid in the Union for the like product were not possible for the determination on the normal value. In their view, the Commission did not actively search for cooperation from the authorities of potential representative countries. Moreover, the Belarusian authorities argued that, instead of the Union prices, the Commission should have used the normal value determined for Russia or, as an alternative, the available data of Thailand used to construct the normal value for China, as described below in recital (150).

(46) As regards the first point the Commission confirms that, as explained in recitals (40) and (41) above, it actively searched for cooperation in eight potential representative countries but did not receive any. The letters sent by the Commission in this regard are available in the file open for consultation from interested parties.

(47) With regard to the second point, as explained in recital (43), Russia was provisionally selected as a representative country for Belarus. However, due to the absence of sufficient cooperation and reliable information from at least one exporting producer, the Commission had no choice but to disregard Russia as a representative country. As for Thailand it must be noted that the selection of an appropriate representative country for Belarus, in accordance with Article 2(7) of the basic Regulation, requires the cooperation by at least one exporter and producer in that country. By contrast, this is not a requirement for the construction of the normal value for China pursuant to Article 2(6a)(a) of the basic Regulation. Consequently, Thailand was not an appropriate representative country under Article 2(7) of the basic Regulation for Belarus.

(48) The claim was therefore dismissed.

(b) ***Export price***

(49) During the review investigation period, none of the cooperating producers in Belarus exported the product under review to other third country markets in significant quantities.

(50) Nevertheless, since it appeared from Belarusian trade statistics on imports and exports that the product under review was actually exported from Belarus to other third countries in significant quantities during the review investigation period, it was concluded that no producers actually exporting the product under review came forward and cooperated with the investigation.

(51) Therefore, the Commission informed the authorities of Belarus that due to the absence of significant cooperation from producers actually exporting the product under review, the Commission might apply Article 18 of the basic Regulation concerning the findings with regard to Belarus.

(52) In their comments to the intended application of Article 18, the Belarusian authorities argued that it was more appropriate to use the data provided by the three cooperating producers rather than the import and export statistics. Moreover, they claimed, and reiterated the claim after disclosure, that the Harmonised system (HS) codes used to assess the exports of the product under review were not appropriate. Finally, they argued that the Commission failed to take into account re-exports as, in their view, the exports of the product under review to third countries (i.e. Russia) amounted to 2 400 tonnes and included exports made by a company that purchases the product under review in Russia, performs the galvanisation service and re-exports it back.

([8]) Galvanized pipes/tubes are black pipes/tubes that have subsequently undergone a galvanizing process, in which the pipe/tube is coated with a layer of zinc.

(53) As regards the first claim, the Commission clarified that it did neither contest nor disregard the data of the three cooperating Belarusian producers. The three companies simply did not export significant quantities of the product under review that could be used by the Commission to assess the likelihood of continuation or recurrence of dumping.

(54) As regards the second claim, the Commission noted that almost the totality of Belarusian exports of the product under review are made to Russia. The Commission cross-checked the statistics on exports from Belarus to Russia (at 8-digit level) with the imports into Russia (at 10-digit level) based on Global Trade Atlas ('GTA') ([9]) statistics. The Commission confirmed that the product under review falls into the description for the codes at 8-digit level used for Belarusian exports as well as under the codes at 10-digit level used for the Russian imports. In the end, the Commission used the Russian import figures at 10-digit level, since they provided more detailed information on the different types of WPT.

(55) As regards the third claim, the Commission noted three points: first, from the information collected, the exports of the product under review from Belarus to Russia during the review investigation period amounted to more than 4 800 tonnes. Second, the export quantities of galvanized product amounted to less than 1 000 tonnes, according to the same sources. Finally, the fact that no cooperation was received by the re-exporting producer invoked by the Belarusian authorities justified the Commission's assessment on the basis of Article 18 of the basic Regulation given the absence of cooperation from producers in Belarus that would export significant quantities of the product under consideration.

(56) These claims were therefore rejected.

(57) Consequently, in accordance with Article 18 of the basic Regulation, the likely export price was established on the basis of facts available. As a result, sales prices to third countries were determined based on imports statistics into Russia in the Global Trade Atlas ('GTA'), reports of the World Bank ([10]) and OECD ([11]).

(58) More specifically, the Commission identified the biggest importer of WPT from Belarus during the review investigation period, i.e. Russia, which absorbs 92 % of the Belarusian exports of the product under review. The quantities exported to other third countries than Russia were negligible and therefore considered not to be representative.

(59) The import value in Russia was reported at CIF level. Therefore, the Commission adjusted the reported prices to calculate the export price at ex-works level by deducting the domestic transport cost in Belarus ([12]). Separate likely export prices were established for black and galvanized products.

(c) ***Comparison***

(60) The Commission compared the normal value and the likely export prices to Russia on an ex-works basis. Given that the exports of galvanized products were made in limited quantities and showed an incoherent price trend, and taking into account the comments of the Belarusian authorities on re-exports (detailed above in recital (52)), the comparison was made only for the black products.

(61) The above comparison showed a likely countrywide dumping margin for the Belarusian exports to Russia expressed as a percentage of the CIF value of 8,0 %.

(62) After disclosure the authorities of Belarus and two producers from Belarus argued that the Commission should amend the level of the measures for Belarus given that the dumping margin established in the current proceeding is significantly lower than the ones established in the previous expiry review and in the original investigation.

([9]) http://www.gtis.com/gta/secure/default.cfm
([10]) https://www.doingbusiness.org/
([11]) https://stats.oecd.org/
([12]) On the basis of the OECD Dataset: International Transport and Insurance Costs of Merchandise Trade (ITIC), Belarus – Russia. https://stats.oecd.org/Index.aspx?DataSetCode=CIF_FOB_ITIC

(63) Pursuant to the provision of Article 11(2) of the basic Regulation, in an expiry review measures can either be repealed or maintained at the level established in the original investigation. The Commission is therefore not able to revise the level of the duties in an expiry review.

(64) This claim was therefore dismissed.

(65) In addition, the Belarusian authorities asked for the disclosure of the dumping calculation and additional time to provide comments on it.

(66) The methodology of the dumping calculation for Belarus is detailed above in recitals (39) to (61). After disclosure, following the request of the authorities of Belarus, the Commission made available in the file open for consultation the statistics regarding Russia used to determine the likely export price from Belarus. Interested parties were given three days to provide comments.

(67) Comments were received from the Authorities of Belarus as regards (i) the origin of the product under review in the statistics; (ii) the currency conversion; and (iii) the particularity of statistical records between Belarus and Russia.

(68) As regard the first point, the authorities of Belarus argued that one of the codes used to establish the imports from Belarus into Russia, as explained in recital (54), contained products originating not only in Belarus but also from other countries.

(69) The Commission clarified that the information collected during the investigation confirmed that the products imported under that code are reported in the statistics as originating in Belarus. Moreover no evidence was provided that the products indicated as originating in Belarus were actually originating in any other countries. The claim was therefore dismissed.

(70) As regards the second point, the Belarusian authorities argued that the Commission used the import statistics of Russia in euro, while the Federal Customs Service of Russia provide statistics in US dollars. Therefore, in their opinion, the Commission should have used the exchange rate of the day of the sale, as required by Article 2(10)(j) of the basic regulation.

(71) First, the provisions of Article 2(10)(j) applies to the comparison between export prices and normal value in the presence of actual sales transactions. In the present case, as explained in recital (57) above, the average export price was determined based on import statistics from GTA and not on actual sales transactions. Second, the conversion rate used in GTA is the monthly average calculated from the daily averages in the month. Therefore, in the Commission's view, it allowed an accurate comparison between the export price and the normal value. Therefore, this claim was dismissed.

(72) As regards the third point, the Belarusian authorities argued that the Republic of Belarus and the Russian Federation are both members of the Eurasian Economic Union (EAEU). This entailed that free movements of goods between EAEU members is carried out without customs controls and therefore, in their view, the compliance of the declared customs code with the goods actually exported is not ensured.

(73) The Commission disagreed with this statement. The absence of customs controls do not lift the reporting requirements for import and export transactions. The description of the customs codes used is consistent with the definition of the product under review and no evidence of the contrary was provided. Therefore that claim was dismissed.

3.1.2.1. Production capacity and spare capacity in Belarus

(74) The production capacity and spare capacity in Belarus were established on the basis of the information provided by the applicant and the data provided by the three cooperating Belarusian producers.

(75) According to the data provided in the request, the spare production capacity of the product under review in Belarus amounts to around 50 000 tonnes. The investigation established that the three cooperating producers have a spare production capacity of the product under review of at least 30 000 tonnes.

(76) In addition, as established also in the previous expiry review, the production lines of the product under review can be utilized both for the production of welded tubes and pipes and for the production of hollow sections (only a minor production step separates the production of the two products). In addition, also welded pipes with a diameter exceeding 168,3 mm ('large pipes'), which are not concerned by this proceeding, could be produced on the same production lines.

(77) Therefore, taking into account the possibility to change the product mix, the spare capacity in Belarus is estimated to be around 50 000 tonnes for the cooperating producers, or more than 9 % of Union consumption. In addition, since the cooperating producers only account for 40 % of total production in Belarus, and assuming the same ratio of spare capacity for the non-cooperating producers, the country-wide spare capacity can be estimated at around 125 000 tonnes.

(78) Based on the above, the Commission concluded that the Belarusian exporting producers have significant spare capacities, which they could use to produce WPT to export to the Union if measures were allowed to lapse.

(79) After disclosure one Belarusian producer and the authorities of Belarus contested the Commission's calculation of the spare capacity in Belarus as, in their view, it is significantly overestimated and did not take into account the other products produced on the same production line.

(80) The Commission clarifies that the estimation of the spare production capacity was based on the actual data provided by the three cooperating producers in their questionnaire replies. Moreover, as explained in recital (77), the Commission took into account the other products produced on the same production line. In addition, given the attractiveness of the Union market it was concluded that it is likely that Belarusian producers will change their product mix, and increase their production capacity of the product under review, should the measures lapse.

(81) Therefore the claim was dismissed.

3.1.2.2. Attractiveness of the Union market

(82) According to the GTA data, the Belarusian exporting producers exported to their main third market, Russia, at prices, on average, at least 5 % lower as compared to the average sales prices of the Union producers on the Union market. Taking into account this price level, exporting to the Union is potentially more attractive for the Belarusian exporters than exporting to almost all other countries. In addition, during the RIP, exports to Russia amounted to around 4 800 tonnes, less than 10 % of the estimated spare capacity of the cooperating producers in Belarus, and less than 4 % of the estimated country-wide spare capacity.

(83) The Union market is also attractive to the Belarusian producers in view of its geographical proximity and its size, with a total consumption of 541 000 tonnes.

3.1.2.3. Conclusion on the likelihood of continuation or recurrence of dumping

(84) The Commission established that dumping practices continued with regard to the Belarusian exports to their main third country market (Russia).

(85) Furthermore, the Commission found other evidence that dumping will likely recur should the measures lapse.

(86) The attractiveness of the Union market in terms of size and prices, and the significant spare capacity still available in Belarus, indicated that it is likely that Belarusian exports and spare capacity would be (re)directed towards the Union, should the measures be allowed to lapse.

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

### 3.2. **The People's Republic of China**

#### 3.2.1. *Preliminary remarks*

(88) During the review investigation period, imports of the product under review from the PRC continued, albeit at much lower levels than in the investigation period of the original investigation (i.e. from July 2006 to June 2007). According to Comext (Eurostat) statistics, imports of WPT from the PRC accounted for about 0,1 % of the Union market in the review investigation period, compared to a market share of 13,8 % during the original investigation. A similarly low level of market share (0,03 %) was noted during the previous expiry review. In absolute terms, imports from the PRC dropped drastically from almost 184 887 tonnes during the original investigation to 118 tonnes in the previous expiry review and 559 tonnes in the current expiry review.

(89) As mentioned in recital (22), none of the exporters/producers from the PRC 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, consumption of inputs in the production process, manufacturing overheads, 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' ([13]) ('the Report').

(90) Therefore, the Commission informed the authorities of the PRC that due to the absence of cooperation, the Commission might apply Article 18 of the basic Regulation concerning the findings with regard to the PRC. The Commission did not receive any comments.

(91) Consequently, in accordance with Article 18(1) of the basic Regulation, the findings in relation to the likelihood of continuation or recurrence of dumping with regard to the PRC were based on facts available, in particular the information contained in the request for the expiry review and in the submissions by the interested parties, combined with other sources of information, such as trade statistics on imports and exports (Eurostat and GTA), statistical data from the Chinese tax and custom administration websites ([14]), reports of the World Bank and OECD, and independent providers of pricing intelligence, news, data, analysis and conferences for the iron and steel industry such as Deloitte ([15]), Transcustoms ([16]), Global Trade Alert ([17]) and Huajing Industry Research Institute ([18]).

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

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

(92) Given the sufficient evidence available at the initiation of the investigation tending to show, with regard to the PRC, the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation, the Commission initiated the investigation with regard to this country on the basis of Article 2(6a) of the basic Regulation.

(93) In order to obtain information it deemed necessary for its investigation with regard to the alleged significant distortions, the Commission sent a questionnaire to the Government of China ('GOC'). In addition, in point 5.3.2 of the Notice of Initiation, the Commission invited all interested parties to make their views known, submit information and provide supporting evidence regarding the application of Article 2(6a) of the basic Regulation,

([13]) Commission Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the purposes of Trade Defence Investigations, 20 December 2017, SWD(2017) 483 final/2.
([14]) http://www.gov.cn/zhengce/content/2017-12/01/content_5243734.htm
http://www.chinatax.gov.cn/n810341/n810755/c3377945/content.html
http://www.gov.cn:8080/gongbao/content/2019/content_5416183.htm
([15]) https://www2.deloitte.com/content/dam/Deloitte/cn/Documents/tax/deloitte-cn-tax-changes-to-vat-regulations-zh-171205.pdf
([16]) http://www.transcustoms.cn/index.asp
([17]) https://www.globaltradealert.org/
([18]) https://m.huaon.com/detail/407989.html
https://m.huaon.com/detail/617918.html

within 37 days of the date of publication of the Notice of Initiation in the *Official Journal of the European Union*. No questionnaire reply was received from the GOC and no submission on the application of Article 2(6a) of the basic Regulation was received within the deadline.

(94) In point 5.3.2 of the Notice of Initiation, the Commission also specified that, in view of the evidence available, it had provisionally selected Mexico as 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. The Commission further stated that it would examine other possibly appropriate representative countries in accordance with the criteria set out in 2(6a)(a) first indent of the basic Regulation.

(95) On 11 May 2020, the Commission informed interested parties by a note ('the First Note') of the relevant sources it intended to use for the determination of the normal value. In that note, the Commission provided a list of all factors of production such as raw materials, labour and energy that might be used in the production of the product under review. In addition, based on the criteria guiding the choice of undistorted prices or benchmarks, the Commission identified possible representative countries (namely Brazil, Malaysia, Mexico, Thailand and Turkey). The Commission received no comments on the First Note.

(96) On 4 June 2020, the Commission informed the interested parties by a second note ('the Second Note') of the relevant sources it intended to use for the determination of the normal value, with Thailand as the representative country ([19]). It also informed interested parties that it would establish selling, general and administrative costs ('SG&A') and profit based on available information from producers in the representative country – Pacific Pipe Co., Ltd. and Asia Metal Co., Ltd.. No comments on the Second Note were received.

3.2.2.2. Normal value

(97) 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*'.

(98) However, according to Article 2(6a)(a) of the basic Regulation, *'in case it is determined […] that it is not appropriate to use domestic prices and costs in the exporting country due to the existence in that country of significant distortions within the meaning of point (b), the normal value shall be constructed exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks'*, and *'shall include an undistorted and reasonable amount of administrative, selling and general costs and for profits'* (*'administrative, selling and general costs'* is referred hereinafter as 'SG&A').

(99) 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.

(a) ***Existence of significant distortions***

(1) Introduction

(100) Article 2(6a)(b) of the basic Regulation defines '*significant distortions are 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,*

([19]) As established in recitals (144) to (152).

— *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*'.

(101) According to Article 2(6a)(b) of the basic Regulation, the assessment of the existence of significant distortions within the meaning of Article 2(6a)(a) shall take into account, amongst others, the non-exhaustive list of elements in the former provision. Pursuant to Article 2(6a)(b) of the basic Regulation, in assessing the existence of significant distortions, regard shall be had to the potential impact of one or more of these elements on prices and costs in the exporting country of the product under review. Indeed, as that list is non-cumulative, not all the elements need to be given regard to for a finding of significant distortions. Moreover, the same factual circumstances may be used to demonstrate the existence of one or more of the elements of the list. However, any conclusion on significant distortions within the meaning of Article 2(6a)(a) must be made on the basis of all the evidence at hand. The overall assessment on the existence of distortions may also take into account the general context and situation in the exporting country, in particular where the fundamental elements of the exporting country's economic and administrative set-up provides the government with substantial powers to intervene in the economy in such a way that prices and costs are not the result of the free development of market forces.

(102) 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*'.

(103) Pursuant to this provision, the Commission has issued a country report ([20]), concerning the PRC, 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). Interested parties were invited to rebut, comment or supplement the evidence contained in the investigation file at the time of initiation. The Report was placed in the investigation file at the initiation stage.

(104) The request also provided additional evidence on the existence of significant distortions in the meaning of Article 2(6a)(b) referred to above, complementing the Report.

(105) In particular, the applicant referred to practices affecting the costs and prices in the WPT sector and steel sector (hot rolled steel coils are the main input in the production of the WPT):

— from five Chinese largest steel producers, four are State-owned enterprises ('SOE') and as such those companies operate under the ownership, control, and policy supervision of the GOC;

— the costs of raw-materials and energy in the PRC are not the result of free market forces as they are affected by substantial government interventions, as was confirmed also in recent anti-subsidy investigation concerning hot-rolled flat products; ([21])

— the hot-rolled steel producers benefit from preferential lending constituting subsidies, which was also confirmed by the above mentioned anti-subsidy procedure.

([20]) Referred to in recital (82) above.

([21]) See Implementing Regulation (EU) 2017/969.

(106) As specified in recital (93), the GOC did not provide any reply to the questionnaire it received. As mentioned in recitals (22) and (89), there was no cooperation from exporting producers and neither did the exporting producers provide evidence supporting or rebutting the existing evidence on the case file, including the Report, and the additional evidence provided by the applicant, on the existence of significant distortions and/or on the appropriateness of the application of Article 2(6a) of the basic Regulation in the case at hand.

(107) The Commission examined whether it was appropriate or not to use domestic prices and costs in the PRC, due to the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation. The Commission did so on the basis of the evidence available on the file, including the evidence contained in the Report, which relies on publicly available sources. That analysis covered the examination of the substantial government interventions in the PRC's economy in general, but also the specific market situation in the relevant sector including the product under review.

(2) Significant distortions affecting the domestic prices and costs in the PRC

(108) The Chinese economic system is based on the concept of a '*socialist market economy*'. That concept is enshrined in the Chinese Constitution and determines the economic governance of the PRC. 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 the *'leading force of the national economy'* and the State has the mandate *'to ensure its consolidation and growth'* ([22]). 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 ([23]).

(109) In addition, under Chinese law, 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 already 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*.' ([24]) This illustrates the unquestioned and ever growing control of the CCP over the economic system of the PRC. This leadership and control is inherent to the Chinese system and goes well beyond the situation customary in other countries where the governments exercise general macroeconomic control within which the boundaries of free market forces are at play.

(110) 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 ([25]). The interventionist economic tools deployed by the Chinese authorities are manifold, including the system of industrial planning, the financial system, as well as the level of the regulatory environment.

(111) 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 are detailed while national plans set broader targets. Plans also specify the means 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

([22]) Report – Chapter 2, p. 6-7.
([23]) Report – Chapter 2, p. 10.
([24]) Available at http://www.fdi.gov.cn/1800000121_39_4866_0_7.html (last viewed 15 July 2019).
([25]) Report – Chapter 2, p. 20-21.

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 binding nature of the plans but also because the relevant Chinese authorities at all levels of government adhere to the system of plans and use their vested powers accordingly, thereby inducing the economic operators to comply with the priorities set out in the plans (see also Section 3.2.2.2(a)(5) below) ([26]).

(112) Second, on the level of allocation of financial resources, the financial system of the PRC 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 3.2.2.2(a)(8) below) ([27]). The same applies to the other components of the Chinese financial system, such as the stock markets, bond markets, private equity markets etc. Also these parts of the financial sector other than the banking 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 ([28]).

(113) 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 ([29]). Similarly, in the area of investment, the GOC 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 ([30]).

(114) 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 ([31]).

(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

(115) In the PRC, enterprises operating under the ownership, control and/or policy supervision or guidance by the State represent an essential part of the economy.

(116) The GOC and the CCP maintain structures that ensure their continued influence over enterprises, and in particular State-owned enterprises (SOEs). The State (and in many aspects also the CCP) 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 3.2.2.2(a)(4)), as well as through shaping the corporate structure of the SOE

([26]) Report – Chapter 3, p. 41, 73-74.
([27]) Report – Chapter 6, p. 120-121.
([28]) Report – Chapter 6. p. 122-135.
([29]) Report – Chapter 7, p. 167-168.
([30]) Report – Chapter 8, p. 169-170, 200-201.
([31]) Report – Chapter 2, p. 15-16, Report – Chapter 4, p. 50, p. 84, Report – Chapter 5, p. 108-9.

sector ([32]). 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 finance ([33]). The elements that point to the existence of government control over enterprises in the WPT sector is further developed in Section 3.2.2.2(a)(4) below.

(117) Specifically in the steel sector, which is the main raw material to produce WPT, a substantial degree of ownership by the GOC 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 ([34]). At the same time, while the top ten producers only took up some 36 % of total industry output in 2016, the GOC set the target in the same year to consolidate 60 % to 70 % of steel production to around ten large-scale enterprises by 2025 ([35]). This intention has been repeated by the GOC in April 2019, announcing a release of guidelines on steel industry consolidation ([36]). Such consolidation may entail forced mergers of profitable private companies with underperforming SOEs ([37]).

(118) As explained above, there is a high share of SOE in the steel sector, which is the main provider of the raw material for the production of WPT. Since there was no cooperation from Chinese exporters of WPT, the exact ratio of the private and state owned WPT producers could not be determined. However, the investigation revealed that both public and privately owned enterprises in the WPT sector are subject to policy supervision and guidance as set out in Section 3.2.2.2(a)(5) below.

(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

(119) Apart from exercising control over the economy by means of ownership of SOEs and other tools, the GOC 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 ([38]), CCP cells in enterprises, state owned and private alike, represent another important channel through which the State can interfere with business decisions. According to the PRC's company law, a CCP organisation is to be established in every company (with at least three CCP members as specified in the CCP Constitution ([39])) and the company shall provide the necessary conditions for the activities of the party organisation. In the past, this requirement appears not to have always been followed or strictly enforced. However, since at least 2016 the CCP has reinforced its claims to control business decisions in SOEs as a matter of political principle. The CCP is also reported to exercise pressure on private companies to put 'patriotism' first and to follow party discipline ([40]). In 2017, it was reported that party cells existed in 70 % of some 1,86 million privately owned companies, with growing pressure for the CCP organisations to have a final say over the business decisions within their respective companies ([41]). These rules are of general application throughout the Chinese economy, across all sectors, including to the producers of WPT and the suppliers of their inputs.

([32]) Report – Chapter 3, p. 22-24 and Chapter 5, p. 97-108.
([33]) Report – Chapter 5, p. 104-9.
([34]) 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.
([35]) Available at: www.gov.cn/zhengce/content/2016-02/04/content_5039353.htm (last viewed 2 March 2020); https://policycn.com/policy_ticker/higher-expectations-for-large-scale-steel enterprise/?iframe=1&secret=c8uthafuthefra4e (last viewed 2 March 2020), and www.xinhuanet.com/english/2019-04/23/c_138001574.htm (last viewed 2 March 2020).
([36]) Available at http://www.xinhuanet.com/english/2019-04/23/c_138001574.htm (last viewed 2 March 2020) and http://www.jjckb.cn/2019-04/23/c_137999653.htm (last viewed 2 March 2020).
([37]) As was the case of the merger between the private company Rizhao and the SOE Shandong Iron and Steel in 2009. See Beijing steel report, p. 58, and the acquired majority stake of China Baowu Steel Group in Magang Steel in June 2019, see https://www.ft.com/content/a7c93fae-85bc-11e9-a028-86cea8523dc2 (last viewed 2 March 2020).
([38]) Report – Chapter 5, p. 100-1.
([39]) Report – Chapter 2, p. 26.
([40]) Report – Chapter 2, p. 31-2.
([41]) Available at https://www.reuters.com/article/us-china-congress-companies-idUSKCN1B40JU (last viewed 15 July 2019).

(120) Many WPT producers explicitly emphasise party building activities on their websites, have party members in the company management and underline their affiliation to the CCP. The investigation revealed party building activities in a number of WPT producers, including Jinghua Steel Pipe Group, Kingland Group and Jiangsu Guoqiang Zinc-plating Industrial Co. Ltd. Evidence for one producer of the product under review revealed that such activities consisted in, inter alia, participation of CCPs members to discuss the situation, business model and development strategy of a company, facilitation of recruitment of party members; lectures, symposiums and other educational activities on the subject of the CCP, communist philosophy, etc.; formal events related to the activities of the CCP; etc. Furthermore, the Commission established during the investigation personal connections between WPT producers and the CCP, such as CCP members among the senior management or members of the board of directors in a number of companies manufacturing WPT, including Jinghua Steel Pipe Group, Kingland Group, Fubo Group, Weifang East Steel Pipe Co. Ltd and Huludao City Steel Pipe Industrial Co. Ltd.

(121) In the steel sector, which is the major raw material for the production of WPT, many of the largest producers are owned by the State. Some are specifically referred to in the 'Steel Industry Adjustment and Upgrading plan for 2016-2020' ([42]). For instance, the Chinese State-owned Shanxi Taiyuan Iron & Steel Co. Ltd. ('TISCO') mentions on its website that it is '*a super iron and steel giant*', which '*developed into an extraordinary large-scale iron and steel complex, which is integrated with business of iron mining, iron and steel production, processing, delivery and trading*' ([43]). Baosteel is another major Chinese State-owned enterprise that engages in steel manufacturing and is part of the recently consolidated China Baowu Steel Group Co. Ltd. (formerly Baosteel Group and Wuhan Iron & Steel) ([44]).

(122) The State's presence and intervention in the financial markets (see also Section 3.2.2.2(a)(7) below) as well as in the provision of raw materials and inputs have an additional distorting effect on the market ([45]). 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.

(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

(123) 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 of the plans by the corresponding lower level of government. Overall, the system of planning in the PRC results in resources being allocated to sectors designated as strategic or otherwise politically important by the government, rather than being allocated in line with market forces ([46]).

(124) Even though WPT is a specialised industry and no specific policy documents guiding specifically the development of the WPT industry could be identified during the investigation, the WPT industry is benefitting from governmental guidance and intervention into the main raw material to manufacture WPT, namely steel. The distortive effects of the governmental intervention on the WPT industry are illustrated by the problem of major overcapacity. The report on the state of the steel welded pipes industry in 2018 confirms the existence of serious overcapacity (see the full quote in recital (209)) ([47])

([42]) The full text of the plan is available on the MIIT website: http://www.miit.gov.cn/n1146295/n1652858/n1652930/n3757016/c5353943/content.html (last viewed 2 March 2020).
([43]) TISCO, 'Company profile', http://en.tisco.com.cn/CompanyProfile/20151027095855836705.html (last viewed 2 March 2020).
([44]) Baowu, 'Company profile', http://www.baowugroup.com/en/contents/5273/102759.html (last viewed 2 March 2020).
([45]) Report – Chapters 14.1 to 14.3.
([46]) Report – Chapter 4, p. 41-42, 83.
([47]) Analysis of the 2018 steel welded pipes industry in China, Huajing Information Network, published on 5.3.2019 https://m.huaon.com/detail/407989.html

(125) Furthermore, the steel industry is regarded as a key industry by the GOC ([48]). 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*' ([49]). The main tasks and objectives set out in this Plan cover all aspects of the development of the industry ([50]).

(126) The 13th Five-Year Plan on Economic and Social Development ([51]) envisages support to enterprises producing high-end steel product types ([52]). 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 ([53]).

(127) The 'Catalogue for Guiding Industry Restructuring (2011 Version) (2013 Amendment)' ([54]) ('the Catalogue') lists steel as encouraged industry.

(128) The GOC further guides the development of the sector in accordance with a broad range of policy tools and directives related to, inter alia: market composition and restructuring, raw materials, 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 ([55]). The current problem of overcapacity is arguably the clearest illustration of the implications of the GOC's policies and the resulting distortions.

(129) 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 steel as the main raw material used in the manufacturing of the product under review. Such measures impede market forces from operating freely.

(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

(130) According to the information on file, the Chinese bankruptcy system delivers inadequately 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 principles that are similar to those applied in corresponding laws in countries other than the PRC, 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 ([56]).

(131) In addition, the shortcomings of the system of property rights are particularly obvious in relation to ownership of land and land-use rights in the PRC. ([57]) 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

([48]) Report, Part III, Chapter 14, p. 346 ff.
([49]) Introduction to The Plan for Adjusting and Upgrading the Steel Industry.
([50]) Report, Chapter 14, p. 347.
([51]) The 13th Five-Year Plan for Economic and Social Development of the People's Republic of China (2016-2020), available at https://en.ndrc.gov.cn/newsrelease_8232/201612/P020191101481868235378.pdf (last viewed 2 March 2020).
([52]) Report – Chapter 14, p. 349.
([53]) Report – Chapter 14, p. 352.
([54]) 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.
([55]) Report – Chapter 14, pp. 375 – 376.
([56]) Report – Chapter 6, p. 138-149.
([57]) Report – Chapter 9, p. 216.

procedures. However, these provisions are regularly not respected, with certain buyers obtaining their land for free or below market rates ([58]). Moreover, authorities often pursue specific political goals including the implementation of the economic plans when allocating land ([59]).

(132) Much like other sectors in the Chinese economy, the producers of WPT are subject to the ordinary rules on Chinese bankruptcy, corporate, and property laws. That has the effect that these companies are also subject to the top-down distortions arising from the discriminatory application or inadequate enforcement of bankruptcy and property laws. The present investigation revealed nothing that would call those findings into question. As such, the Commission preliminarily concluded that the Chinese bankruptcy and property laws do not work properly, thus generating distortions by maintaining insolvent firms afloat and by allocating land use rights in the PRC. Those considerations, on the basis of the evidence available, appear to be fully applicable also in the WPT sector.

(133) In light of the above, the Commission concluded that there was discriminatory application or inadequate enforcement of bankruptcy and property laws in the WPT sector, including with respect to the product under review.

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

(134) A system of market-based wages cannot fully develop in the PRC as workers and employers are impeded in their rights to collective organisation. The PRC 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 ([60]). 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 ([61]). 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 ([62]). Those findings lead to the distortion of wage costs in the PRC.

(135) No evidence was submitted to the effect that the WPT sector is not subject to the Chinese labour law system as described above. WPT sector is thus affected by the distortions of wage costs both directly (when making the product under review or the main raw material for its production) as well as indirectly (when having access to capital or inputs from companies subject to the same labour system in the PRC).

(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

(136) Access to capital for corporate actors in the PRC is subject to various distortions.

(137) First, the Chinese financial system is characterised by the strong position of State-owned banks ([63]), which, when granting access to finance, take into consideration criteria other than the 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 large State-owned financial institutions are ultimately appointed by the CCP) ([64]) 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 ([65]).

([58]) Report – Chapter 9, p. 213-215.
([59]) Report – Chapter 9, p. 209-211.
([60]) Report – Chapter 13, p. 332-337.
([61]) Report – Chapter 13, p. 336.
([62]) Report – Chapter 13, p. 337-341.
([63]) Report – Chapter 6, p. 114-117.
([64]) Report – Chapter 6, p. 119.
([65]) Report – Chapter 6, p. 120.

(138) 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.

(139) 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 GOC and the strength of any implicit guarantee by the government. Estimates strongly suggest that Chinese credit ratings systematically correspond to lower international ratings ([66]).

(140) These issues are compounded by additional rules which direct finances into sectors designated by the government as encouraged or otherwise important ([67]). This results in a bias in favour of 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.

(141) Second, 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.

(142) Third, 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.

(143) Overall credit growth in the PRC 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 GOC 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.

(144) In essence, despite the recent steps that have been taken to liberalize the market, the corporate credit system in the PRC continues to be affected by significant distortions resulting from the continuing pervasive role of the state in the capital markets.

(145) No evidence was submitted to the effect that the WPT sector is exempted from government intervention in the financial system described above. Therefore, the substantial government intervention in the financial system leads to the market conditions being severely affected at all levels.

(9) Systemic nature of the distortions described

(146) The Commission noted that the distortions described in the Report are characteristic for the Chinese economy. The evidence available shows that the facts and features of the Chinese system as described above in Sections 3.2.2.2(a)(1)- 3.2.2.2(a)(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 3.2.2.2(a)(6)-3.2.2.2(a)(8) above and in Part B of the Report.

([66]) See IMF Working Paper 'Resolving China's Corporate Debt Problem', by Wojciech Maliszewski, Serkan Arslanalp, John Caparusso, José Garrido, Si Guo, Joong Shik Kang, W. Raphael Lam, T. Daniel Law, Wei Liao, Nadia Rendak, Philippe Wingender, Jiangyan, October 2016, WP/16/203.

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

(147) The Commission recalls that in order to produce WPT, a broad range of inputs is needed. When the producers of WPT purchase/contract these inputs, the prices they pay (and which are recorded as their costs) are clearly exposed to the same systemic distortions mentioned before. For instance, suppliers of inputs employ labour that is subject to the distortions. They may borrow money that is subject to the distortions on the financial sector/capital allocation. In addition, they are subject to the planning system that applies across all levels of government and sectors.

(148) As a consequence, not only the domestic sales prices of WPT are not appropriate for use within the meaning of Article 2(6a)(a) of the basic Regulation, but all the input costs (including raw materials, energy, land, financing, labour, etc.) are also affected because their price formation is affected by substantial government intervention, as described in Parts 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 the PRC by combining a range of factors of production is exposed to significant distortions. The same applies for the input to the input and so forth. No evidence or argument to the contrary has been adduced by the GOC or the exporting producers in the present investigation.

(10) Conclusion

(149) The analysis set out in Sections 3.2.2.2(a)(2) to 3.2.2.2(a)(9), which includes an examination of all the available evidence relating to the PRC's intervention in its economy in general as well as in the WPT sector (including the product under review) showed that prices or costs of the product under review, including the costs of raw materials, energy and labour, are not the result of free market forces because they are affected by substantial government intervention within the meaning of Article 2(6a)(b) of the basic Regulation as shown by the actual or potential impact of one or more of the relevant elements listed therein. On that basis, and in the absence of any cooperation from the GOC and the exporting producers in the PRC, the Commission concluded that it is not appropriate to use domestic prices and costs to establish normal value in this case.

(150) 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 claim was presented that some domestic costs would be undistorted under the third indent of Article 2(6a)(a) of the basic Regulation.

(b) ***Representative country***

(1) General remarks

(151) The choice of the representative country was based on the following criteria pursuant to Article 2(6a) of the basic Regulation:

— A level of economic development similar to the PRC. For this purpose, the Commission used countries with a gross national income per capita similar to the PRC on the basis of the database of the World Bank ([68]),

— Production of the product under review in that country ([69]),

— Availability of relevant public data in the representative 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.

([68]) World Bank Open Data – Upper Middle Income, https://data.worldbank.org/income-level/upper-middle-income

([69]) 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.

(152) As explained in recitals (95) and (96), the Commission issued on 11 May and 4 June 2020 two notes to the file on the sources for the determination of the normal value and production factors (the 'First Note' and the 'Second Note'). In the Second Note, the Commission informed interested parties of its conclusion that Thailand was an appropriate representative country in the present case.

(2) A level of economic development similar to the PRC

(153) In the First Note, the Commission identified Brazil, Malaysia, Mexico, Thailand and Turkey as countries with a similar level of economic development as the PRC according to the World Bank, i.e. they are all classified by the World Bank as 'upper-middle income' countries on a gross national income basis.

(154) No comments were received concerning the level of economic development following that note.

(3) Production of the product under review in the representative country

(155) In the First Note, the Commission indicated that production of the product under review was identified in Brazil, Malaysia, Mexico, Thailand and Turkey. However, Malaysia was excluded as a potential representative country, since only one producer of the product under review was identified, with no publicly available financial statements for the RIP.

(156) No comments were received concerning the production of the product under review in possible representative countries following the First Note.

(4) Availability of relevant public data in the representative country

(157) For the countries considered and mentioned above, the Commission further verified the availability of the public data, and in particular public financial data from the producers of the product under review.

(158) The Commission looked for WPT producers with publicly available financial data that could be used to establish undistorted and reasonable amounts for SG&A expenses and profit. The Commission restricted the search to companies with publicly available profit and loss statements for the RIP and that were profitable in this period. Moreover, preference was given to WPT producers having their financial statements publicly available at a company level rather than at a consolidated level for the respective entire group. Therefore, the Second Note included only two companies in Thailand and one in Turkey.

(159) Based on the quality and detail of the publicly available financial data available in Thailand and Turkey, and also considering the availability and representativeness of the benchmarks for factors of production ([70]), the Commission considered that Thailand was an appropriate representative country

(160) The Commission carefully analysed all relevant data available in the file for the factors of production in Thailand and noted the following:

— The Commission analysed the import statistics of all factors of production listed in the First Note, as updated by the Second Note, and concluded that there were imports of all the factors of production necessary for the production of the product under review in the RIP,

— Energy statistics (prices for electricity and natural gas) for the RIP were readily available in the form of data provided respectively by the Metropolitan Electricity Authority and Ministry of Energy,

— Statistics for labour cost were available on the website of the National Statistical Office.

([70]) In Turkey, during the RIP, there were no import data for an important factor of production – the main by-product (non-alloy steel scrap). Furthermore, there were export restrictions with regard to sulphuric acid. In Thailand, import data were available for all the raw materials and by-products, and no export/import restrictions were identified concerning any of the factors of production.

(161) According to Article 2(6a)(a) of the basic Regulation, the constructed normal value shall include an undistorted and reasonable amount for SG&A and for profits. As stated in recital (96), the Commission held that Thai producers Pacific Pipe Co., Ltd. and Asia Metal Co., Ltd. had publicly available financial statements that could be used as a proxy to determine an undistorted and reasonable amount for SG&A and profits.

(5) Level of social and environmental protection

(162) Having established that Thailand was an appropriate representative country on the basis of these elements, there was no need to carry out an assessment of the level of social and environmental protection in accordance with the last sentence of Article 2(6a)(a) first indent of the basic Regulation.

(6) Conclusion on representative country

(163) In view of the above analysis, Thailand 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, Thailand had a substantial production of the product under review and a complete set of data available for all factors of production, SG&A and profit.

(c) ***Sources used to establish undistorted costs***

(164) In the Second Note, the Commission stated that, in order to construct the normal value in accordance with Article 2(6a)(a) of the basic Regulation, it would use GTA to establish the undistorted cost of most of the factors of production in the representative country.

(165) The Commission further stated that the statistics of the ILO and national statistics would be used to establish the undistorted costs of labour in the representative country; while national statistics, as referred to in recital (160), would be used to establish undistorted energy costs.

(166) The Commission included in the calculation a value for manufacturing overhead costs in order to cover costs not included in the factors of production referred to above. To establish this amount, it made use of the financial data of one of Union producers that cooperated in the framework of the dumping investigation and that provided specific information for that purpose ([71]), Arcelor Mittal Tubular Products, Poland ('AMTP'). The methodology is duly explained in Section 3.2.2.2(e).

(167) Finally, as stated in the Second Note, the Commission used the financial data from the selected Thai companies, listed in recital (161) to establish SG&A costs and profits.

(d) ***Undistorted costs and benchmarks***

(168) Through the two notes on production factors, the Commission sought to establish a 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 producers in the PRC. The Commission did not receive any comments concerning the list of factors of production shared with interested parties in those notes.

(169) In the absence of cooperation by Chinese exporting producers in the review procedure, the Commission had to rely on the European producer AMTP in order to establish the factors of production used in the production of WPT. Based on data collected from the Chinese companies during the original investigation and information available on the websites of Chinese WPT producers, their production process and the materials used appear to be similar to the ones provided by AMTP.

(170) In the absence of cooperation, the Commission did not have more detailed tariff codes for each factor of production than the 6-digit HS codes. The HS codes used matched fully with the Thai tariff codes.

([71]) Figures provided for the manufacturing overheads were remotely crosschecked and reconciled with the company accounts.

(171) Considering all the information submitted by AMTP and the absence of comments on the two notes on the sources for the determination of the normal value concerning the factors of production, the following factors of production and tariff codes, where applicable, have been identified:

*Table 1*

**Factors of production of WPT**

| Factor of Production | HS Code | Source of data | Unit undistorted value |
|---|---|---|---|
| **Raw Material** | | | |
| Flat-rolled products of iron or non-alloy steel, of the width of ≥ 600mm, in coils, simply hot-rolled, not clad, plated or coated, of a thickness of ≥ 4,75 mm but < 10mm, not pickled, without patterns in relief | 7208 37 | GTA | 4,34 CNY/kg |
| Flat-rolled products of iron or non-alloy steel, of the width of ≥ 600mm, in coils, simply hot-rolled, not clad, plated or coated, of a thickness of ≥ 3mm but < 4,75, not pickled, without patterns in relief | 7208 38 | GTA | 3,96 CNY/kg |
| Flat-rolled products of iron or non-alloy steel, of the width of ≥ 600mm, in coils, simply hot-rolled, not clad, plated or coated, of a thickness of < 3mm, not pickled, without patterns in relief | 7208 39 | GTA | 4,05 CNY/kg |
| Zinc | 7901 11 | GTA | 20,69 CNY/kg |
| Sulphuric Acid | 2807 00 | GTA | 0,56 CNY/kg |
| **Labour** | | | |
| Labour wages in manufacturing sector | [N/A] | See Section 3.2.2.2.(d)(2) | 19,91 CNY/hour |
| **Energy** | | | |
| Electricity | [N/A] | See Section 3.2.2.2.(d)(3) | 0,88 CNY/kWh |
| Natural Gas | [N/A] | See Section 3.2.2.2.(d)(4) | 2,73 CNY/m3 |
| **By-products** | | | |
| Non-alloy steel scrap | 7204 41 | GTA | 3,12 CNY/kg |
| Non-alloy steel scrap chips | 7204 41 | GTA | 3,12 CNY/kg |
| Non-alloy steel scale scrap | 7204 49 | GTA | 2,11 CNY/kg |
| Zinc Ash | 2620 19 | GTA | 8,11 CNY/kg |
| Hard Zinc | 2620 11 | GTA | 14,74 CNY/kg |

(1) Raw materials and by-products

(172) In order to establish undistorted prices of materials as delivered at the gate of the producer's factory as provided by Article 2(6a)(a), first indent and considering that there were no cooperating producers in the PRC, the Commission used the import prices into the representative country for each material used in the production of WPT by AMTP. The Commission verified the reported raw materials used, the by-products generated, and the relevant consumption ratios in the manufacturing of the product under review.

(173) For all raw materials and by-products, the Commission relied on import prices in the representative country. The 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 imports from the PRC into the representative country as it concluded in recital (149) that it is not appropriate to use domestic prices and costs in the PRC due to the existence of significant distortions in accordance with Article 2(6a)(b) of the basic Regulation. Given that there is no evidence showing that the same distortions do not equally affect products intended for export, the Commission considered that the same distortions affected export prices. Only in case of sulphuric acid, were the excluded imports volumes from China noticeable accounting for 4,7 % of the total imports of the representative country. For all other raw materials and the by-products, the relevant shares of imports ranged from none to 0,3 %.

(174) Normally, import volumes in the representative country from non-WTO members listed in Annex 1 of Regulation (EU) 2015/755 would also be excluded. Article 2(7) of the basic Regulation considers that domestic prices in those countries cannot be used for the purpose of determining normal value. However, in this case no imports of raw materials and by-products from these countries were recorded in Thailand in the RIP.

(175) In order to establish the undistorted price of raw materials, delivered at the gate of the exporting producer's factory as provided by Article 2(6a)(a), first indent of the basic Regulation, the Commission applied the import duty of the representative country, at the respective levels, depending on the country of origin of the imported volumes. Furthermore, the Commission added domestic transport costs calculated per kg on the basis of quotation for Laem Chabang port – Bangkok, deliveries as provided by the World Bank report ([72]).

(2) Labour

(176) To establish the benchmark for labour costs, the Commission used the ILO statistics together with publicly available Thai national statistics and the information of KPMG on taxes and levies in Thailand ([73]).

(177) The ILO statistics provided data on the mean weekly hours actually worked per employed person in the manufacturing sector in Thailand during the RIP ([74]).

(178) Although data on monthly earnings of employees in the manufacturing sector were also provided in the ILO statistics, the Commission decided to refer to statistics from the Thai National Statistical Office, which provided more detailed information on wages and non-wage benefits in different economic sectors by quarter ([75]).

(179) Finally, the Commission used information provided by KPMG to establish the social security tax payed by the employer.

(180) Using that data, the Commission calculated an hourly salary in manufacturing, to which additional labour related costs borne by the employer were added.

([72]) https://www.doingbusiness.org/content/dam/doingBusiness/country/t/thailand/THA.pdf p. 48.
([73]) https://home.kpmg/xx/en/home/insights/2011/12/thailand-other-taxes-levies.html
([74]) https://www.ilo.org/shinyapps/bulkexplorer17/?lang=en&segment=indicator&id=HOW_TEMP_SEX_ECO_NB_A
([75]) http://www.nso.go.th/sites/2014en/Pages/Statistical%20Themes/Population-Society/Labour/Labour-Force.aspx (Quarter 1 to 4, Excel file – Folder 1-19 Wk, Table 15).

(3) Electricity

(181) To establish the benchmark for electricity, the Commission used the quotation of the electricity price for business, industrial and state enterprises available on the website of the Metropolitan Electricity Authority ([76]).

(182) Taking into account the absence of cooperation by the Chinese producers, all the remaining parameters required to calculate the average undistorted benchmark price of electricity, such as voltage range, on-peak/off peak hours and on-peak demand, were based on the data provided by AMTP.

(4) Natural gas

(183) To establish the benchmark for natural gas, the Commission used the statistical report of the Energy Policy and Planning Office (Ministry of Energy) ([77]). This report covered the entire RIP, however it provided total figures for consumption quantity and value of natural gas regardless of the type of user (households, industry, transport) and in all forms. However, the Commission was not able to identify any source which would allow these figures to be narrowed down to the manufacturing sector only. In a more detailed annual report of the Department of Alternative Energy Development and Efficiency (Ministry of Energy) ([78]), consumption data is only provided in terms of volume and thus it is not possible to calculate the natural gas price on this basis. Based on the latter report, the manufacturing sector accounted for 44 % of the total consumption of natural gas in Thailand during the RIP.

(e) ***Manufacturing overhead costs, SG&A and profits***

(184) Further to the factors of production summarised under recital (171) above, manufacturing overhead costs were calculated. In view of the lack of cooperation from Chinese producers, the calculation of these manufacturing overhead costs was based on the ratio of manufacturing overhead divided by the cost of manufacturing reported by AMTP. This percentage was applied to the undistorted costs of manufacturing.

(185) For SG&A and profit, the Commission used the financial data of the Thai producers Pacific Pipe Co., Ltd. ([79]) and Asia Metal Co., Ltd. ([80]). The Commission calculated first for each of the two companies their respective percentages of SG&A and profit over the cost of goods sold ('COGS'). Then, an average SG&A and profit in the representative country (weighted by the companies' turnovers) was established. Publicly available audited accounts of these companies were made available to the interested parties as an attachment to the Second Note.

(f) ***Calculation of normal value***

(186) On the basis of the above, the Commission constructed the normal value per basic product type on an ex-works basis in accordance with Article 2(6a)(a) of the basic Regulation.

(187) First, the Commission established the undistorted manufacturing costs. In the absence of cooperation by the exporting producers, the Commission relied on the information provided by the AMTP on the consumption of each factor of production (raw materials, labour and energy) for the production of the product under review. These consumption volumes were multiplied by the undistorted costs per unit established in Thailand, as described in Section (d) above.

(188) The calculation was done separately for two basic types of WPT, i.e. for black pipes/tubes and galvanized pipes/tubes. Galvanized pipes/tubes are black pipes/tubes that have subsequently undergone a galvanizing process, in which the pipe/tube is coated with a layer of zinc. Therefore, the manufacturing of the galvanized product requires the additional consumption of energy and labour and the additional use of zinc and sulphuric acid, which are not consumed at all in the manufacturing of black pipes/tubes.

([76]) http://www.mea.or.th/en/profile/109/114 – industrial TOU tariff was used.
([77]) http://www.eppo.go.th/index.php/en/en-energystatistics/energy-economy-static Table 7.2.4.
([78]) https://www.dede.go.th/ewt_news.php?nid=42079
([79]) https://www.pacificpipe.co.th/EN/investor.html#financial_information
([80]) https://asiametal.co.th/Investor/index.php?page=fin_data&lang=0

(189) Second, to arrive at the undistorted costs of production, the Commission added the percentage of the manufacturing overheads determined as described in recital (184) to the undistorted costs of manufacturing.

(190) Finally, in addition to the cost of production established as described in recital (189), the Commission applied the SG&A and profit in the representative country established as explained in recital (185). The SG&A and profit expressed as a percentage of COGS and applied to the undistorted costs of production amounted to 4,3 % and 3,0 % respectively.

(191) The normal values for the two types of products, calculated as described in recitals (187) to (190), were reduced by the undistorted values of the by-products, based on the list of by-products provided by AMTP. Undistorted values of the by-products were established by multiplying the quantities sold in the RIP, as reported by AMTP, by their undistorted costs per unit established in Thailand, as described in section d) above. The adjustment for certain by-products (zinc ash, hard zinc) was done only with regard to the normal value established for galvanized products as those by-products are obtained in the galvanization process.

(192) On that basis, the Commission constructed the normal value on an ex-works basis in accordance with Article 2(6a)(a) of the basic Regulation. Due to the fact that no exporting producers cooperated, the normal value was established on a countrywide basis.

3.2.2.3. Export price

(193) In the absence of cooperation by the Chinese exporting producers, the export price was determined based on CIF Eurostat data corrected to ex-works level. Thus, the CIF export price was reduced by the sea freight and insurance costs ([81]) and domestic transport cost in China ([82]). A separate export price was established for black and galvanized products.

3.2.2.4. Comparison and dumping margin

(194) The Commission compared, per product type, the constructed normal value established in accordance with Article 2(6a)(a) of the basic Regulation with the export price as established above.

(195) For certain products, the PRC applies a policy of reimbursing VAT only partially upon export. To ensure that the normal value is expressed at the same level of taxation as the export price, the normal value is normally adjusted upward by that part of VAT charged on exports of the product under review that was not refunded to the Chinese exporting producers. However, statistics data from the Chinese tax and custom administration website and data of Transcustoms ([83]) indicated that in the RIP, the VAT charged on exports of WPT was fully refunded. Therefore, no VAT adjustment was applied.

(196) On that basis, the weighted average dumping margin, expressed as a percentage of the CIF Union frontier price, duty unpaid, was found to be negative.

3.2.2.5. Conclusion

(197) The Commission concluded that exports of the product under review from China were not dumped during the RIP. However, the volume of imports in question was very limited, accounting to 0,2 % of the EU imports in total and 0,1 % of the share in the Union market, and thus the prices were considered unrepresentative. Therefore, the Commission investigated also the likelihood of recurrence of dumping.

([81]) On the basis of the OECD Dataset: International Transport and Insurance Costs of Merchandise Trade (ITIC) – China-the Netherlands. https://stats.oecd.org/Index.aspx?DataSetCode=CIF_FOB_ITIC

([82]) On the basis of quotation for Tianjin port – Beijing deliveries as provided by World Bank https://www.doingbusiness.org/content/dam/doingBusiness/country/c/china/CHN.pdf p. 88.

([83]) http://www.transcustoms.cn/index.asp

3.2.3. *Likelihood of recurrence of dumping should the measures be repealed.*

(198) Further to the finding of absence of dumping during the RIP, the Commission investigated the likelihood of recurrence of dumping should the measures be repealed, in accordance with Article 11(2) of the basic Regulation. The following additional elements were analysed: the existence of dumped export to third countries, the production capacity and spare capacity in the PRC, availability of other markets and the attractiveness of the Union market.

3.2.3.1. Exports to third countries

(199) Based on GTA imports statistics, the Commission identified the five biggest importers of WPT from the PRC during the review investigation period: the Philippines, Hong Kong, Peru, Indonesia and Singapore ([84]). The Commission decided to exclude Hong Kong from its analysis as big discrepancies were identified in the reported trade volumes between the PRC and Hong Kong when comparing the respective GTA import and export reports and because Hong Kong does not seem to be the final destination of the Chinese exports of the product under review. With regard to Chinese exports of WPT to the remaining four main markets, dumping calculations were made following the methodology described below.

(a) ***Normal value***

(200) To assess dumping from the PRC to third countries, the Commission used the same normal value as in dumping calculation concerning the Union market, constructed as described in recitals (168) to (192).

(b) ***Export price***

(201) As there was no cooperation from Chinese producers, the likely export price to the Union was estimated by analysing the current Chinese export prices to third countries, based on the relevant country specific GTA import statistics.

(202) All the four countries concerned reported their import value at CIF level. Therefore, the Commission adjusted the reported prices to calculate the export price at ex-works level by deducting the sea freight and insurance costs ([85]) and domestic transport cost in China ([86]).

(203) In case of Peru, the sea freight and insurance costs for deliveries from the PRC were not provided in the above source. Therefore, the Commission decided to use a quotation for PRC-Chile deliveries that was available from the same source.

(c) ***Comparison and dumping margins***

(204) The Commission compared the constructed normal value and the export prices to third countries on an ex-works basis. Where possible ([87]), the comparison was done per product type (black/galvanized) and a weighted average dumping amount was established.

(205) The above comparison showed a countrywide dumping margin for the Chinese exports to the four countries, expressed as a percentage of their respective CIF values as follows:

([84]) Countries are listed according to the volumes of imports from the PRC.

([85]) On the basis of the OECD Dataset: International Transport and Insurance Costs of Merchandise Trade (ITIC) – China-country in question. https://stats.oecd.org/Index.aspx?DataSetCode=CIF_FOB_ITIC

([86]) On the basis of quotation for Tianjin port – Beijing deliveries as provided by World Bank https://www.doingbusiness.org/content/dam/doingBusiness/country/c/china/CHN.pdf p. 88.

([87]) In case of Peru, the country custom codes do not allow to distinguish between the black and galvanized products. Therefore, all the pipes/tubes under review were treated as one product type in the calculation.

| Country | % of total 'world' imports of the PUI from the PRC | Dumping margin (%) |
|---|---|---|
| The Philippines | 19,3 | 71,7 |
| Peru | 5,3 | 25,6 |
| Indonesia | 4,4 | 21,4 |
| Singapore | 4,2 | 18,9 |

3.2.3.2. Production capacity and spare capacity in the PRC

(206) Given the non-cooperation of the GOC and Chinese producers, the 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 and Huajing Industry Research Institute ([88]) ('HIRI'), in accordance with Article 18 of the basic Regulation.

(207) According to both these sources, the production capacity in the PRC substantially exceeds the current production volumes and internal demand on the Chinese market. The figures provided in recitals (208) and (209) below relate to the total production of iron and steel welded pipes and tubes. The applicant estimated that roughly 80 % of this production is 'small pipes and tubes' with an outer diameter equal or lower than 406,4 mm, which corresponds to the product under review. This estimate is confirmed by the report of HIRI. Although no exact figures are provided, the report indicates that '*most of the welded pipes produced by the welded pipe industry in China are small-diameter and thick-walled products*'. Therefore, the Commission considered the discrepancy between the production capacity and the actual production and demand on the Chinese market as shown below to be representative for the product under review.

(208) According to the data provided in the request, and subsequently updated during the investigation, the production of welded pipes and tubes within the PRC amounted to 60 million tonnes in the RIP. A slightly lower figure of 56 million tonnes is provided in the report of HIRI. Furthermore, the latter report indicates that this production volume, even without taking into account spare capacity, already exceeds internal demand in the PRC, which is estimated at 52,4 million tonnes.

(209) According to the applicant, the spare production capacity of the product under review in the PRC amounts to around 10 million tonnes. The report by HIRI does not provide any actual capacity data. It underlines however clearly the existence of overproduction of welded pipes in the PRC and the existence of serious overcapacity. The report states among others that '… *with the rapid development of China's industry, although China's demand for welded pipes has increased significantly, the growth rate of its demand is still relatively low, which is lower than the output rate of welded pipes. This has caused the current situation of overcapacity of welded pipes. It is not conducive to the development of the welded pipe industry. In addition, one of the reasons for the overcapacity is that some domestic industries have higher requirements for welded pipes, including quality requirements, diameters and pipe wall requirements. China's welded pipes cannot meet the needs of these industries and need to be purchased from foreign countries. This results in the current situation of reduced demand which has exacerbated domestic overcapacity*' ([89]).

(210) Based on the above, the Commission concluded that the Chinese exporting producers have significant spare capacities, which they could use to produce WPT to export to the Union if the measures were allowed to lapse.

([88]) https://m.huaon.com/detail/407989.html; https://m.huaon.com/detail/617918.html

([89]) Analysis of the 2018 steel welded pipes industry in China, Huajing Information Network, published on 5.3.2019 https://m.huaon.com/detail/407989.html

3.2.3.3. Availability of other markets

(211) There is a wide range of trade defence measures and other import restrictions in force against exports of WPT originating in the PRC. According to Global Trade Alert ([90]), such measures are applied in Australia (anti-dumping and countervailing duties), Canada (anti-dumping and countervailing duties), Colombia (anti-dumping measures), Mexico (anti-dumping measures), Pakistan (import ban), Thailand (anti-dumping measures), Turkey (safeguard) and the USA (anti-dumping measures and section 232 measures). Those measures not only limit the access of Chinese producers to the above listed markets but also confirm the continued unfair trade practices of the Chinese WPT producers.

(212) 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.

3.2.3.4. Attractiveness of the Union market

(213) According to the GTA data, the Chinese exporting producers exported to their main third markets at prices from 8 % to 21 % lower as compared to the average sales prices of the Union producers on the Union market. Taking into account this price level, exporting to the Union is potentially much more attractive for the Chinese exporters than exporting to almost all other countries.

(214) The Union market is also attractive to the Chinese producers in view of its size, with a total consumption of over 540 000 tonnes.

3.2.3.5. Conclusion on the likelihood of recurrence of dumping

(215) In view of the above, the Commission concluded that, regardless of whether there was dumping during the review investigation period, it is likely that there would be recurrence of Chinese dumping towards the EU should the measures lapse.

3.2.4. *Overall conclusion on the likelihood of continuation or recurrence of dumping*

(216) Although the investigation did not show that Chinese imports continued to enter the Union market at dumped prices during the RIP, this does not allow for the conclusion that the unfair pricing practices of the Chinese producers of WPT would not recur if measures would lapse.

(217) Indeed, Chinese exports to the main third countries targeted by the Chinese WPT producers involved ongoing dumping practices. Taking into account substantial export volumes to these countries (from 20 000 to 93 000 tonnes as compared with a mere 559 tonnes exported to the Union), the prices of those exports are considered more representative to establish potential dumping practices. Continuous unfair pricing practices are also confirmed by the several trade defence measures in force against the Chinese exports of the WPT in other countries.

(218) Furthermore, the Commission found other indicators that dumping will likely recur should the measures lapse.

(219) The spare capacity in the PRC is very significant and exceeds more than ten times the total Union consumption during the review investigation period. What is more, the HIRI report indicated that only over the years 2018-2019 Chinese capacity of the welded pipes and tubes production increased by 10 million tonnes and a further increase is to be expected.

(220) Finally, the attractiveness of the Union market in terms of size and prices, and the fact that other markets remain closed due to protective measures, indicates that it is likely that Chinese exports and spare capacity would be (re) directed towards the Union, should the measures be allowed to lapse.

([90]) https://www.globaltradealert.org/
https://www.globaltradealert.org/data_extraction
https://www.globaltradealert.org/latest/state-acts

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

### 3.3. **Russia**

#### 3.3.1. *Preliminary remarks*

(222) During the review investigation period, imports of the product under review from Russia continued albeit at significantly lower levels than in the investigation period of the original investigation (i.e. from July 2006 to June 2007). According to Comext (Eurostat) statistics, imports of WPT from Russia accounted for less than 2 000 tonnes in the review investigation period, compared to more than 36 000 tonnes during the original investigation period (July 2006 to June 2007). A similarly low level of imports was noted during the previous expiry review. Imports of WPT from Russia accounted for about 0,4 % of the Union market in the review investigation period compared to 2,7 % market share during the original investigation period and 0,7 % during the review investigation period of the previous expiry review.

(223) Two Russian exporting producers, PAO Severstal and TMK, came forward at initiation and expressed their willingness to cooperate. However, TMK Group later informed the Commission that they did not intend to reply to the exporting producer's questionnaire.

(224) Moreover, during the remote cross-check of the information provided by PAO Severstal, which took place from 11 to 13 November 2020, the Commission identified substantial and serious deficiencies in the reporting of the domestic sales of the product under review. These deficiencies significantly impeded the normal process of the investigation for that section of the questionnaire reply. In particular, PAO Severstal had provided incorrect information as regards the number of transactions reported, the total sales quantity, the total sales value and the allowances reported for the domestic sales of the product under review to unrelated customers.

(225) In the late afternoon of the 13 November, the company provided an updated version of domestic sales. However, due to insufficient time, it was not possible for the Commission to cross-check this revised version and reconcile it with the other information provided.

(226) Moreover, the profit reported was allocated to the product under review and to the various sales flows of the product under review proportionally based on the turnover. This was not acceptable, as the profit is directly influenced by the cost of manufacturing that differs between products and product types. Moreover, given that the errors mentioned above in recital (224) affected also the reported turnover of the product under review, also the profit figures should have been reviewed based on the outcome of the domestic sales analysis.

(227) The Commission considered that these substantial and serious deficiencies significantly impeded the normal process of the investigation, for this section of the questionnaire. Therefore, the Commission informed PAO Severstal about its intention to apply facts available in accordance with Article 18(1) of the basic Regulation as far as the domestic sales and the calculation of the normal value was concerned.

(228) Since no other producer of the product under review in Russia cooperated and provided a reply to the questionnaire, the Commission informed the authorities of the Russian Federation about its intention to apply facts available in accordance with Article 18 of the basic Regulation as far as the calculation of the normal value is concerned and base its findings on dumping and likelihood of continuation and/or recurrence of dumping in respect of all exporting producers in Russia on facts available.

(229) The Commission did not receive any comments or requests for an intervention of the Hearing Officer in this regard.

(230) Consequently, in accordance with Article 18 of the basic Regulation, the findings in relation to the likelihood of continuation or recurrence of dumping were based on facts available, in particular the normal value was constructed using the information provided by PAO Severstal that were cross checked and found correctly reported.

3.3.2. *Continuation of dumping of imports during the review investigation period*

3.3.2.1. Normal value

(231) As mentioned in recital (230) above, the non-cooperation from exporting producers in Russia forced the Commission to use facts available in establishing the normal value. To this end, the information submitted by the partially cooperating Russian producer was used.

(232) In accordance with Article 2(3) of the basic Regulation, normal value was constructed by adding the following to the weighted average cost of production per PCN of the like product of the partially cooperating exporting producer during the review investigation period:

— the weighted average selling, general and administrative ('SG&A') expenses incurred by the cooperating exporting producer on domestic sales of the like product, in the ordinary course of trade, during the review investigation period, and

— the weighted average profit realised by the cooperating exporting producer on domestic sales of the like product, in the ordinary course of trade, during the review investigation period.

(233) In the absence of any other reliable and verified profit the Commission used the profit declared by the company even if it was found to be incorrectly allocated, as explained above in recital (226). The profit margin used corresponds to the total profit of the company (for all products) as reported in the audited accounts, and it was therefore considered the most reliable benchmark. Moreover, the correct profit would necessarily have been higher than the one declared by the company. In the case at hand, given that the dumping margin, as explained in recital (238) below, was already as high as to confirm the existence of dumping during the review investigation period, an increase of the dumping margin as a result of this adjustment is therefore not relevant to the outcome of this review.

(234) The cost of production was adjusted, wherever found necessary.

3.3.2.2. Export price

(235) Due to the non-cooperation from the exporting producers in Russia, the Commission had to use facts available in establishing the export price. Information from the sole partially cooperating Russian producer could not be used as this producer did not export the product under review to the EU during the review investigation period.

(236) Therefore, the export price was determined based on CIF Eurostat data corrected to ex-works level. Thus, the CIF export price was reduced by the freight and insurance costs ([91]) and domestic transport cost in Russia ([92]).

3.3.2.3. Comparison

(237) The Commission compared the normal value and the export price of the product under review on an ex-works basis.

(238) The above comparison showed a countrywide dumping margin for the Russian exports to the EU, expressed as a percentage of the CIF value of 12,4 %. It was therefore concluded that dumping continued during the review investigation period.

3.3.2.4. Conclusion

(239) The Commission therefore concluded that dumping from Russia continued during the review investigation period. However, as the volume of imports in question was very limited, accounting for 0,7 % of total EU imports and 0,4 % of the share of the Union market, the Commission also investigated the likelihood of recurrence of dumping.

([91]) On the basis of the OECD Dataset: International Transport and Insurance Costs of Merchandise Trade (ITIC) – Russia-Latvia: https://stats.oecd.org/Index.aspx?DataSetCode=CIF_FOB_ITIC#.

([92]) On the basis of quotation for Moscow – St Petersburg deliveries as provided by World Bank: https://www.doingbusiness.org/content/dam/doingBusiness/country/r/russia/RUS.pdf p. 85.

(240) After disclosure it was argued by the authorities of the Russian Federation that the likelihood of continuation of dumping as regards Russian exporters, cannot be positively established since the determination of dumping made in the previous expiry review and in the original investigation were both inconsistent with WTO rules.

(241) In their comments the Russian authorities claimed that the adjustment of the cost of natural gas, applied by the Commission in the previous expiry review and in the original investigation is incompatible with Articles 2.2.1.1, 2.2.1 and 2.2 ADA and with the findings made in the following WTO cases: EU – Biodiesel (Argentina), Ukraine – Ammonium Nitrate and EU – Cost Adjustment Methodologies. The Russian authorities specifically refer to findings in the latter report issued on 24 July 2020 ([93]) ('DS494 Report'), namely that the alleged Russian government intervention/market distortion did not constitute an adequate basis to conclude that the records of the exporting producers did not reasonably reflect the costs associated with the production and sale of the product concerned.

(242) This comment had to be rejected for the following reasons. First, the findings of the DS494 Report are subject to appellate proceedings and therefore the panel's findings are yet not final. Second, as set out in recital (232), in the current investigation the Commission established the normal value using the cost of production of the like product as reported by the partially cooperating Russian exporting producer during the review investigation period, without applying any cost adjustment.

3.3.3. *Likelihood of recurrence of dumping should measures be repealed*

(243) The Commission investigated in accordance with Article 11(2) of the basic Regulation the likelihood of recurrence of dumping, should the measures be repealed. The following additional elements were analysed: the existence of dumped export to third countries, the production capacity and spare capacity in Russia and the attractiveness of the Union market.

3.3.3.1. Exports to third countries

(a) ***Normal value***

(244) Normal value was constructed as explained above in recital (232).

(b) ***Export price***

(245) The export price was established on the basis of sales prices of the partially cooperating Russian producer to other third countries.

(c) ***Comparison and dumping margin***

(246) The Commission compared the constructed normal value and the average export prices to third countries on an ex-works basis. The comparison was done per product type and a weighted average dumping amount was established.

(247) The above comparison showed a countrywide dumping margin for the Russian exports to third countries, expressed as a percentage of the CIF value, of 4,3 %.

3.3.3.2. Production capacity and spare capacity in Russia

(248) Given the limited cooperation by the Russian exporting producers, the production capacity and spare capacity in Russia were established on the basis of facts available and in particular the information provided by the applicant and by the sole partially cooperating Russian producer.

([93]) European Union —Cost Adjustment Methodologies and Certain Anti-Dumping Measures on Imports from Russia, Panel Report of 24 July 2020, WT/DS494/R.

(249) According to the information published in Metal Expert provided by the applicant, the total production capacity of the product under review in Russia exceeds 8 million tonnes. The applicant estimated that the Russian producers have a spare capacity of around 1 million tonnes that cannot be absorbed by the domestic market. Moreover, there are at least 11 producers of the product under review in Russia and the sole cooperating one has, alone, a nominal production capacity that exceeds the total Union consumption.

(250) Based on the above, the Commission concluded that the Russian exporting producers have significant spare capacities, which they could use to produce WPT to export to the Union if measures were allowed to lapse.

3.3.3.3. Attractiveness of the Union market

(251) The investigation revealed that the Russian exporting producer exported to its main third markets at prices around 29 % lower as compared to the average sales prices of the Union producers on the Union market. Taking into account this price level, exporting to the Union is potentially much more attractive for the Russian exporters than exporting to all other countries.

(252) The Union market is also attractive in view of its geographical proximity and size, with a total consumption of 541 000 tonnes.

(253) After disclosure the Russian authorities contested the Commission's view as regards the attractiveness of the Union market for the Russian exporters. In their view Russian producers focus more on the growing internal market and on their main export markets, the CIS countries ([94]), which are attractive due to the absence of import duties.

(254) The Commission disagreed with this view. First, as explained in recitals (238) and (251), sales prices on the Union market are far more attractive for the Russian producers than the domestic and export prices to other third countries. Second, as agreed by the Russian authorities themselves, the absence of duties increases the attractiveness of an export market, therefore the Russian producers will have a strong incentive to redirect their export to the Union market in case the measure were repealed.

3.3.3.4. Conclusion on the likelihood of continuation or recurrence of dumping

(255) The investigation showed that Russian imports continued to enter the Union market at dumped prices during the review investigation period.

(256) Furthermore, the investigation proved that dumping practices existed also with regard to the Russian exports to their main third country markets.

(257) Moreover, the Commission found other evidence that dumping will likely recur should the measures lapse.

(258) The spare capacity in Russia is very significant and exceeds the total Union consumption during the review investigation period. In addition, according to the information provided by the applicant, the Russian capacity of WPT production increased by almost 1 million tonnes between 2018 and 2019.

(259) The Russian authorities contested the estimation of the spare capacity in Russia as provided by the applicant as, in their opinion it did not take into account the facts that some plants are capable, and used, to produce products other than the product concerned, reducing significantly the spare capacity.

(260) In this regard the Commission took into account the other products that can be produced on the same production line. However, it is confirmed that the total nominal capacity of the product concerned, in Russia, is at the levels as estimated above in recital (258). Therefore, the Commission concluded that, given the attractiveness of the Union market, it is likely that the Russian producers will change the product mix, increasing their production capacity of the product under review, should the measures be allowed to lapse.

([94]) Azerbaijan, Armenia, Belarus, Kazakhstan, Kyrgyz Republic, Moldova, Tajikistan, Turkmenistan, Uzbekistan and Ukraine.

(261) Finally, the attractiveness of the Union market in terms of size and prices as demonstrated above, points to the likelihood that Russian exports and spare capacity would be (re)directed towards the Union, should the measures be allowed to lapse.

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

## 4. **INJURY**

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

(263) The like product was manufactured by 12 producers in the Union during the period considered and 11 producers in the Union during the review investigation period. They constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.

(264) The total Union production during the review investigation period was established at around 291 704 tonnes. The Commission established the figure on the basis of all the available information concerning the Union industry, such as data provided by the applicant ([95]). As indicated in recital (15), three Union producers were selected in the sample representing around 40 % of the total Union production of the like product.

### 4.2. **Union consumption**

(265) The Commission established the Union consumption on the basis of the sales volumes of the Union industry's own production destined for the Union market and the import volumes data on the Union market obtained from Eurostat statistics.

(266) Union consumption developed as follows:

*Table 2*

**Union consumption (tonnes)** ([96])

| | 2016 | 2017 | 2018 | Review Investigation period |
|---|---|---|---|---|
| Total Union consumption | 499 998 | 505 443 | 577 397 | 541 409 |
| *Index* | *100* | *101* | *115* | *108* |

*Source*: Eurostat.

(267) Throughout the period considered, the Union consumption increased. It increased with 15 percentage points in 2018 before decreasing with 7 percentage points in the review investigation period compared to 2018. Overall, the Union consumption increased by 8 % between 2016 and the review investigation period.

### 4.3. **Imports from the countries concerned**

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

(268) The Commission established the volume of imports from the countries concerned on the basis of Eurostat statistics. The market share of the imports was established based on of the Union consumption as set out in recital (266).

(269) Imports from the countries concerned and their market share developed as follows:

([95]) The production volume is based on EU-27 data as the United Kingdom ceased to be part of the European Union as from 1 February 2020 and the transition period for the United Kingdom's withdrawal ended on 31 December 2020.

([96]) The consumption is based on EU-27 data, excluding data related to the United Kingdom.

*Table 3*

**Import volume (tonnes) and market share** ([97])

| | 2016 | 2017 | 2018 | Review Investigation period |
|---|---|---|---|---|
| Volume of imports from Russia | 1 235 | 883 | 1 732 | 1 912 |
| *Index* | *100* | *72* | *140* | *155* |
| Market share of imports from Russia (%) | 0,25 | 0,17 | 0,30 | 0,35 |
| *Index* | *100* | *71* | *121* | *143* |
| Volume of imports from Belarus | 18 | 0 | 0 | 4 |
| *Index* | *100* | *0* | *0* | *19* |
| Market share of imports from Belarus (%) | 0 | 0 | 0 | 0 |
| *Index* | *100* | *0* | *0* | *18* |
| Volume of imports from the PRC | 478 | 589 | 424 | 559 |
| *Index* | *100* | *123* | *89* | *117* |
| Market share of imports from the PRC (%) | 0,10 | 0,12 | 0,07 | 0,10 |
| *Index* | *100* | *122* | *77* | *108* |
| Volume of imports from the countries concerned | 1 731 | 1 472 | 2 156 | 2 475 |
| *Index* | *100* | *85* | *125* | *143* |
| Market share of imports from the countries concerned (%) | 0,35 | 0,29 | 0,37 | 0,45 |
| *Index* | *100* | *84* | *108* | *132* |

*Source*: Eurostat.

(270) Imports of the product under review from the countries concerned remained low during the period considered and the review investigation period. Although imports from Russia and the PRC increased between 2016 and the review investigation period, the market share of these two countries remained very low (below 1 %), while the market share of imports from Belarus was below 0,0033 % during the period considered.

4.3.2. *Prices of the imports from the countries concerned and price undercutting*

4.3.2.1. Prices

(271) The Commission established the average prices of imports on the basis of Eurostat statistics.

(272) The weighted average price of imports from the countries concerned developed as follows:

([97]) The import volume is based on EU-27 data, excluding data related to the United Kingdom.

*Table 4*

**Import prices (EUR/tonne)** [98]

| | 2016 | 2017 | 2018 | Review Investigation period |
|---|---|---|---|---|
| Price imports from Russia | 410,52 | 499,74 | 475,80 | 540,37 |
| *Index* | *100* | *122* | *116* | *132* |
| Price imports from Belarus | 101,65 | 0 | 0 | 531,43 |
| *Index* | *100* | *0* | *0* | *523* |
| Price imports from the PRC | 1 429,16 | 2 562,52 | 1 954,28 | 1 515,58 |
| *Index* | *100* | *179* | *137* | *106* |

*Source*: Eurostat.

(273) Regarding imports from Russia, an increase of the average unit price was observed between 2016 and the review investigation period. This price evolution is consistent with the overall price evolution of the product under review (see also Tables 5 and 9 below).

(274) In view of the very low import volumes from the PRC and Belarus, prices of these imports could not be analysed meaningfully.

4.3.2.2. Price undercutting

(275) Since there was no cooperation from exporting producers in the PRC, and in view of the very low quantities imported in the Union from the PRC, no reliable import prices could be established during the review investigation period. Under these circumstances, the Commission determined the price undercutting by imports from the PRC during the review investigation period by comparing:

(1) the weighted average sales prices per product type (black WPT or galvanized WPT) of the sampled Union producers charged to unrelated customers on the Union market, adjusted to an ex-works level; and

(2) the corresponding weighted average prices per product type of the product under review produced in the PRC and sold to the rest of the world established on a CIF basis, with appropriate adjustments for customs duties and post-importation costs. In the absence of any other information, these costs were estimated at 1 % of the CIF value [99].

(276) As far as imports from Russia are concerned, the imports volume in the review investigation period was considered sufficient to give a fair indication of future price behaviour should the measures be allowed to lapse. Considering the non-cooperation from exporting producers in Russia as explained in recital (235), the Commission used CIF Eurostat data to determine the import price. The partially cooperating exporting producer in Russia produced only black WPT and the exports to the Union in Eurostat are composed almost exclusively of black WPT. Therefore, the comparison was done only for the black WPT. The Commission determined the price undercutting by imports from Russia during the review investigation period by comparing:

(1) the weighted average sales prices of the sampled Union producers for black WPT charged to unrelated customers on the Union market, adjusted to an ex-works level; and

[98] The import prices are based on EU-27 data, excluding data related to the United Kingdom.

[99] See Commission Implementing Regulation (EU) 2019/566 of 9 April 2019 imposing a definitive anti-dumping duty on imports of certain tube and pipe fittings originating in the Russian Federation, the Republic of Kora and Malaysia following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council and terminating the investigation concerning the imports of the same product originating in the Republic of Turkey (OJ L 99, 10.4.2019, p. 9), recital 128.

(2) the corresponding weighted average import prices of black WPT from Russia, established on a CIF basis, with appropriate adjustments for customs duties and post-importation costs. In the absence of any other information, these costs were estimated at 1 % of the CIF value.

(277) Regarding imports from Belarus, in view of the very low import quantities to the Union, no reliable import prices to the Union could be established during the review investigation period. Therefore, the Commission used prices of the products under review produced in Belarus and sold to third markets, in particular to Russia, which is the main export market. As explained in recital (60), the exports of galvanized WPT were in limited quantities and showed an incoherent price trend. Therefore, the comparison was made only for non-galvanized WPT, which include black WPT and other WPT. The Commission determined the price undercutting during the review investigation period by comparing:

(1) the weighted average sales prices of the sampled Union producers for non-galvanised WPT charged to unrelated customers on the Union market, adjusted to an ex-works level; and

(2) the corresponding weighted average prices of non-galvanised WPT produced in Belarus and sold to Russia, established on a CIF basis, with appropriate adjustments for customs duties and post-importation costs. In the absence of any other information, these costs were estimated at 1 % of the CIF value.

(278) The result of the comparison was expressed as a percentage of the sampled Union producers' turnover during the review investigation period. It showed a weighted average undercutting margin for the countries concerned of between 6,2 % and 23,5 %.

### 4.4. **Imports from third countries other than Russia, Belarus and the PRC**

(279) The imports of the product under review from third countries other than Russia, Belarus and the PRC were mainly from Turkey, India and the Republic of North Macedonia.

(280) The (aggregated) volume of imports as well as the market share and price trends for imports of the product under review from other third countries developed as follows:

*Table 5*

**Imports from third countries** ([100])

| Country | | 2016 | 2017 | 2018 | Review Investigation period |
|---|---|---|---|---|---|
| Turkey | Volume (tonnes) | 76 782 | 105 062 | 147 155 | 151 189 |
| | *Index* | *100* | *137* | *192* | *197* |
| | Market share (%) | 15 | 21 | 25 | 28 |
| | Average price (EUR/tonne) | 547 | 643 | 702 | 626 |
| | *Index* | *100* | *117* | *128* | *114* |
| India | Volume (tonnes) | 59 483 | 51 718 | 53 545 | 48 903 |
| | *Index* | *100* | *87* | *90* | *82* |

([100]) Imports from third countries are based on EU-27 data, excluding data related to the United Kingdom as a Member State but including data related to the United Kingdom as a third country.

| | | | | | |
|---|---|---|---|---|---|
| | Market share (%) | 12 | 10 | 9 | 9 |
| | Average price (EUR/tonne) | 540 | 683 | 758 | 740 |
| Republic of North Macedonia | *Index* | *100* | *126* | *140* | *137* |
| | Volume (tonnes) | 22 239 | 24 472 | 29 702 | 21 040 |
| | *Index* | *100* | *110* | *134* | *95* |
| | Market share (%) | 4 | 5 | 5 | 4 |
| | Average price (EUR/tonne) | 494 | 607 | 626 | 574 |
| | *Index* | *100* | *123* | *127* | *116* |
| Other third countries | Volume (tonne) | 51 179 | 49 700 | 64 076 | 51 956 |
| | *Index* | *100* | *97* | *125* | *102* |
| | Market share (%) | 10 | 10 | 11 | 10 |
| | Average price (EUR/tonne) | 794 | 884 | 907 | 917 |
| | *Index* | *100* | *111* | *114* | *115* |
| Total of all third countries except the countries concerned | Volume (tonne) | 209 683 | 230 951 | 294 478 | 273 088 |
| | *Index* | *100* | *110* | *140* | *130* |
| | Market share (%) | 42 | 46 | 51 | 50 |
| | Average price (EUR/tonne) | 600 | 700 | 749 | 698 |
| | *Index* | *100* | *117* | *125* | *116* |

*Source:* Eurostat.

(281) Imports of the product under review from Turkey increased substantially during the period considered. The market share of these imports increased with 13 percentage points or around 100 % between 2016 and the review investigation period. Imports from India decreased during the period considered; however, their market share remained important, i.e. 9 %, during the review investigation period. Imports from the Republic of North Macedonia remained constant and represented 4 % market share. The total imports from third countries except the countries concerned increased by 30 % between 2016 and the review investigation period to reach 50 % market share in the review investigation period compared to 42 % in 2016.

(282) The average sales prices of imports from third countries other than the countries concerned increased during the period considered. This trend is consistent with the trend observed for imports from the countries concerned in Table 4 above and the price trend observed for sales of Union industry on the Union market in Table 9 below.

4.5. **Economic situation of the Union industry**

4.5.1. *General remarks*

(283) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.

(284) As mentioned in recital (15), sampling was used for the assessment of the economic situation of the Union industry.

(285) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators on the basis of data related to all Union producers provided by the applicant. The Commission evaluated the microeconomic indicators on the basis of data related to the sampled Union producers contained in the questionnaire replies. Both sets of data were found to be representative of the economic situation of the Union industry.

(286) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity, magnitude of the dumping margin, and recovery from past dumping.

(287) The microeconomic indicators are: average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital.

4.5.2. *Macroeconomic indicators* ([101])

4.5.2.1. Production, production capacity and capacity utilisation

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

*Table 6*

**Production, production capacity and capacity utilisation**

| | 2016 | 2017 | 2018 | Review Investigation period |
|---|---|---|---|---|
| Production volume (tonnes) | 319 525 | 286 386 | 305 907 | 291 704 |
| *Index* | *100* | *90* | *96* | *91* |
| Production capacity (tonnes) | 804 342 | 803 896 | 799 426 | 791 354 |
| *Index* | *100* | *100* | *99* | *98* |
| Capacity utilisation (%) | 40 | 36 | 38 | 37 |
| *Index* | *100* | *90* | *96* | *93* |

*Source*: Information provided by the applicant, information provided by the sampled Union producers.

(289) Although the Union consumption increased by 8 percentage points during the period considered as mentioned in recital (267), the production volume of the like product decreased during the same period from 319 525 tonnes in 2016 to 291 704 tonnes in the review investigation period, which represents a decrease by 9 percentage points. Therefore, the increase of the Union consumption has not benefitted to the Union industry.

([101]) The macroeconomic indicators are based on EU-27 data, excluding data related to the United Kingdom.

(290) The decrease of the production volume is mainly due to the increasing competition that the Union industry faces from imports of the product under review originating in third countries other than the countries concerned. As explained in recitals (281) and (282), import volumes from third countries, in particular from Turkey, have significantly increased during the period considered. The market share of imports from third countries other than the countries concerned has increased by 8 percentage points between 2016 and the review investigation period. The total import volume from these countries in the review investigation period was 273 088 tonnes representing a market share of 50 %, while the total imports volume from the countries concerned in the same period was only 2 475 tonnes representing a market share of below 0,5 %.

(291) Although the production capacity remained stable during the period considered, the capacity utilisation decreased from 40 % to 37 % following the same trend as the production volume.

4.5.2.2. Sales volume and market share

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

*Table 7*

**Sales volume and market share**

| | 2016 | 2017 | 2018 | Review Investigation period |
|---|---|---|---|---|
| Total sales volume on the Union market to unrelated customers (tonnes) | 288 584 | 273 020 | 280 763 | 265 846 |
| *Index* | *100* | *95* | *97* | *92* |
| Market share (%) | 58 | 54 | 49 | 49 |
| *Index* | *100* | *94* | *84* | *85* |

*Source:* Information provided by the applicant, information provided by the sampled Union producers.

(293) Sales volumes of the Union industry of its own production to unrelated customers in the Union followed the same trend as the production volume and decreased in a similar way by 8 percentage points between 2016 and the review investigation period. The market share of the Union industry also decreased from 58 % in 2016 to 49 % in the review investigation period, which corresponds to the increase of market share of imports from third countries other than the countries concerned, which was by 8 percentage points.

(294) Therefore, the decrease in the sales volume of the Union industry and its market share was caused by the increase of imports from third countries other than the countries concerned.

4.5.2.3. Growth

(295) Although between 2016 and the review investigation period the Union consumption increased by 8 %, the volume of sales to unrelated customers in the Union decreased also by 8 %, which resulted in 9 percentage points market share loss for the Union industry over the period considered. Consequently, there was no growth for the Union industry during the period considered.

4.5.2.4. Employment and productivity

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

*Table 8*

**Employment and productivity**

| | 2016 | 2017 | 2018 | Review Investigation period |
|---|---|---|---|---|
| Number of employees | 628 | 630 | 624 | 608 |
| *Index* | *100* | *100* | *99* | *97* |
| Productivity (tonne/ employee) | 508 | 455 | 491 | 480 |
| *Index* | *100* | *89* | *96* | *94* |

*Source:* Information provided by the applicant, information provided by the sampled Union producers.

(297) The number of employees of the Union industry engaged in the production of the product under review decreased between 2016 and the review investigation period by 3 %. The productivity of the Union industry's workforce, measured as output (tonnes) per employee, followed the same trend with a decrease of 6 % over the period considered.

(298) The decrease of the number of employees is due to the decrease of production volume, which is also linked with the decrease of sales and demand for Union industry's products. The decrease of the productivity is explained by the higher decrease of the production volume compared to the decrease of the number of employees.

4.5.2.5. Magnitude of the dumping margin and recovery from past dumping

(299) The Commission concluded in recital (239) that dumping from Russia continued during the review investigation period. The Commission also concluded that there was a likelihood of recurrence of dumping from Belarus and the PRC, if measures would not be extended.

(300) At the same time, the level of imports from the countries concerned during the review investigation period was very limited, representing only 0,45 % of the Union consumption. Therefore, the impact of the magnitude of the actual margins of dumping on the Union industry was rather limited.

(301) The macroeconomic indicators examined above show that, notwithstanding the anti-dumping measures in force since 2008, the economic situation of the Union industry has remained substantially fragile and injurious. Thus, no recovery from the past dumping could be established and the Union industry remains highly vulnerable to the injurious effects of any dumped imports in the Union market.

4.5.3. *Microeconomic indicators* ([102])

4.5.3.1. Prices and factors affecting prices

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

([102]) Microeconomic indicators are based on EU-28 data, including the United Kingdom. Based on the low volume of sales of the sampled Union producers in the United Kingdom (approx. 3 % of the average EU sales of those producers in the RIP), the impact of transactions concerning the United Kingdom would appear to be minimal on the injury findings, and the conclusions on material injury would therefore not have been altered when using EU-27 data.

*Table 9*

**Sales prices in the Union**

| | 2016 | 2017 | 2018 | Review Investigation period |
|---|---|---|---|---|
| Average unit sales price in the Union on the total market (EUR/tonne) | 662 | 763 | 825 | 778 |
| *Index* | *100* | *115* | *125* | *118* |
| Unit cost of production (EUR/tonne) | 731 | 875 | 913 | 912 |
| *Index* | *100* | *120* | *125* | *125* |

*Source*: questionnaire replies of the sampled Union producers.

(303) The average unit sales prices of the Union industry increased during the period considered. Between 2016 and the review investigation period the prices increased by 18 %. The product under review is a commodity and the sales price is influenced by the price of the main raw material – hot rolled coils – which represents more than 50 % of the cost of production. The increase of the sales prices followed to a certain extent the evolution of the cost of production, which increased by 25 % between 2016 and the review investigation period. However, the average sales price did not increase at the same rate as the unit cost of production, which in addition consistently remained above the average sales price during the period considered. This trend is due to the increase of the price of raw materials and the increased competition from imports which put pressure on the Union industry's sales prices.

4.5.3.2. Labour costs

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

*Table 10*

**Average labour costs per employee**

| | 2016 | 2017 | 2018 | Review Investigation period |
|---|---|---|---|---|
| Average labour costs per employee (EUR) | 40 005 | 36 579 | 39 466 | 43 066 |
| *Index* | *100* | *91* | *99* | *108* |

*Source*: questionnaire replies of the sampled Union producers.

(305) The average labour costs per employee first declined from 2016 to 2017 before progressively increasing in 2018 and the review investigation period. Between 2016 and the review investigation period the average labour cost per employee increased by 8 %.

4.5.3.3. Inventories

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

*Table 11*

**Inventories**

| | 2016 | 2017 | 2018 | Review Investigation period |
|---|---|---|---|---|
| Closing stocks (tonnes) | 20 722 | 12 356 | 14 952 | 17 600 |
| *Index* | *100* | *60* | *72* | *85* |

*Source*: questionnaire replies of the sampled Union producers.

(307) The inventories of the Union industry decreased between 2016 and the review investigation period. Initially they decreased by 40 % from 2016 to 2017 before progressively increasing in 2018 and the review investigation period but remaining at level lower than 2016. Overall, inventories decreased by 15 % between 2016 and the review investigation period.

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

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

*Table 12*

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

| | 2016 | 2017 | 2018 | Review Investigation period |
|---|---|---|---|---|
| Profitability of sales in the Union to unrelated customers (% of sales turnover) | -6 | -5 | -4 | -11 |
| *Index* | *-100* | *-76* | *-70* | *-177* |
| Cash flow (EUR) | - 4 874 323 | 2 363 932 | - 3 670 718 | - 8 123 363 |
| *Index* | *-100* | *48* | *-75* | *-167* |
| Investments (EUR) | 2 457 649 | 1 647 452 | 1 301 235 | 2 095 539 |
| *Index* | *100* | *67* | *53* | *85* |
| Return on investments (%) | -18 | -17 | -17 | -41 |
| *Index* | *-100* | *-96* | *-96* | *-228* |

*Source*: questionnaire replies of the sampled Union producers.

(a) ***Profitability***

(309) 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.

(310) In 2016, the Union industry had a negative profit margin of −6 %, which further decreased to −11 % during the review investigation period. The negative profit margin of the Union industry throughout the period considered is due to the fact that the unit cost of production was always higher than the average sales price of the product under review. As can be seen in Table 9 above, the gap between the unit cost of production and the average sales price further increased in the review investigation period. This situation is explained by the fact that since the product

under review is a commodity, the sales price is dependent on the price of the main raw material (hot rolled coils) and the competition on the market. It is observed that due to increased competition from imports from third countries in terms of volumes and low prices, the Union industry could not set sales prices at a level which would allow it to at least cover the cost of production.

(b) ***Cash flow***

(311) The net cash flow is the ability of the Union producers to self-finance their activities. The net cash flow initially improved in 2017 before declining again in 2018 and the review investigation period when it reached -8 million EUR. This decrease is mainly explained by the decrease in profitability, as described in recital (310).

(c) ***Investments and return on investments***

(312) Investments decreased by 15 % between 2016 and the review investigation period, which further demonstrates the difficult financial situation of the Union industry. The return on investments, which is expressed as the profit in percentage of the net book value of investments dropped from -18 % to -41 % during the period considered and therefore followed the same trend as the profitability.

4.6. **Conclusion on injury**

(313) The evolution of the micro and macro indicators during the period considered showed that the financial situation for the Union industry deteriorated. Overall, the trends of all economic indicators worsened over the period considered.

(314) Production and sales volumes decreased, which had a negative effect on employment and productivity as well as on profitability. The increased competition and price pressure from third country imports caused the profitability situation of the Union industry to further deteriorate. This led to a negative profit margin of −11 % for the Union industry during the review investigation period. The cash flow, investments and return on investments also deteriorated, which made it difficult for the Union industry to raise capital and invest.

(315) On the basis of the above, the Commission concluded that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation during the review investigation period.

(316) The Commission assessed whether there is a causal link between imports from the countries concerned and the injury suffered by Union industry.

(317) The volume of imports from the countries concerned was very low during the period considered, and the combined market share of imports from these countries was only 0,43 % during the review investigation period.

(318) At the same time, a surge of low priced imports from third countries other than the countries concerned, such as Turkey, India and the Republic of North Macedonia, put strong price and volume pressure on the Union industry sales. As an illustration, the average sales price of the Union industry to unrelated customers during the review investigation period was 778 EUR/tonne while the average sales price of products imported from Turkey was 626 EUR/tonne and 574 EUR/tonne for products imported from the Republic of North Macedonia. In addition, the market share of imports from countries other than the countries concerned increased from 42 % to 50 % between 2016 and 2019.

(319) Considering the above, the Commission concluded that the material injury suffered by the Union industry could not have been caused by the imports from the countries concerned due to their very limited volume.

(320) Therefore, the Commission further examined the likelihood of recurrence of injury originally caused by dumped imports from the countries concerned if the measures were repealed.

## 5. LIKELIHOOD OF RECURRENCE OF INJURY ORIGINALLY CAUSED BY DUMPED IMPORTS FROM THE COUNTRIES CONCERNCED IF THE MEASURES WERE REPEALED

(321) The Commission concluded in recital (315) that the Union industry suffered material injury during the review investigation period. In recital (319), the Commission also determined that the material injury suffered by the Union industry could not have been caused by imports from the countries concerned. Therefore, the Commission assessed, in accordance with Article 11(2) of the basic Regulation, whether there would be a likelihood of recurrence of injury originally caused by the dumped imports from the countries concerned if the measures were allowed to lapse.

(322) In order to establish whether there is likelihood of recurrence of injury originally caused by the dumped imports from the countries concerned, the Commission considered the following elements: (1) spare capacity in the countries concerned and the attractiveness of the Union market; and (2) the impact of potential imports and price levels of such imports from these countries on the Union industry's situation should the measures be allowed to lapse.

### 5.1. Spare capacity in the counties concerned and the attractiveness of the Union market

(323) As already described in recitals (78), (210) and (250), the exporting producers in Belarus, the PRC and Russia have significant spare capacities, which together exceed substantially the current production volumes and internal demand in these countries ([103]) and this spare capacity could be used to produce the product under review for export to the Union if measures were allowed to lapse.

(324) As described in recitals (205) and (213), the Chinese exporting producers exported to their main third markets at dumped prices, which are on average from 8 % to 21 % lower as compared to the average sales prices of the Union producers on the Union market. As concluded in recital (251), the Russian export prices to third countries were found to be around 29 % lower than the Union producers' prices on the Union market. Finally, it was established in recital (82) that the Belarusian exporting producers exported to their main third market, Russia, at prices around 5 % lower as compared to the average sales prices of the Union producers on the Union market. Therefore, taking into account the price level of exports from Belarus, the PRC and Russia to other third markets, exporting to the Union is potentially much more attractive for the Belarusian, Chinese and Russian exporters. Consequently, it can be reasonably expected that, should the measures be repealed, Belarusian, Chinese and Russian exporting producers would start again to export high volumes of the product under review to the Union. This expectation is further reinforced by the availability of substantial spare capacity in these countries.

### 5.2. Impact of potential imports from the countries concerned on the Union industry's situation should the measures lapse

(325) As explained in Section 4.3.2.2, the Commission performed an undercutting analysis without anti-dumping measures to establish how the imports from the countries concerned would affect Union industry should the measures be terminated.

(326) The Commission observed in recital (278) that the undercutting calculation showed a weighted average undercutting margin for the countries concerned of between 6,2 % and 23,5 %.

(327) In addition, the Commission performed a simulation in order to better assess the likely impact of imports from the countries concerned on the financial situation of the Union industry. In this respect, the Commission assumed that exporting producers from the countries concerned would export to the Union the same quantities as before the imposition of the measures (i.e. a combined 250 559 tonnes), and that the Union consumption would remain the same as during the review investigation period (i.e. 541 409 tonnes). The Commission also assumed that 50 % of the total imports from these countries would affect the Union industry and the remaining 50 % would affect

([103]) The spare capacity in the PRC exceeds more than ten times the total Union consumption during the review investigation period, while the sole cooperating Russian exporting producer has a nominal production capacity that exceeds the total Union consumption. The spare capacity in Belarus represents 9 % of the Union consumption.

imports from other third countries since market shares are at the similar level of magnitude. Finally, the Commission assumed that the Union industry would keep the same sales prices as during the review investigation period since it is already loss making.

(328) The result of this simulation shows that the Union industry is likely to lose sales volume and market share on the Union market. This would have an impact on the industry's overall profitability, which would decrease from -11 % to -25 %.

(329) This is a conservative analysis taking into consideration that the average sales prices of imports from other third countries are below the average sales price of the Union industry. This means that dumped imports of the product under review from the countries concerned would most likely first gain market share at the expense of the Union industry, before taking over the market share of the exports from other third countries to the Union. This would lead to even further deterioration of the profitability of the Union industry.

(330) Following disclosure, the Belarusian Government argued that considering that according to Article 3(4) of the basic Regulation, '*where imports of a product from more than one country are simultaneously subject to anti-dumping investigations, the effects of such imports shall be cumulatively assessed only if it is determined that (…) the volume of imports from each country is not negligible*' and that the imports from Belarus, the PRC and Russia were negligible in 2019, the simulation exercise conclusions should be removed from this Regulation.

(331) The Commission noted that Article 3(4) of the basic Regulation relates to the assessment of the effects of actual imports on the Union industry to determine injury in the framework of an anti-dumping investigation, while the simulation carried out by the Commission in recitals (327) to (329) relates to the determination of the likelihood of recurrence of injury originally caused by imports from the countries concerned in case the measures are allowed to lapse. In order to estimate the potential effects of such imports on the Union industry, the simulation consists of a hypothetical where it is assumed that the countries concerned would export the same quantities as before the imposition of the measures. These quantities were not negligible ([104]). Therefore, considering that Article 3(4) of the basic Regulation does not apply to the simulation carried out as well as that the potential import volumes from each country considered in the simulation are not negligible, the claim was rejected.

(332) In view of the above, the Commission concluded that the repeal of the measures would in all likelihood result in a significant increase of dumped imports from the countries concerned at prices undercutting the Union industry prices, and therefore further aggravate the injury suffered by the Union industry. As a consequence, the viability of the Union industry would be at serious risk.

(333) Following disclosure, the Government of Russia claimed that there is a lack of a causal link between imports from Russia and the situation of the Union industry. In this respect, the Commission pointed out that Article 11(2) of the basic Regulation does not require the Commission to perform a causality analysis between imports from the countries concerned and the injury suffered by the Union industry in expiry reviews. The findings that the expiry of the measures would be likely to lead to the continuation or recurrence of injury are sufficient to justify the continuation of the measures. The Commission concluded in recital (332) that the repeal of the measures would in all likelihood result in a significant increase of dumped imports from the countries concerned at prices undercutting the Union industry prices, and therefore further aggravate the injury suffered by the Union industry and thus demonstrated the likelihood of recurrence of injury originally caused by dumped imports from the countries concerned, including Russia, if the measures were repealed. Consequently, the claim was rejected.

([104]) 184 887 tons from the PRC, 36 057 tons from Russia and 29 615 tons from Belarus.

## 6. UNION INTEREST

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

(335) All interested parties were given the opportunity to make their view known pursuant to Article 21(2) of the basic Regulation.

### 6.1. Interest of the Union industry

(336) Although the anti-dumping measures in force prevented dumped imports from the countries concerned to enter the Union market to a large extent, the Union industry suffered material injury during the review investigation period and its situation is fragile, as confirmed by the negative trends of the injury indicators.

(337) Despite the very low volume of imports of the product under review from the countries concerned, the Commission established that there is a strong likelihood of recurrence of injury originally caused by imports from these countries should the measures expire. The influx of substantial volumes of dumped imports from the countries concerned would cause further injury to the Union industry. This would worsen the already very fragile economic situation of Union industry and threaten its viability.

(338) The Commission thus concluded that the maintenance of the anti-dumping measures against the countries concerned is in the interest of the Union industry.

### 6.2. Interest of unrelated importers, traders and users

(339) The Commission contacted all known unrelated importers, traders and users. Only one distributor provided only filled-in tables without a reply to the narrative part of the questionnaire.

(340) In the previous expiry review and in the original investigation, the analysis of the Union interest did not indicate a negative effect of the measures on unrelated importers, traders and users either.

(341) On this basis, there were no indications that the maintenance of the measures would have a significant negative impact on the unrelated importers, traders and users, outweighing the positive impact of the measures on the Union industry.

(342) Following disclosure, the Government of Russia argued that the continuation of the measures would have a negative impact of the EU downstream industries. In this respect, the Commission pointed out that the EU downstream industries had the opportunity to participate in the investigation and to comment on the disclosure. The Commission received no comments from unrelated importers, traders and users. Therefore, this claim was rejected.

### 6.3. Conclusion on Union interest

(343) On the basis of the above, the Commission concluded that there were no compelling reasons of the Union interest against the maintenance of the existing measures on imports of the product under review originating in the countries concerned.

## 7. ANTI-DUMPING MEASURES

(344) On the basis of the conclusions reached by the Commission concerning the continuation of dumping from Russia, the recurrence of dumping from Belarus and the PRC, the recurrence of injury originally caused by dumped imports from the countries concerned, and the Union interest, the Commission finds that the anti-dumping measures on imports of certain welded tubes and pipes, of iron or non-alloy steel from Belarus, the PRC and Russia should be maintained.

(345) The individual company anti-dumping duty rates specified in this Regulation are exclusively applicable to imports of the product under review originating in Russia and produced by the named legal entities. Imports of the product under review produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other companies'. They should not be subject to any of the individual anti-dumping duty rates.

(346) A company may request the application of these individual anti-dumping duty rates if it subsequently changes the name of its entity. The request must be addressed to the Commission ([105]). The request must contain all the relevant information enabling it 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 announcing the change of name will be published in the *Official Journal of the European Union*.

(347) All interested parties were informed of the essential facts and considerations on the basis of which it was intended to recommend that the existing measures on imports of the product under review from Belarus, the PRC and Russia be maintained. They were also granted a period to make representations subsequent to this disclosure. All comments received have been considered by the Commission.

(348) In view of Article 109 of Regulation (EU, Euratom) 2018/1046 ([106]), 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.

(349) 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 welded tubes and pipes, of iron or non-alloy steel, of circular cross-section and of an external diameter not exceeding 168,3 mm, excluding line pipe of a kind used for oil or gas pipelines, casing and tubing of a kind used in drilling for oil or gas, precision tubes and tubes and pipes with attached fittings suitable for conducting gases or liquids for use in civil aircraft, currently falling under CN codes ex 7306 30 41, ex 7306 30 49, ex 7306 30 72 and ex 7306 30 77 (TARIC codes 7306 30 41 20, 7306 30 49 20, 7306 30 72 80 and 7306 30 77 80) and originating in Belarus, the People's Republic of China and Russia.

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

| Country | Company | Anti-dumping duty | TARIC additional code |
|---|---|---|---|
| The People's Republic of China | All companies | 90,6 % | |

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

([106]) 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).

| | | | |
|---|---|---|---|
| Russia | TMK Group (Seversky Pipe Plant Open Joint Stock Company and Joint Stock Company Taganrog Metallurgical Works) | 16,8 % | A892 |
| | OMK Group (Open Joint Stock Company Vyksa Steel Works and Joint Stock Company Almetjvesk Pipe Plant) | 10,1 % | A893 |
| | All other companies | 20,5 % | A999 |
| Belarus | All companies | 38,1 % | |

3. Unless otherwise specified, the provisions in force concerning customs duties 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, 16 April 2021.

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