



2024/1475

31.5.2024

**COMMISSION IMPLEMENTING REGULATION (EU) 2024/1475**

**of 30 May 2024**

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

THE EUROPEAN COMMISSION,

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

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

Whereas:

**1. PROCEDURE**

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

- (1) By Implementing Regulation (EU) No 1331/2011 <sup>(2)</sup>, the Council imposed anti-dumping duties of certain seamless pipes and tubes of stainless steel ('product under review' or 'SSSPT') originating in the People's Republic of China ('PRC' or 'country concerned'). The investigation that led to the imposition of the original measures will hereafter be referred to as the 'original investigation'.
- (2) By Implementing Regulation (EU) 2018/330 <sup>(3)</sup> the European Commission ('the Commission') re-imposed the definitive anti-dumping measures following an expiry review.
- (3) The anti-dumping duties currently in force are at rates ranging between 48,3 % and 71,9 %.

**1.2. Request for an expiry review**

- (4) Following the publication of a Notice of impending expiry <sup>(4)</sup> of the anti-dumping measures in force on imports of SSSPT originating in the PRC, the Commission received a request for a review pursuant to Article 11(2) of 'the basic Regulation'.
- (5) The request for review ('the request') was submitted on 2 December 2022 by the European Steel Tube Association ('ESTA' or 'the applicant'), on behalf of the Union industry of SSSPT in the sense of Article 5(4) of the basic Regulation. The request for review was based on the grounds that the expiry of the measures would be likely to result in continuation or recurrence of dumping and recurrence of injury to the Union industry.

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

<sup>(2)</sup> Council Implementing Regulation (EU) No 1331/2011 of 14 December 2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain seamless pipes and tubes of stainless steel originating in the People's Republic of China (OJ L 336, 20.12.2011, p. 6).

<sup>(3)</sup> Commission Implementing Regulation (EU) 2018/330 of 5 March 2018 imposing a definitive anti-dumping duty on imports of certain seamless pipes and tubes of stainless steel originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council (OJ L 63, 6.3.2018, p. 15).

<sup>(4)</sup> <https://eur-lex.europa.eu/legal-content/EN/AUTO/?uri=OJ:C:2022:241:TOC>

### 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, the Commission initiated on 3 March 2023 an expiry review with regard to imports into the Union of SSSPT originating in the PRC on the basis of Article 11(2) of the basic Regulation. It published a Notice of Initiation in the *Official Journal of the European Union* <sup>(5)</sup> ('the Notice of Initiation').

### 1.4. Review investigation period and period considered

- (7) The investigation of continuation or recurrence of dumping covered the period from 1 January 2022 to 31 December 2022 ('RIP' or 'review investigation period'). The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2019 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. The Commission specifically informed the applicant, all known Union producers, the known producers in the PRC and the authorities of the PRC as well as known importers, users and traders about the initiation of the expiry review 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.

### 1.6. Sampling

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

#### 1.6.1. Sampling of Union producers

- (11) 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 the largest volume of production of the like product in the Union during the review investigation period that could reasonably be investigated within the time available. This sample consisted of three Union producers. The sampled Union producers accounted for around 46 % of the estimated total production in the Union during the review investigation period. In accordance with Article 17(2) of the basic Regulation, the Commission invited interested parties to comment on the provisional sample. No comments were received, and the Commission confirmed the provisionally selected sample. The sample was representative of the Union industry.

#### 1.6.2. Sampling of importers

- (12) 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.
- (13) No unrelated importer, however, came forward and provided the requested information.

<sup>(5)</sup> OJ C 80, 3.3.2023, p. 56.

### 1.6.3. *Sampling of exporting producers in the PRC*

- (14) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known producers in the PRC to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Chinese authorities to identify and/or contact other producers, if any, that could be interested in participating in the investigation.
- (15) At initiation, the Commission made available a copy of the questionnaires in the file for inspection by interested parties and on DG TRADE's website <sup>(6)</sup>.
- (16) The European Commission did not receive any reply to the sampling exercise from Chinese producers, except from Shanghai Baoluo Stainless Steel Tube Co. Ltd. ('BSS'). Therefore, sampling was not necessary. The European Commission requested BSS to complete the questionnaire intended for exporting producers. The company provided a questionnaire reply. The information submitted in the questionnaire reply of BSS showed that its exports to the Union constituted less than 25 % of the total exports of the product under investigation from the PRC to the Union. The Commission considered that these imports would not provide sufficient information to assess dumping, likelihood of continuation and/or recurrence of dumping and injury in the review investigation period and could not be considered representative of the total imports from China. Therefore, the Commission informed interested parties, including BSS, of its intention to apply Article 18 of the basic Regulation, and that findings on dumping and likelihood of continuation and/or recurrence of dumping and injury in respect of exporters/producers in the PRC would be based on facts available.
- (17) The Commission also informed BSS that, in view of the above, even though it would not conduct a full-fledged verification process of its questionnaire reply, its information related to production and sales, in particular exports to third countries and exports to the Union, would still be used in the investigation as part of the facts available.
- (18) The Commission also informed the authorities of the PRC that it would rely on facts available in accordance with Article 18 of the basic Regulation.
- (19) BSS subsequently requested the Commission to continue the verification process and to establish an individual dumping margin, and also resorted to the Hearing Officer. The Commission agreed to continue the verification process, but informed BSS that it had no intention to establish an individual dumping margin for BSS in the framework of an expiry review. On 19 September 2023, BSS informed the Commission that it would not continue with the deficiency process and not reply to the deficiency letter that was sent to BSS on 11 September 2023, i.e. ceased cooperation.
- (20) In view of the above, to establish the sources used to determine the normal value, the Commission used the information contained in the expiry review request, updated where available, combined with other sources of available information deemed appropriate according to the relevant criteria laid down in Article 2(6a) of the basic Regulation in accordance with Article 18(5) of the basic Regulation.
- (21) These sources include databases like the World Bank country classification <sup>(7)</sup>, GTA <sup>(8)</sup>, ORBIS <sup>(9)</sup>, as well as, published company financial data on the internet.

<sup>(6)</sup> <https://tron.trade.ec.europa.eu/investigations/case-view?caseId=2658>

<sup>(7)</sup> <https://data.worldbank.org/income-level/upper-middle-income>

<sup>(8)</sup> <https://www.spglobal.com/marketintelligence/en/mi/products/maritime-global-trade-atlas.html>

<sup>(9)</sup> <https://orbis-r1.bvdinfo.com/version-20230919-5-0/Orbis/1/Companies/Search>

### 1.7. Replies to the questionnaire and verification

- (22) Questionnaire replies were received from the three sampled Union producers.
- (23) The Commission sought and verified all the information deemed necessary for the determination of likelihood of continuation or recurrence of dumping and injury and of the Union interest. Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:

#### Union producers

- Alleima A.B. (Gävle, Sweden)
- Salzgitter Mannesmann Stainless Tubes S.A.S. (Montbard, France)
- Tubacex Tubos Inoxidables, S.A. (Bilbao, Spain)

### 1.8. Subsequent procedure

- (24) On 14 March 2024, the Commission disclosed the essential facts and considerations on the basis of which it intended to maintain the anti-dumping duties in force. All parties were granted a period within which they could make comments on the disclosure.
- (25) The Commission received comments from BSS, arguing that Mexico was not the appropriate choice for a representative country. BSS claimed that the accounts of Tenaris Global used as a source of selling, general and administrative costs ('SG&A') and profit for the calculation of the normal value were not representative. According to BSS, carbon steel seamless pipes and tubes, the product found to be in the same general category of products, belonged to a different product family. In addition, BSS argued that the financial data of Tenaris Tamsa was not available and that the quality of the data found in the accounts of Tenaris Global, because of its wide business-scope and geographical diversity of operations, renders its consolidated financial data made it unsuitable and unrepresentative to establish the SG&A and profit due to its wide business and geographical scope. It also argued that in view of the precedent set in the molybdenum wire expiry review <sup>(10)</sup>, where the Commission chose India, a country with a different level of economic development than the PRC, there was an obligation to examine the suitability of India in this case, too, since the data set for the calculation of the normal value was incomplete for Mexico.
- (26) The Commission rejected the claim of BSS related to the source of SG&A and profit used for the calculation of the normal value. In recital (106), the Commission stated that the dumping margin would be significant even without adding profit to the calculated normal value. Therefore, this argument was moot.
- (27) The Commission rejected BSS' argument that seamless carbon steel pipes and tubes were not in the same general category of products as stainless-steel pipes and tubes because their production process is identical, even though the ratio of some input material is different, in particular their chromium content, and there is a large overlap in their use conveying fluids, gases and solids in various applications. Both products are seamless pipes and tubes and steel products, hence considered as belonging to the same general category of products for the purposes of this expiry review investigation.

<sup>(10)</sup> Commission Implementing Regulation (EU) 2022/1305 of 25 July 2022 imposing a definitive anti-dumping duty on imports of molybdenum wire originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council (OJ L 197, 26.7.2022, p. 75).

- (28) The Commission found that BSS' arguments relating to the unavailability and unsuitability of Tenaris Global's financial data are moot (See recital (26)). The Commission is entitled to select financial data for producers of a product in the same general category as the product under investigation. In the case at hand, the financial data of Tenaris Tamsa, a producer of carbon steel pipes, is integrated into the accounts of its ultimate owner: Tenaris Global. BSS' claim that the data is 'not available' is, therefore, incorrect. Regarding the quality of the financial data, the Commission refers to recital (106) where the investigation concluded on the continuation of dumping using standard levels of SG&A and profit and even adding no profit when constructing the normal value. The dumping margin in both cases was significant. Eventual adjustments to improve the quality of financial data from Mexico, therefore, were not necessary, let alone selecting another representative country based on purported lack of financial data.
- (29) The Commission also rejected the claim that it is under an obligation to examine in detail the purported evidence submitted by BSS supporting the choice of India as a representative country. In accordance with Article 2(6a)a of the basic Regulation, the Commission selected a representative country with the same level of economic development as the PRC. The Commission, had in this case no reasons to look for a country with a different level of economic development, as Mexico was considered an appropriate representative country, with readily available data regarding corresponding cost of production and sale, which served the purposes of this expiry review investigation. As also set out in recital (87) below, the use of India as a representative country in the molybdenum wire expiry review was exceptional, as was explicitly mentioned in the Regulation <sup>(11)</sup>. Furthermore, as stated in recital 39 of Implementing Regulation (EU) 2022/1305 <sup>(12)</sup>, before selecting India as the representative country the Commission attempted 'to find a suitable representative country with the same level of economic development as the PRC where there was production of a similar product, in the same general category or sector but was unable to identify any such product.' In the current case, the equivalent search of the Commission led to Mexico being selected as the representative country producing carbon steel seamless tubes and pipes. In any event, the Commission notes that its past administrative practice is not binding for the purpose of assessing compliance with the provisions of the basic Regulation <sup>(13)</sup>.
- (30) BSS claimed that the commission did not disclose the price of ingots used. This claim was incorrect, the prices used were disclosed in Annex III of the sources for the determination of the normal value.

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

### 2.1. Product under review

- (31) The product subject to this review is the same as in the original investigation and previous expiry review, namely seamless pipes and tubes of stainless steel (excluding such pipes and tubes with attached fittings suitable for conducting gases or liquids for use in civil aircraft), currently falling under CN codes 7304 11 00, 7304 22 00, 7304 24 00, ex 7304 41 00, ex 7304 49 83, ex 7304 49 85, ex 7304 49 89, and ex 7304 90 00 (TARIC codes 7304410090, 7304498390, 7304498590, 7304498990 and 7304900091) ('the product under review').

<sup>(11)</sup> Ibidem, stating 'In view of the above analysis, India was exceptionally considered as an appropriate source within the meaning of Article 2(6a)(a) of the basic Regulation for undistorted costs and prices'.

<sup>(12)</sup> Ibidem.

<sup>(13)</sup> E.g. Judgement of 6 July 2022, Zhejiang Hangtong Machinery Manufacture and Ningbo Hi-Tech Zone Tongcheng Auto Parts v Commission, T-278/20, ECLI:EU:T:2022:417, para. 70.

- (32) Stainless seamless pipes and tubes are mainly used in the following industries: chemical and petrochemical industries, fertilizer production, power generation, civil engineering and construction, pharmacology and medical technologies, biotechnology, water treatment and waste incineration, oil and gas exploration and production, coal and gas processing, food processing.

## 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 and technical characteristics as well as the same basic uses:
- the product concerned when exported to the Union;
  - the product under review produced and sold on the domestic market of the PRC;
  - the product under review produced and sold by the exporting producers to the rest of the world; and
  - the product under review 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. DUMPING

### 3.1. Preliminary remarks

- (35) During the review investigation period, imports of certain seamless pipes and tubes of stainless steel originating in the PRC continued albeit at lower levels than in the investigation period of the original investigation (from 1 July 2009 to 30 June 2010). Imports from the PRC accounted for 6 % of the Union market in the review investigation period, compared to 18,4 % <sup>(14)</sup> market share during the investigation period of the original investigation. In absolute terms, China exported about 5 633 tonnes to the Union during the review investigation period, which is a significant decrease compared to 15 757 tonnes <sup>(15)</sup> exported to the Union during the investigation period of the original investigation.
- (36) As explained above in recital (16), ultimately none of the exporters/producers from the PRC cooperated in the investigation. Therefore, the Commission informed the authorities of the PRC that due to the absence of cooperation, the Commission will apply Article 18 of the basic Regulation concerning the findings with regard to the PRC.
- (37) Consequently, in accordance with Article 18 of the basic Regulation, the findings in relation to the likelihood of continuation or recurrence of dumping with regard to the PRC were based on facts available, in particular the information contained in the request for the expiry review and in the submissions by the interested parties, combined with other sources of information, such as trade statistics on imports and exports (Eurostat, the Global Trade Atlas (GTA) <sup>(16)</sup>).

<sup>(14)</sup> OJ L 336, 20.12.2011, p. 12, recital 55.

<sup>(15)</sup> Commission Regulation (EU) No 627/2011 of 27 June 2011 imposing a provisional anti-dumping duty on imports of certain seamless pipes and tubes of stainless steel originating in the People's Republic of China (OJ L 169, 29.6.2011, p. 1, recital 67).

<sup>(16)</sup> <https://www.gtis.com/gta/>

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

- (38) Given the sufficient evidence available at the initiation of the investigation showing, with regard to the PRC, the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation, the Commission initiated the investigation on the basis of Article 2(6a) of the basic Regulation.
- (39) 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 the People's Republic 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 within 37 days of the date of publication of the Notice of Initiation in the *Official Journal of the European Union*. No questionnaire reply was received from the GOC and no submission on the application of Article 2(6a) of the basic Regulation was received within the deadline. Subsequently, the Commission informed the GOC that it would use facts available within the meaning of Article 18 of the basic Regulation for the determination of the existence of the significant distortions in the PRC.
- (40) In point 5.3.2 of the Notice of Initiation, the Commission also indicated that Mexico could be 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 countries in accordance with the criteria set out in first indent of Article 2(6a) of the basic Regulation.
- (41) On 5 December 2023, the Commission informed the interested parties, by means of a Factors of Production (FOP) Note of the relevant sources it intended to use for the determination of the normal value, with Mexico as the representative country. In the FOP Note the Commission provided a list of all factors of production such as raw materials, labour and energy used in the production of certain seamless pipes and tubes of stainless steel. It also informed the interested parties that it would establish SG&A and profits based on available information for the company Tenaris, a producer of the product in the same general category as the product under review (seamless carbon steel pipes and tubes) in Mexico.

### 3.3. Normal value

- (42) 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'.
- (43) 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').
- (44) 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 producers, the application of Article 2(6a) of the basic Regulation was appropriate.

### 3.4. Existence of significant distortions

- (45) In recent investigations concerning the steel sector in the People's Republic of China <sup>(17)</sup>, the Commission found that significant distortions in the sense of Article 2(6a)(b) of the basic Regulation were present.
- (46) In those investigations, the Commission found that there is substantial government intervention in the People's Republic of China resulting in a distortion of the effective allocation of resources in line with market principles <sup>(18)</sup>. In particular, the Commission concluded that in the steel sector, producing the main raw material for certain seamless pipes and tubes of stainless steel originating in the People's Republic of China, not only does a substantial degree of ownership by the GOC persist in the sense of Article 2(6a)(b), first indent of the basic Regulation <sup>(19)</sup>, but the GOC is also in a position to interfere with prices and costs through State presence in firms in the sense of Article 2(6a)(b), second indent of the basic Regulation <sup>(20)</sup>. The Commission further found that the State's presence and intervention in the financial markets, as well as in the provision of raw materials and inputs have an additional distorting effect on the market. Indeed, overall, the system of planning in the People's Republic of China results in resources being concentrated in sectors designated as strategic or otherwise politically important by the GOC, rather than being allocated in line with market forces <sup>(21)</sup>. Moreover, the Commission

<sup>(17)</sup> Commission Implementing Regulation (EU) 2023/1444 of 11 July 2023 imposing a provisional anti-dumping duty on imports of steel bulb flats originating in the People's Republic of China and Türkiye (OJ L 177, 12.7.2023, p. 63); Commission Implementing Regulation (EU) 2023/100 of 11 January 2023 imposing a provisional anti-dumping duty on imports of stainless steel refillable kegs originating in the People's Republic of China (OJ L 10, 12.1.2023, p. 36); Commission Implementing Regulation (EU) 2022/2068 of 26 October 2022 imposing a definitive anti-dumping duty on imports of certain cold-rolled flat steel products originating in the People's Republic of China and the Russian Federation following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council (OJ L 277, 27.10.2022, p. 149); Commission Implementing Regulation (EU) 2022/191 of 16 February 2022 imposing a definitive anti-dumping duty on imports of certain iron or steel fasteners originating in the People's Republic of China (OJ L 36, 17.2.2022, p. 1); Commission Implementing Regulation (EU) 2022/95 of 24 January 2022 imposing a definitive anti-dumping duty on imports of certain tube and pipe fittings, of iron or steel, originating in the People's Republic of China, as extended to imports of certain tube and pipe fittings, of iron or steel consigned from Taiwan, Indonesia, Sri Lanka and the Philippines, whether declared as originating in these countries or not, following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council (OJ L 16, 25.1.2022, p. 36).

<sup>(18)</sup> See Implementing Regulation (EU) 2023/1444, recital 66; Implementing Regulation (EU) 2023/100, recital 58; Implementing Regulation (EU) 2022/2068, recital 80; Implementing Regulation (EU) 2022/191, recital 208; Implementing Regulation (EU) 2022/95, recital 59.

<sup>(19)</sup> See Implementing Regulation (EU) 2023/1444, recital 45; Implementing Regulation (EU) 2023/100, recital 38; Implementing Regulation (EU) 2022/2068, recital 64; Implementing Regulation (EU) 2022/191, recital 192; Implementing Regulation (EU) 2022/95, recital 46.

<sup>(20)</sup> See Implementing Regulation (EU) 2023/1444, recital 58; Implementing Regulation (EU) 2023/100, recital 40; Implementing Regulation (EU) 2022/2068, recital 66; Implementing Regulation (EU) 2022/191, recitals 193-194; Implementing Regulation (EU) 2022/95, recital 47. While the right to appoint and to remove key management personnel in SOEs by the relevant State authorities, as provided for in the Chinese legislation, can be considered to reflect the corresponding ownership rights, CCP cells in enterprises, state owned and private alike, represent another important channel through which the State can interfere with business decisions. According to the People's Republic of China's company law, a CCP organisation is to be established in every company (with at least three CCP members as specified in the CCP Constitution) and the company shall provide the necessary conditions for the activities of the party organisation. In the past, this requirement appears not to have always been followed or strictly enforced. However, since at least 2016 the CCP has reinforced its claims to control business decisions in SOEs as a matter of political principle. The CCP is also reported to exercise pressure on private companies to put 'patriotism' first and to follow party discipline. In 2017, it was reported that party cells existed in 70 % of some 1,86 million privately owned companies, with growing pressure for the CCP organisations to have a final say over the business decisions within their respective companies. These rules are of general application throughout the Chinese economy, across all sectors, including to the producers of the product under review and the suppliers of their inputs.

<sup>(21)</sup> See Implementing Regulation (EU) 2023/1444, recital 59; Implementing Regulation (EU) 2023/100, recital 43; Implementing Regulation (EU) 2022/2068, recital 68; Implementing Regulation (EU) 2022/191, recitals 195-201; Implementing Regulation (EU) 2022/95, recitals 48-52.

concluded that the Chinese bankruptcy and property laws do not work properly in the sense of Article 2(6a)(b), fourth indent of the basic Regulation, thus generating distortions in particular when maintaining insolvent firms afloat and when allocating land use rights in the People's Republic of China<sup>(22)</sup>. In the same vein, the Commission found distortions of wage costs in the steel sector in the sense of Article 2(6a)(b), fifth indent of the basic Regulation<sup>(23)</sup>, as well as distortions in the financial markets in the sense of Article 2(6a)(b), sixth indent of the basic Regulation, in particular concerning access to capital for corporate actors in the PRC<sup>(24)</sup>.

- (47) Like in previous investigations concerning the iron and steel sector in the People's Republic of China, the Commission examined in the present investigation whether it was appropriate or not to use domestic prices and costs in the People's Republic of China, due to the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation. The Commission did so on the basis of the evidence available on the file, including the evidence contained in the request, as well as in the Commission Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the Purposes of Trade Defence Investigations<sup>(25)</sup> ('Report'), which relies on publicly available sources. That analysis covered the examination of the substantial government interventions in the PRC's economy in general, but also the specific market situation in the relevant sector including certain seamless pipes and tubes of stainless steel. The Commission further supplemented these evidentiary elements with its own research on the various criteria relevant to confirm the existence of significant distortions in the People's Republic of China as also found by its previous investigations in this respect.
- (48) The request alleged that the Chinese economy as a whole is widely influenced and affected by substantial governmental interventions, in view of which domestic prices and costs of the Chinese steel industry cannot be used in the present investigation.
- (49) The request provided examples of elements pointing to existence of distortions, as listed in the first to sixth dash of Article 2(6a)(b) of the basic Regulation. In particular, referring to a number of publicly available information sources, such as the Report, previous Commission investigations in the steel sector, Chinese legislation, as well as to additional sources, the applicant submitted that:
- The overall setup of the Chinese economy not only allows for substantial government interventions into the economy, but such interventions are expressly mandated.
  - 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.
  - 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.

<sup>(22)</sup> See Implementing Regulation (EU) 2023/1444, recital 62; Implementing Regulation (EU) 2023/100, recital 52; Implementing Regulation (EU) 2022/2068, recital 74; Implementing Regulation (EU) 2022/191, recital 202; Implementing Regulation (EU) 2022/95, recital 53.

<sup>(23)</sup> See Implementing Regulation (EU) 2023/1444, recital 45; Implementing Regulation (EU) 2023/100, recital 33; Implementing Regulation (EU) 2022/2068, recital 75; Implementing Regulation (EU) 2022/191, recital 203; Implementing Regulation (EU) 2022/95, recital 54.

<sup>(24)</sup> See Implementing Regulation (EU) 2023/1444, recital 64; Implementing Regulation (EU) 2023/100, recital 54; Implementing Regulation (EU) 2022/2068, recital 76; Implementing Regulation (EU) 2022/191, recital 204; Implementing Regulation (EU) 2022/95, recital 55.

<sup>(25)</sup> Commission staff working document SWD (2017) 483 final/2, 20. 12. 2017, available at: [https://ec.europa.eu/transparency/documents-register/detail?ref=SWD\(2017\)483&lang=en](https://ec.europa.eu/transparency/documents-register/detail?ref=SWD(2017)483&lang=en)

- 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 covers a comprehensive and complex matrix of sectors and crosscutting policies and is present on all levels of government and the relevant Chinese authorities adhere to the system of plans and they use their vested powers accordingly, thereby inducing the economic operators to comply with the priorities set out in the plans.
- On the level of allocation of financial resources, the financial system of China is dominated by the State-owned commercial banks.
- Public procurement rules are regularly used in pursuit of policy goals other than economic efficiency, thereby undermining market-based principles in the area.
- The Chinese government maintains significant control and influence over destination and magnitude of both State and private investment.

(50) More specifically, the applicant submitted, with respect to Article 2(6a)(b), first indent of the basic Regulation that:

- State-owned enterprises ('SOEs') represent an essential part of the Chinese economy. The government and the CCP maintain structures that ensure their continued influence over SOEs. The 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. SOEs enjoy a particular status within the Chinese economy, which entails a number of economic benefits, in particular shielding from competition and preferential access to relevant inputs, including finances.
- Specifically in the steel sector – steel billets being by far the sole major input in the production of SSPT, a substantial degree of ownership by the Chinese government persists. While the nominal split between the number of SOEs and privately owned companies is estimated to be almost even, from the five Chinese steel producers ranked in the top 10 of the world's largest steel producers four are SOEs.
- With the high level of government intervention in the steel industry and a high share of SOEs in the sector, even privately-owned steel producers are prevented from operating under market conditions.

(51) Concerning Article 2(6a)(b), second indent of the basic Regulation, the applicant submitted that:

- The state control and intervention in the steel and tubes sectors is widespread. Many of the major SSPT producers are State-owned. The evidence available thus suggests that SSPT producers in China are subject to the same ownership, control or policy supervision or guidance by the Chinese government and thus do not operate in accordance with market: 51 % private and 49 % SOEs in terms of production and 44 % SOEs and 56 % private companies in terms of capacity. State presence in firms allowing the state to interfere with respect to prices or costs.
- The Chinese State is in position to interfere with prices and costs through State presence in firms.

- In the steel sector, steel billets being the main input in the production of SSPT, many of the major SSPT producers are owned by the State. For instance, one of the major Chinese seamless steel pipes producers, Tianjin Pipe Corporation (TPCO), located in the municipality of Tianjin in Northern China, is a state-owned company. There is also abundant information in the public space manifesting the links between Chinese SSPT producers and local/regional authorities in China.
- Public documents of the State-owned producers sometimes stress the connection with the Chinese State. For example, Baoshan Iron & Steel (or Baosteel) stated in the 2016 Semi-Annual Report that '[t]he company committed itself to matching regional 13th Five Year planning and reached wide consensus with local governments in sharing resources, connecting urban industries and building ecological environment.' <sup>(26)</sup>
- State presence and intervention in the financial markets as well as in the provision of raw materials and inputs further have a distorting effect on the market.

(52) Concerning Article 2(6a)(b), third indent of the basic Regulation, the applicant submitted that:

- The steel industry is regarded as a key industry by the Chinese government. The 'Steel Industry Adjustment and Upgrading plan for 2016-2020' states that the steel industry is 'an important, fundamental sector of the Chinese economy, a national cornerstone'.
- The 13th Five-Year Plan on Economic and Social Development envisages support to enterprises producing high-end steel product types.
- The 'Catalogue for Guiding Industry Restructuring 2019' lists iron and steel as encouraged industries.

(53) Concerning Article 2(6a)(b), fourth indent of the basic Regulation, the applicant submitted that:

- The Chinese bankruptcy system appears inadequate to deliver on its own main objectives such as to fairly settle claims and debts and to safeguard the lawful rights and interests of creditors and debtors.
- The shortcomings of the system of property rights are particularly obvious in relation to ownership of land and land-use rights in China. 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. Authorities often pursue specific political goals including the implementation of the economic plans when allocating land.

(54) Concerning Article 2(6a)(b), fifth indent of the basic Regulation, the applicant submitted that:

- A system of market-based wages cannot fully develop in China as workers and employers are impeded in their rights to collective organisation. China has not ratified a number of essential conventions of the International Labour Organisation ('ILO'), in particular those on freedom of association and on collective bargaining.
- The steel sector in China is thus clearly affected by the distortions of wage costs both directly (when making the product concerned) as well as indirectly (when having access to capital or inputs from companies subject to the same labour system in China).

<sup>(26)</sup> [http://tv.baosteel.com/ir/pdf/report/600019\\_2016\\_2e.pdf](http://tv.baosteel.com/ir/pdf/report/600019_2016_2e.pdf)

(55) Concerning Article 2(6a)(b), sixth indent of the basic Regulation, the applicant submitted that:

- Access to capital for corporate actors in China is subject to distortions. The Chinese financial system is characterised by strong position of State-owned banks, which, when granting access to finance, take into consideration criteria other than economic viability of a project. Similarly, to non-financial SOEs, the banks remain connected to the State.
- 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.
- The substantial government intervention in the financial system leads to the market conditions being severely affected at all levels, including within the Chinese SSPT industry.

(56) The applicant further pointed out that when SSSPT producers purchase inputs, prices are clearly exposed to the same systemic distortions mentioned before. For instance, suppliers of inputs employ labour that is subject to the distortions. They may borrow money that is subject to the distortions on the financial sector/capital allocation. In addition, they are subject to the planning system which applies across all levels of government and sectors. As a consequence, not only the domestic sales prices of SSSPT cannot be used but all the input costs (including raw materials [nickel price evolution], energy, land, financing, labour, etc.) are also tainted because their price formation is affected by substantial government intervention.

(57) In conclusion, the request took the position that there is ample compelling prima facie evidence that the Chinese SSSPT industry is subject to interventions by the GOC that have led to significant distortions. Thus, it claimed, that existence of these significant distortions justifies the establishment of the normal value and the dumping margin by reference to Article 2(6a) of the Basic Regulation.

(58) The Commission examined whether it was appropriate or not to use domestic prices and costs in China, due to the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation. The Commission 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 People's Republic of China's economy in general, but also the specific market situation in the relevant sector including the product under review. The Commission further supplemented these evidentiary elements with its own research on the various criteria relevant to confirm the existence of significant distortions in the People's Republic of China.

(59) The Commission found that the market of SSSPT in the People's Republic of China is 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 because state control and intervention in the steel and tubes sectors is widespread. Many of the major SSPT producers are State-owned. The evidence available thus suggests that SSPT producers in China are subject to the same ownership, control or policy supervision or guidance by the Chinese government and thus do not operate in accordance with market.

(60) As to the GOC being in position to interfere with prices and costs through State presence in firms in the sense of Article 2(6a)(b), second indent of the basic Regulation, the investigation established a number of personal connections between producers of certain seamless pipes and tubes of stainless steel originating in the PRC and the CCP: for instance, the Chairman of the Board of Directors of Baoshan Iron and Steel <sup>(27)</sup> is also Secretary of the Party Committee; the Chairman of the Board of Directors of Anhui Jinan Steel <sup>(28)</sup> is also Secretary of the Party Committee; the general manager of Baofeng Steel Group <sup>(29)</sup> is also Secretary of the Party Committee. Hence the GOC is indeed in a position to interfere with prices and costs in this industry sector.

<sup>(27)</sup> See <https://www.baosteel.com/about/manager>

<sup>(28)</sup> See <http://www.jigang.com.cn/jgitww/weblist.jsp?cid=8190&showtype=11>

<sup>(29)</sup> See page 7 [https://pdf.dfcfw.com/pdf/H3\\_AP202312211614644921\\_1.pdf](https://pdf.dfcfw.com/pdf/H3_AP202312211614644921_1.pdf)

- (61) Moreover, policies discriminating in favour of domestic producers or otherwise influencing the market in the sense of Article 2(6a)(b), third indent of the basic Regulation are in place in the sector of seamless pipes and tubes of stainless steel. The investigation identified a number of documents showing that the product under review benefits from governmental guidance and intervention into the iron and steel sector, given that the seamless pipes and tubes of stainless steel industry represent one of its subsectors.
- (62) The iron and steel industry keeps being regarded as a key industry by the GOC<sup>(30)</sup>. This is confirmed in the numerous plans, directives and other documents focused on the sector, which are issued at national, regional and municipal level. Under the 14<sup>th</sup> FYP, the GOC earmarked the iron and steel industry for transformation and upgrade, as well as optimization and structural adjustment<sup>(31)</sup>. Similarly, the 14<sup>th</sup> FYP on Developing the Raw Materials Industry, applicable also to the iron and steel industry, lists the sector as the ‘bedrock of the real economy’ and ‘a key field that shapes China’s international competitive edge’ and sets a number of objectives and working methods which would drive the development of the sector in the time period 2021-2025, such a technological upgrade, improving the structure of the sector (not least by means of further corporate concentrations) or digital transformation<sup>(32)</sup>. Moreover, the Work Plan on the Stable Growth of the Steel Industry demonstrates how the focus of the Chinese authorities on the sector is put into the wider context of the GOC steering the Chinese economy: ‘[s]upport steel companies to closely follow the needs of new infrastructure, new urbanization, rural revitalization, and emerging industries, dock with major engineering projects related to the “14th Five-Year Plan” in various regions, and make every effort to ensure steel supply. Establish and deepen upstream and downstream cooperation mechanisms between steel and key steel-using sectors such as shipbuilding, transportation, construction, energy, automobiles, home appliances, agricultural machinery, and heavy equipment, carry out production-demand docking activities, and actively expand steel application fields’<sup>(33)</sup>.
- (63) In addition, with respect to iron ore – a raw material used for the production of certain seamless pipes and tubes of stainless steel – according to the 14<sup>th</sup> FYP on Developing the Raw Materials Industry, the State plans to ‘rationally develop domestic mineral resources. Strengthen the exploration of iron ore [...], implement preferential tax policies, encourage the adoption of advanced technology and equipment to reduce the generation of mining solid waste’<sup>(34)</sup> leading to the establishment of a system for the reserves of iron ore output and mineral lands that will ‘become an important measure to stabilize the iron ore market price and ensure the safety of the industrial chain’<sup>(35)</sup>. In provinces, such as Hebei, the authorities foresee the following for the sector: ‘new project investment discount subsidy; explore and guide financial institutions to provide low-interest loans for iron and steel enterprises to switch to new industries, and at the same time, the government will provide discount subsidies’<sup>(36)</sup>. In sum, the GOC has measures in place to induce operators to comply with the public policy objectives of supporting encouraged industries, including the production of the main raw materials used in the manufacturing of the certain seamless pipes and tubes of stainless steel originating in the People’s Republic of China. Such measures impede market forces from operating freely.

<sup>(30)</sup> Report, Part III, Chapter 14, p. 346 ff.

<sup>(31)</sup> See People’s Republic of China 14<sup>th</sup> Five-Year Plan for National Economic and Social Development and Long-Range Objectives for 2035, Part III, Article VIII, available at: <https://cset.georgetown.edu/publication/china-14th-five-year-plan/> (accessed on 13 December 2023).

<sup>(32)</sup> See in particular Sections I and II of the 14<sup>th</sup> FYP on Developing the Raw Materials Industry.

<sup>(33)</sup> See: [https://www.miit.gov.cn/zwgk/zcwj/wjfb/tz/art/2023/art\\_2a4233d696984ab59610e7498e333920.html](https://www.miit.gov.cn/zwgk/zcwj/wjfb/tz/art/2023/art_2a4233d696984ab59610e7498e333920.html) (accessed on 13 December 2023).

<sup>(34)</sup> See the 14<sup>th</sup> FYP on Developing the Raw Materials Industry, p. 22.

<sup>(35)</sup> See: [https://en.ndrc.gov.cn/news/mediarusources/202203/t20220325\\_1320408.html](https://en.ndrc.gov.cn/news/mediarusources/202203/t20220325_1320408.html) (accessed on 5 December 2023).

<sup>(36)</sup> See the Hebei Tangshan Municipality Iron and Steel 1 + 3 Action Plan 2022, Chapter 4, Section 2; available at: <http://www.chinaisa.org.cn/gxportal/xfgl/portal/content.html?articleId=e2bb5519aa49b566863081d57aea9dfdd59e1a4f482bb7acd243e3ae7657c70b&columnId=3683d857cc4577e4cb75f76522b7b82cda039ef70be46ee37f9385ed3198f68a> (accessed at 13 December 2023).

- (64) The Commission found that there is discriminatory application and inadequate enforcement of bankruptcy and property laws, especially related to land, in the People's Republic of China.
- (65) Seamless pipes and tubes of stainless steel are also affected by the distortions of wage costs in the sense of Article 2(6a)(b), fifth indent of the basic Regulation, as also referred to above in recitals (56)(57). Those distortions affect the sector both directly (when producing certain seamless pipes and tubes of stainless or the main inputs), as well as indirectly (when having access to inputs from companies subject to the same labour system in the People's Republic of China) <sup>(37)</sup>.
- (66) Moreover, no evidence was submitted in the present investigation demonstrating that the sector of seamless pipes and tubes of stainless steel is not affected by the government intervention in the financial system in the sense of Article 2(6a)(b), sixth indent of the basic Regulation, as also referred to above in recital (46) to (58). The abovementioned (see recital(46)) Work Plan on the Stable Growth exemplifies also this type of government intervention very well: 'Encourage financial institutions to actively provide financial services to steel companies that implement mergers and reorganizations, layout adjustments, transformation and upgrading, in accordance with the principles of risk control and business sustainability.' Therefore, the substantial government intervention in the financial system leads to the market conditions being severely affected at all levels.
- (67) Finally, the Commission recalls that in order to produce certain seamless pipes and tubes of stainless steel, a number of inputs are needed. When the producers of the certain seamless pipes and tubes of stainless steel 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.
- (68) As a consequence, not only the domestic sales prices of certain seamless pipes and tubes of stainless steel are not appropriate for use within the meaning of Article 2(6a)(a) of the basic Regulation, but all the input costs (including raw materials, energy, land, financing, labour, etc.) are also affected because their price formation is affected by substantial government intervention, as described in Parts I and II of the Report. Indeed, the government interventions described in relation to the allocation of capital, land, labour, energy and raw materials are present throughout the People's Republic of China. This means, for instance, that an input that in itself was produced in the People's Republic of China by combining a range of factors of production is exposed to significant distortions. The same applies for the input to the input and so forth.
- (69) In sum, the evidence available showed that prices or costs of certain seamless pipes and tubes of stainless steel originating in the People's Republic of China, including the costs of raw materials, energy and labour, are not the result of free market forces because they are affected by substantial government intervention within the meaning of Article 2(6a)(b) of the basic Regulation, as shown by the actual or potential impact of one or more of the relevant elements listed therein. On that basis, and in the absence of any cooperation from the GOC, the Commission concluded that it is not appropriate to use domestic prices and costs to establish normal value in this case. Consequently, the Commission proceeded to construct the normal value exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks, that is, in this case, on the basis of corresponding costs of production and sale in an appropriate representative country, in accordance with Article 2(6a)(a) of the basic Regulation, as described in the following section.

<sup>(37)</sup> See Implementing Regulation (EU) 2023/1444, recital 63; Implementing Regulation (EU) 2023/100, recital 33.

### 3.4.1. *Representative country*

#### 3.4.1.1. *General remarks*

- (70) 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 <sup>(38)</sup>;
  - Production of the product under review in that country <sup>(39)</sup>;
  - Availability of relevant public data in the representative country;
  - Where there is more than one possible representative country, preference should be given, where appropriate, to the country with an adequate level of social and environmental protection.
- (71) As indicated in recital (41), on 5 December 2023, the Commission issued a note for the file on the sources for the determination of the normal value (the 'FOP Note'). The note described the facts and evidence underlying the relevant criteria and informed interested parties of the intention to consider Mexico as an appropriate representative country.
- (72) In line with the criteria listed under Article 2(6a) of the basic Regulation, the Commission identified Mexico as a country with a similar level of economic development as the PRC. Mexico is classified by the World Bank as 'upper-middle income' country on a gross national income basis. Furthermore, Mexico was identified as a country where the product in the same general category as the product under review is being produced and where relevant data was readily available.
- (73) Finally, given the absence of cooperation and having established that Mexico was an appropriate representative country, based on all of the above elements, there was no need to carry out an assessment of the level of social and environmental protection in accordance with the last sentence of Article 2(6a)(a) first indent of the basic Regulation.

#### 3.4.1.2. *Conclusion*

- (74) In the absence of cooperation, as proposed in the expiry review request and given that Mexico met the criteria laid down in Article 2(6a)(a), first indent of the basic Regulation, the Commission selected Mexico as appropriate representative country.

### 3.4.2. *Sources used to establish undistorted costs*

- (75) In the note on relevant sources to use for the determination of the normal value, the Commission explained that, due to the absence of cooperation, it needed to rely on facts available according to Article 18 of the basic Regulation. The choice of representative country was based on the information contained in the expiry review request, combined with other sources of information according to the relevant criteria laid down in Article 2(6a) of the basic Regulation, including Global Trade Atlas ('GTA') to establish the undistorted costs of the factors of production. In addition, the Commission stated that it would use data on industrial electricity prices related to the

<sup>(38)</sup> World Bank Open Data – Upper Middle Income, <https://data.worldbank.org/income-level/upper-middle-income>.

<sup>(39)</sup> If there is no production of the product under review in any country with a similar level of development, production of a product in the same general category and/or sector of the product under review may be considered.

review investigation period applicable in Mexico as charged by one of the largest electricity suppliers in Mexico—the Comisión Federal de Electricidad <sup>(40)</sup>, the reference price of gas in Mexico for the review investigation period as published by the Comisión Reguladora de Energía <sup>(41)</sup> and publicly available data from the Instituto Nacional de Estadística y Geografía <sup>(42)</sup> published by the Mexican government covering the review investigation period.

- (76) The Commission included a value for manufacturing overhead costs in order to cover costs not included in the factors of production referred to above. The Commission established the ratio of manufacturing overheads to the direct costs of manufacturing, based on data of Union producers provided by the applicant, which provided specific information for that purpose.
- (77) In the FOP Note the Commission indicated that for Mexico, the country where the product in the same general category as the product under review <sup>(43)</sup>, was produced, it identified the company Tenaris as a producer. Seamless carbon steel pipes and tubes are produced in Mexico in significant quantities, and allegedly through a similar production process. It should also be noted that production of seamless pipes and tubes of stainless steel was transferred from Tenaris Japan to Tenaris Mexico in 2022. Hence, there was some production of the product under review in Mexico in part of the review investigation period, but not for commercial activities.
- (78) The analysis of import data showed that Mexico could be used as an appropriate representative country, as their imports of the main factors of production (ingots and hollows) were not materially affected by imports from PRC or any of the countries listed in Annex I to Regulation (EU) 2015/755 of the European Parliament and of the Council <sup>(44)</sup>.
- (79) In light of the above considerations, the Commission informed the interested parties that it intended to use Mexico as an appropriate representative country and the company Tenaris Mexico (Tenaris Tamsa) in accordance with Article 2(6a)(a), first indent of the basic Regulation, in order to source undistorted prices or benchmarks for the calculation of normal value.
- (80) Interested parties were invited to comment on the appropriateness of Mexico as a representative country and of Tenaris as producer in the representative country.
- (81) BSS submitted comments on 19 December 2023 and argued that Mexico was not an appropriate representative country because there was no production of SSSPT during the RIP in Mexico, claimed that the Commission did not consider other possible representative countries, argued that the Mexican market is not an open market, Mexican seamless stainless steel pipe exports are subject to anti dumping measures in the US and there were no representative and reliable data in Mexico. The company also argued that Thailand and India would be better representative countries. BSS claimed that quantities of imports of ingots at only two tons and of hollows at only 2 000 tons are not representative. BSS also claimed that the Tenaris Global was not a proper source of the determination of SG&A and profit. Tenaris Global, incorporated in Luxembourg, is a holding company that integrates data from developed and developing countries. In case the Commission would use these accounts, it would fail the essential requirement of using data from an upper middle-income country.

<sup>(40)</sup> See footnote 10.

<sup>(41)</sup> See footnote 11.

<sup>(42)</sup> See footnote 12.

<sup>(43)</sup> If there is no production of the product under investigation 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 investigation may be considered.

<sup>(44)</sup> Regulation (EU) 2015/755 of the European Parliament and of the Council of 29 April 2015 on common rules for imports from certain third countries (OJ L 123, 19.5.2015, p. 33).

- (82) The Commission relied on production in Mexico of carbon steel seamless pipes, a product in the same general category as SSSPT, to select the representative country because there was no production of the investigated product during the RIP in any upper middle-income country. The Commission found that Thailand does not produce SSSPT and India does not fall in the same category of economic development (upper middle-income) as the PRC.
- (83) The Commission considered Argentina as an alternative but found that the relevant data were not readily available.
- (84) The Commission found that there are no anti-dumping measures in Mexico on the input material for the production of stainless-steel pipes, i.e. ingots or billets. The anti-dumping cases mentioned by BSS, therefore, have no direct impact on the constructed normal value. As for the indirect impact, the steel market is affected by trade defense measures in almost every producing country, including in the EU. The mere existence of these measures should not be a reason for the exclusion of the country from possible representative countries considered by the Commission.
- (85) The Commission determined that these US measures have no direct impact on the constructed normal value. The indirect impact, i.e. a possible effect on the profitability of the company (selling at dumped prices in the US market can bring a lower profit/no profit), is actually favourable for Chinese exporting producers because it lowers the profit margin added to the cost of manufacturing.
- (86) The Commission acknowledged in the FOP Note that imports of stainless-steel ingots in Mexico are low. Nevertheless, the Commission considered their price representative, also because BSS provided no evidence as to why the import prices should not be so.
- (87) BSS claimed that in Thailand there is production of SSSPT by TSP Precision Steel Tube Manufacturing (Thailand) CO., LTD. ("TSP") and Tubacex Awaji produces stainless steel fittings. In India, BSS identified a large number of producers and argued that in the expiry review on molybdenum wire the Commission used India as a representative country despite of the fact that it is a lower middle-income country <sup>(45)</sup>.
- (88) The Commission found that BSS did not submit any evidence that TSP produced seamless pipes and tubes of stainless steel. Also, the investigation did not reveal that TSP produced products of stainless steel. Pipe fittings produced by Tubacex Awaji could not be considered as the same general category of products as stainless steel pipes and tubes. The production process differs greatly, with large diameter fittings being manufactured from steel plates rather than from steel pipes and there is a specific hydraulic bulge method used for production. The use of Indian as a representative country in the molybdenum wire expiry review was an exceptional case, as was specifically mentioned in the Regulation <sup>(46)</sup>. It could, therefore, not be used as a precedent for arguing that India should be considered in this case, too.
- (89) BSS also claimed that the Tenaris Global was not a proper source of the determination of SG&A and profit. The Commission found that data relating to the manufacture of stainless steel seamless pipes in Mexico could not be isolated in the accounts of Tenaris Global. The Tenaris group, however, remains one of the most significant producers of pipes and tubes in the world. Its financial accounts are audited and publicly available. It is impossible to allocate sales, general and administrative costs and profit to the production of stainless steel seamless pipes and tubes only in the published accounts of any company since, as a rule, these companies produce from different grades of steel and often manufacture welded pipes, too. Tenaris manufactures tubes and pipes in Latin America, the USA, West Africa, China, Australia, the EU and the Middle East. The sales, general and administrative costs and profit figures, while admittedly not specific for Mexico only, provide a representative cross section of the industry.

<sup>(45)</sup> Implementing Regulation (EU) 2022/1305.

<sup>(46)</sup> 'In view of the above analysis, India was exceptionally considered as an appropriate source within the meaning of Article 2(6a)(a) of the basic Regulation for undistorted costs and prices' (Implementing Regulation (EU) 2022/1305, recital 68).

- (90) For the reasons stated in recitals from (81) to (88), BSS' claims were rejected.
- (91) In view of the above analysis, Mexico met the criteria laid down in Article 2(6a)(a), first indent of the basic Regulation in order to be considered as an appropriate representative country.

### 3.4.3. Undistorted costs and benchmarks

#### 3.4.3.1. Factors of production

- (92) Considering all the information based on the request and after analysing the comments from interested parties, including those of BSS, the Commission determined that the production process started from stainless steel ingots, or further downstream starting from stainless steel hollows or mothertubes <sup>(47)</sup>. In view of the above, the following factors of production and their sources have been identified in order to determine the normal value, in accordance with Article 2(6a)(a) of the basic Regulation:

Table 1

#### Factors of production of certain seamless pipes and tubes of stainless steel

| Factor of production             | HS code     | Source of data                                                       | Unit of measurement |
|----------------------------------|-------------|----------------------------------------------------------------------|---------------------|
| <b>Raw materials</b>             |             |                                                                      |                     |
| Stainless steel ingots (Billets) | 72181000 00 | Global Trade Atlas (GTA) <sup>(1)</sup>                              | Ton                 |
| <b>Energy</b>                    |             |                                                                      |                     |
| Electricity                      | N/A         | Comisión Federal de Electricidad <sup>(2)</sup>                      | KwH                 |
| Natural gas                      | N/A         | Comisión Reguladora de Energía <sup>(3)</sup>                        | KwH                 |
| <b>Labour</b>                    |             |                                                                      |                     |
| Direct labour cost               | N/A         | Instituto Nacional de Estadística y Geografía (INEGI) <sup>(4)</sup> | EUR/hour            |

<sup>(1)</sup> <http://www.gtis.com/gta/secure/default.cfm>

<sup>(2)</sup> <https://app.cfe.mx/Aplicaciones/CCFE/Tarifas/TarifasCREIndustria/Tarifas/GranDemandaMTH.aspx>

<sup>(3)</sup> <https://www.cre.gob.mx/IPGN/index.html>

<sup>(4)</sup> EMIM. Principales características, datos mensuales, nacional (inegi.org.mx).

#### 3.4.3.2. Raw materials

- (93) In order to establish the undistorted price of raw materials as delivered at the gate of a representative country producer, the Commission used as a basis the weighted average import price to the representative country as reported in the GTA, to which import duties were added. An import price in the representative country was determined as a weighted average of unit prices of imports from all third countries, excluding the PRC and countries which are not members of the WTO, listed in Annex I of Regulation (EU) 2015/755. The Commission decided to exclude imports from the PRC into the representative country as it concluded in recital (75) that it is not appropriate to use domestic prices and costs in the PRC due to the existence of significant distortions, in

<sup>(47)</sup> Stainless steel mothertubes or hollows are different than the hollow profiles that make up most of HS 730449 99.

accordance with Article 2(6a)(b) of the basic Regulation. Given that there is no evidence showing that the same distortions do not equally affect products intended for export, the Commission considered that the same distortions affected export prices. After excluding imports from the PRC and countries which are not members of the WTO into the representative country, the volume of imports from other third countries remained representative.

- (94) Normally, domestic transport prices should also be added to these import prices. However, considering the finding in section 3.4 as well as the nature of this expiry review investigation, which is focused on finding whether dumping continued during the review investigation period or could reoccur, rather than finding its exact magnitude, the Commission decided that adjustments for domestic transport were unnecessary. Such adjustments would only result in increasing the normal value and hence the dumping margin.

#### 3.4.3.3. Labour

- (95) The Commission used the last publicly available data from the Instituto Nacional de Estadística y Geografía published by the Mexican government covering the RIP. The average hourly labour cost amounts to 5,25 EUR/h applicable in the pipe and tubes producing sector.
- (96) In its comments on the FOP Note, BSS claimed that the Commission chose company wide remuneration for the determination of labour costs when only production related salaries should be used. The Commission agreed and used the figure extracted for production related salaries for the calculation.

#### 3.4.3.4. Electricity

- (97) The Commission used the data on industrial electricity prices related to the review investigation period applicable in Mexico as charged by one of the largest electricity suppliers in Mexico- the Comision Federal de Electricidad. Information indicated an average industrial price for the RIP of 0,0640 EUR/kWh.

#### 3.4.3.5. Natural gas

- (98) The Commission used the reference price of gas in Mexico for the review investigation period as published by the Comision Reguladora de Energia to determine the price of natural gas supplied to industrial users. The applicable unit cost is estimated to amount to 0,0209 EUR/kWh.

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

- (99) According to Article 2(6a)(a) of the basic Regulation, 'the constructed normal value shall include an undistorted and reasonable amount for administrative, selling and general costs and for profits'. In addition, a value for manufacturing overhead costs needs to be established to cover costs not included in the factors of production referred to above.

- (100) The Commission identified Tenaris Mexico (Tenaris Tamsa), as a producer of the product in the same general category as the product under review (seamless carbon steel pipes and tubes) in Mexico. The financial data for Tenaris Mexico is available. Its financial statements are integrated into the financial data of Tenaris Global. Tenaris Global became the owner of Tenaris Mexico after purchasing Tubos de Acero de Mexico, S.A. (TAMSA) a manufacturer. Tenaris Global is holding company conducting its operations through subsidiaries. Tenaris is a leading global manufacturer and supplier of steel pipe products and related services for the world's energy industry and other industrial applications with industrial operations in the Americas, Europe, the Middle East, Asia and Africa. Although its operations are focused on serving the oil & gas industry, they also supply pipes and tubular components for non-energy applications. The Commission considered that in the case at hand, the use of Tenaris Global's consolidated data was appropriate, in the absence of more detailed financial data limited to Tenaris Mexico and/or to the product in the same general category as the product under review. Tenaris Global company produces predominantly steel pipes, therefore, its data was considered representative for the sector and the product under review.
- (101) Based on the data provided by the Union producers in the request and upon subsequent investigation, the Commission established the ratio of manufacturing overheads to the total manufacturing and labour costs. This percentage was then applied to the undistorted value of the cost of manufacturing to obtain the undistorted value of manufacturing overheads, depending on the model produced.

#### 3.4.4. *Calculation of the normal value*

- (102) On the basis of the above, the Commission constructed the normal value on an ex-works basis in accordance with Article 2(6a)(a) of the basic Regulation.
- (103) First, the Commission established the undistorted manufacturing costs. In the absence of cooperation by the exporting producers, the Commission relied on the information provided by the applicant on the usage of each factor (materials and labour) for the production of certain seamless pipes and tubes of stainless steel.
- (104) Once the undistorted manufacturing cost established, the Commission added the manufacturing overheads, SG&A and profit. Manufacturing overheads were determined based on data provided by the applicant in the request and during the subsequent investigation. SG&A and profit were determined based on the financial statements of Tenaris Global for the RIP as reported in the company's audited accounts<sup>(48)</sup>. The Commission added the following items to the undistorted costs of manufacturing:
- Manufacturing overheads, which accounted in total for 13,52 % of the direct costs of manufacturing using billets,
  - SG&A and other costs, which accounted for 23 % of the Costs of Goods Sold ('COGS') of Tenaris Global, and
  - Profits, which amounted to 42 % of the COGS as achieved by Tenaris Global, were applied to the total undistorted costs of manufacturing.
- (105) On that basis, the Commission constructed the normal value per product type on an ex-works basis in accordance with Article 2(6a)(a) of the basic Regulation.

<sup>(48)</sup> <https://ir.tenaris.com/static-files/9516f6d6-7348-4eaa-a50b-126846e12475>

#### 3.4.5. *Continuation of dumping*

- (106) In the absence of cooperation from Chinese exporting producers, the export price was determined on the basis of facts available in accordance with Article 18 of the basic Regulation. The Commission used statistical information (14.6 Database) to determine export prices. The comparison of the export price and the normal value resulted in significant dumping margin. Even in case no profit would be added to the normal value as established above, the dumping margin would be significant.

#### 3.4.6. *Likelihood of continuation of dumping*

- (107) The Commission further analysed whether there was a likelihood of continuation of dumping should the measures lapse. In doing so, the following elements were analysed: Chinese production capacity and spare capacity and the attractiveness of the Union market.

##### 3.4.6.1. *Production capacity and spare capacity in the PRC*

- (108) In the absence of cooperation by the exporting producers in the PRC, the Commission based its findings with regard to the capacity of Chinese exporting producers on facts available and relied on the information contained in the expiry review request, as well as other available sources.
- (109) The PRC seamless tube industry is the biggest in the world with a total production capacity equal to the world consumption. Specifically regarding stainless steel seamless pipes and tubes, the 7 biggest Chinese producers, in the review investigation period had close to 100 000 tonnes of spare capacities, approximately the size of the Union market <sup>(49)</sup>.
- (110) On this basis, it is likely that Chinese producers will have ample spare capacities that they can direct to the Union market in large quantities at dumped prices should the measures lapse.

##### 3.4.6.2. *Attractiveness of the Union market*

- (111) The EU market remains a very attractive destination for imports of SSSPT. It has a high average price level, customers are reputed to pay correctly, there are adequate storage and distribution facilities, and the EU has a high level of industrial consumption. In addition, China faces a 25 % anti-dumping duty in the USA, an important market, and since September 2022, new anti-dumping measures in India. The top two export destinations for Chinese exporters were the United States and India.
- (112) In light of the above, the Commission concluded that the Union market represents an attractive target for the existing spare capacity in the PRC if anti-dumping measures were to be repealed and that the existing safeguard measures in place in the Union would leave enough room for a significant increase of imports of SSSPT originating in China, as only 56 % of the tariff rate quota has been used in the review investigation period.

##### 3.4.6.3. *Conclusion on the likelihood of continuation of dumping*

- (113) In view of the findings of dumping, the spare capacities, attractiveness of the Union market in terms of size and prices, the Commission concluded that there is a likelihood of continuation of dumping should the measures be allowed to lapse.

<sup>(49)</sup> Open version of the Review Request, p. 18.

4. INJURY

4.1. Definition of the Union industry and Union production

- (114) According to the applicant the like product was manufactured by 7 producers in the Union during the period considered. They constitute the ‘Union industry’ within the meaning of Article 4(1) of the basic Regulation.
- (115) The total Union production of the product under review during the review investigation period was established at around 68 000 tonnes. The Commission established the figure on the basis of all the available information concerning the Union industry, such as the request for the expiry review, the verified questionnaire replies and the macro questionnaire reply submitted by ESTA. As indicated in recital (11), the Union producers selected in the sample represented 46 % of the total Union production of the like product during the review investigation period.

4.2. Union consumption

- (116) The Commission established the Union consumption on the bases of (i) the volume of sales of the Union industry on the Union market based on the data provided by the applicant and (ii) imports from third countries based on the Eurostat database.
- (117) Union consumption developed as follows:

Table 2

Union consumption (tonnes)

|                   | 2019    | 2020   | 2021   | Review investigation period |
|-------------------|---------|--------|--------|-----------------------------|
| Union consumption | 101 694 | 77 128 | 82 003 | 92 105                      |
| Index             | 100     | 76     | 81     | 91                          |

Source: Eurostat, macro questionnaire reply from ESTA.

- (118) Total Union consumption declined sharply by 24 % in 2020 due to a slump in demand caused by the COVID-19 pandemic, and subsequently increased slightly by 5 % during 2021. This slight increase was followed by a good recovery during the review investigation period driven, by the rebound in demand for SSSPT, but the consumption was still 9 % below the level of 2019.

4.3. Imports from the country concerned

4.3.1. Volume and market share of the imports from the country concerned

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

- (120) Imports into the Union from the country concerned developed as follows:

Table 3

**Import volume (tonnes), market share and prices (EUR/tonne)**

|                                | 2019  | 2020  | 2021  | Review investigation period |
|--------------------------------|-------|-------|-------|-----------------------------|
| Volume of imports from the PRC | 4 535 | 3 896 | 5 461 | 5 633                       |
| <i>Index</i>                   | 100   | 86    | 120   | 124                         |
| PRC import prices              | 3 843 | 3 536 | 4 193 | 5 894                       |
| <i>Index</i>                   | 100   | 92    | 109   | 153                         |
| PRC market share               | 4 %   | 5 %   | 7 %   | 6 %                         |
| <i>Index</i>                   | 100   | 113   | 149   | 137                         |

Source: Eurostat, macro questionnaire reply from ESTA.

- (121) At the start of the period considered, from 2019 to 2020, Chinese exporting producers experienced a 14 % decline in sales volume on the Union market, following the decline in Union consumption during the same period. This decline was followed by a sharp increase in 2021 and during the review investigation period, resulting in an overall increase of 24 % in sales volume on the Union market over the period considered.
- (122) Despite the anti-dumping measures in force, the Chinese exporting producers were not only able to maintain but even to increase their market share over the period considered from 4 % in 2019 to 6 % in the review investigation period. The increase took place while the Union consumption declined over the same period by 9 %, as mentioned in recital (118).

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

- (123) The Commission established the prices of imports on the basis of statistical data from Eurostat, in the absence of cooperation from China. Price undercutting of the imports was established on the same basis.
- (124) Chinese import prices increased significantly over the period considered by 53 %. Nonetheless, these prices remained consistently far below the prices of imports from other third countries into the Union, as mentioned in recital (128), and even further below Union industry sales prices over the period considered, as mentioned in recital (148).
- (125) Given that statistical data had to be used, only an average price per tonne for a large variety of product types could be established.
- (126) The Chinese export price thus determined was compared with the weighted average sales prices during the review investigation of the sampled Union producers charged to customers on the Union market, adjusted to an ex-works level.
- (127) The result of the comparison was expressed as a percentage of the sampled Union producers' theoretical turnover during the review investigation period. It showed that, on average, the Chinese export prices to the Union were around 51 % lower than Union industry's average prices.

(128) The imports of the product under review from other third countries developed as follows:

Table 4

**Imports from third countries**

| Country                                     |                           | 2019   | 2020   | 2021   | Review investigation period |
|---------------------------------------------|---------------------------|--------|--------|--------|-----------------------------|
| Total of all third countries except the PRC | Volume (tonnes)           | 54 846 | 44 527 | 51 922 | 40 649                      |
|                                             | Index                     | 100    | 81     | 95     | 74                          |
|                                             | Market share              | 54 %   | 58 %   | 63 %   | 44 %                        |
|                                             | Average price (EUR/tonne) | 7 070  | 6 651  | 7 052  | 9 864                       |
|                                             | Index                     | 100    | 94     | 100    | 140                         |
| India                                       | Volume (tonnes)           | 23 715 | 16 773 | 21 263 | 22 656                      |
|                                             | Market share              | 23 %   | 22 %   | 26 %   | 25 %                        |
|                                             | Average Price             | 5 837  | 5 561  | 5 606  | 8 255                       |
| Ukraine                                     | Volume (tonnes)           | 14 425 | 13 710 | 14 202 | 6 779                       |
|                                             | Market share              | 14 %   | 18 %   | 17 %   | 7 %                         |
|                                             | Average Price             | 7 102  | 7 328  | 7 704  | 12 267                      |

Source: Eurostat.

(129) Imports of SSSPT from third countries other than China accounted for 54 % market share in 2019, of which almost half originated from India. Third country imports excluding China decreased during the period considered and accounted for around 44 % in the review investigation period. The average prices of these imports were below the average selling prices of the Union industry throughout the period considered.

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

##### 4.4.1. General remarks

(130) The assessment of the economic situation of the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.

(131) As mentioned in recital (11), sampling was used for the assessment of the economic situation of the Union industry.

(132) For the injury analysis, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators on the basis of data supplied by ESTA. The data relate to all known Union producers. The Commission evaluated the microeconomic indicators on the basis of data contained in the verified questionnaire replies from the sampled Union producers. Both sets of data have been found to be representative of the economic situation of the Union industry.

- (133) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, inventories, employment, productivity, magnitude of the dumping margin, and recovery from past dumping.
- (134) The microeconomic indicators are: average unit prices, unit cost, labour costs, profitability, cash flow, investments, return on investments, and ability to raise capital.

#### 4.4.2. *Macroeconomic indicators*

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

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

Table 5

#### **Production, production capacity and capacity utilisation**

|                              | 2019    | 2020    | 2021    | Review investigation period |
|------------------------------|---------|---------|---------|-----------------------------|
| Production volume (tonnes)   | 75 741  | 63 271  | 53 745  | 67 905                      |
| <i>Index</i>                 | 100     | 84      | 71      | 90                          |
| Production capacity (tonnes) | 148 344 | 146 184 | 135 184 | 135 184                     |
| <i>Index</i>                 | 100     | 99      | 91      | 91                          |
| Capacity utilisation         | 51 %    | 43 %    | 40 %    | 50 %                        |
| <i>Index</i>                 | 100     | 85      | 78      | 98                          |

Source: Macro questionnaire reply from ESTA.

- (136) The production volume of the Union industry followed a similar trend as total Union consumption, starting with a significant drop in 2020 followed by a recovery due to the rebound in demand for SSSPT during the review investigation period, still resulting in an overall decrease of 10 % during the period considered.
- (137) The production capacity of the Union industry decreased during the period considered by 9 %. Despite the reduction in production capacity, the capacity utilisation also followed a negative trend and decreased by 2 % between 2019 and the review investigation period. The reduction in production utilisation was a consequence of a downturn in production that was experienced at the beginning of the pandemic, and which was attributable to a contraction in demand. The substantial reduction in production endured, notably in the initial months of 2021, primarily as a result of the prevailing sanitary crisis and further compounded by a consequential labour strike that affected one of the concerned entities. The Union industry has strategically chosen to maintain a lower capacity to achieve a better price premium, given the expected continued low market demand.

#### 4.4.2.2. Sales volume and market share

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

Table 6

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

|                                  | 2019   | 2020   | 2021   | Review investigation period |
|----------------------------------|--------|--------|--------|-----------------------------|
| Sales volume on the Union market | 47 050 | 33 863 | 29 648 | 48 994                      |
| <i>Index</i>                     | 100    | 72     | 63     | 104                         |
| Market share                     | 42 %   | 37 %   | 30 %   | 50 %                        |
| <i>Index</i>                     | 100    | 89     | 72     | 120                         |

Source: Macro questionnaire reply from ESTA.

- (139) The Union industry sales volume on the Union market followed the trend of Union consumption during the period considered. It decreased significantly between 2019 and 2021 for the reasons explained in recital (118), followed by a strong rebound in the review investigation period, resulting in an overall increase of 4 % over the period considered.
- (140) During the period considered, the Union industry's market share in terms of Union consumption decreased from 2019 to 2021 from 42 % to 30 % to increase by 20 percentage points between 2021 and the review investigation period to 50 %. As shown in recital (128), this increase was explained by the fact that the market share of imports from third countries other than China decreased by 10 % between 2019 and the review investigation period.

#### 4.4.2.3. Growth

- (141) During the period considered, the Union industry did not experience any growth in production or sales. This lack of growth can be understood within the broader global economic landscape, particularly evident in the deceleration of global GDP growth to 2,6 % in 2019, marking its lowest level since 2009. This economic downturn, which began prior to the emergence of the COVID-19 pandemic, eventually precipitated a global recession in 2020.
- (142) Within the specific sector of seamless tubes, several factors contributed to the industry's challenges. Notably, the ongoing green energy transition has negatively impacted the demand for SSSPT of the oil and gas industry, which remained an important source of demand for the Union producers. Additionally, there has been a reduction in investment levels, exacerbating the industry's difficulties. Moreover, the increased importation of seamless tubes into the EU in 2019 further compounded the situation, leading to a negative impact on profitability within the sector.

## 4.4.2.4. Employment and productivity

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

Table 7

**Employment and productivity**

|                                | 2019  | 2020  | 2021  | Review investigation period |
|--------------------------------|-------|-------|-------|-----------------------------|
| Number of employees            | 2 520 | 2 332 | 2 085 | 2 266                       |
| <i>Index</i>                   | 100   | 93    | 83    | 90                          |
| Productivity (tonnes/employee) | 30    | 27    | 26    | 30                          |
| <i>Index</i>                   | 100   | 90    | 86    | 100                         |

Source: Macro questionnaire reply from ESTA.

(144) Between 2019 and the review investigation period, there was a notable correlation between the number of employees involved in the production of the product under review and the volume of Union production. During this timeframe, there was a significant reduction in the number of employees, particularly evident from 2019 to 2021. However, there was a slight recovery observed during the review investigation period. As a consequence, there was an overall decrease of 10 % in the number of employees engaged in production over the period considered.

(145) The productivity of the Union industry's workforce, measured as output (tonnes) per employee, remained overall stable during the period considered.

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

(146) Dumping continued during the review investigation period, as explained in recital (106) above. The significant volume of low priced SSSPT exported to the Union by the Chinese producers had a negative effect on the Union industry's performance in terms of competitiveness and profitability, as these prices severely undercut Union industry's sales price.

(147) During the period considered, the volume of the dumped imports from the PRC was however substantially lower, as explained in recital (35) above, than during the original investigation period. Based on this analysis, it can be inferred that the impact of the dumped imports on the Union industry was, in fact, more significant during the examined period.

#### 4.4.3. Microeconomic indicators

##### 4.4.3.1. Prices and factors affecting prices.

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

Table 8

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

|                                    | 2019  | 2020   | 2021  | Review investigation period |
|------------------------------------|-------|--------|-------|-----------------------------|
| Average Union industry sales price | 9 184 | 9 363  | 9 882 | 12 166                      |
| <i>Index</i>                       | 100   | 105    | 108   | 132                         |
| Unit cost of production            | 9 164 | 10 155 | 9 632 | 11 610                      |
| <i>Index</i>                       | 100   | 111    | 105   | 127                         |

Source: Sampled Union producers questionnaire replies.

- (149) The Union industry's average sales prices increased gradually from 2019 to 2021 by 8 % and increased drastically by 32 % in the review investigation period compared to 2019. The trend of unit sales prices during the period considered was influenced by the severe disruptions caused by the COVID-19 pandemic, cost increases of raw materials and energy and a surge in demand.
- (150) As mentioned in recital (149), the unit cost of production followed a similar trend as the sales price. From 2019 to 2021 the cost of production increased slightly by 5 %, and over the entire period considered costs of production increased by 27 %. The surge of unit cost of production in the review investigation period were caused by steep increases in energy and commodity prices, due to a global demand rebound following the COVID-19 pandemic and the military aggression in Ukraine.

##### 4.4.3.2. Labour costs

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

Table 9

#### Average labour costs per employee

|                                             | 2019   | 2020   | 2021   | Review investigation period |
|---------------------------------------------|--------|--------|--------|-----------------------------|
| Average labour costs per employee (EUR/FTE) | 66 702 | 70 262 | 66 034 | 74 768                      |
| <i>Index</i>                                | 100    | 105    | 99     | 112                         |

Source: Sampled Union producers questionnaire replies.

- (152) During the period considered average labour costs increased by 12 %. While the number of employees in the review investigation period went down as mentioned in recital (143), the average labour cost per employee increased compared to 2019.

## 4.4.3.3. Inventories

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

Table 10

**Inventories**

|                                              | 2019   | 2020   | 2021   | Review investigation period |
|----------------------------------------------|--------|--------|--------|-----------------------------|
| Closing stocks (tonnes)                      | 13 790 | 12 772 | 15 062 | 13 957                      |
| <i>Index</i>                                 | 100    | 93     | 109    | 101                         |
| Closing stocks as a percentage of production | 18 %   | 20 %   | 28 %   | 21 %                        |
| <i>Index</i>                                 | 100    | 111    | 154    | 113                         |

Source: Sampled Union producers questionnaire replies.

(154) Over the period considered, the Union industry stock of SSSPT remained stable with a peak in 2021 to return in the review investigation period to 2019 levels. This trend was explained by the effects of the Covid-19 pandemic followed by a rebound of consumer demand in the review investigation period.

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

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

Table 11

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

|                                                                  | 2019       | 2020       | 2021       | Review investigation period |
|------------------------------------------------------------------|------------|------------|------------|-----------------------------|
| Profitability of sales in the Union market (% of sales turnover) | 5,2        | – 9,2      | – 0,5      | 7,4                         |
| <i>Index</i>                                                     | 100        | – 177      | – 9        | 142                         |
| Cash flow (EUR)                                                  | 28 940 440 | 10 725 817 | 18 187 297 | 28 095 547                  |
| <i>Index</i>                                                     | 100        | – 37       | – 63       | 97                          |
| Investments (EUR)                                                | 27 124 666 | 21 940 828 | 14 858 909 | 18 895 783                  |
| <i>Index</i>                                                     | 100        | 81         | 55         | 70                          |
| Return on investments (%)                                        | 1,6        | – 7,5      | – 3,2      | 5,9                         |
| <i>Index</i>                                                     | 100        | – 472      | – 205      | 374                         |

Source: Sampled Union producers questionnaire replies.

- (156) The Commission established the profitability of the sampled Union producers by expressing the pre-tax net profit of the sales of the like product in the Union as a percentage of the turnover of those sales.
- (157) From 2019 to 2021 the industry went from profitable to lossmaking due to the Covid-19 pandemic in combination with a nine month strike at one of the biggest producers. Profitability reached its lowest level, namely – 9 %, in 2021 at the core of the pandemic. Profits rebounded however in the review investigation period to reach 7 % at the end of the period considered.
- (158) The trend in net cash flow developed in a similar manner to profitability: a drastic fall in 2019-2021, followed by significant rebound in the review investigation period.
- (159) Between 2019 and the review investigation period, investments decreased by 30 %. In general, the investments were aimed at improving quality and greening of the production.
- (160) The return on investments (ROI) is the profit in percentage of the net book value of investments. The return on investment sharply fluctuated over the period considered. From 2019 to 2021 it strongly dropped, followed by a strong rebound in the review investigation period, to reach a level of 4 percentage points above the starting point of the period considered in 2019.
- (161) The sampled Union producers' ability to raise capital was not affected during the period considered, which saw a recovery from the pandemic.

#### 4.5. Conclusion on injury

- (162) The measures in force ensured protection to the Union industry, allowing it to increase their market share, increase prices in line with the increased costs and to reach a profitable level and a positive return on investment at the end of the period considered.
- (163) However, the Union industry remained vulnerable, which was demonstrated by the decrease in production, production capacity and, despite the latter, a decreasing capacity utilisation.
- (164) Furthermore, despite the measures in force, the Chinese exporters continued to export the product concerned in increasing volumes, by 24 %, at dumped prices during the period considered and to expand their market share, which went up from 4 % to 6 %. Prices of these imports increased, but remained far below the level of the prices of other imports and even further below the level of the prices of the Union industry, thus undercutting the latter by 51 %.
- (165) On the basis of the above, the Commission concluded that the Union industry did not suffer material injury within the meaning of Article 3(5) of the basic Regulation during the review investigation period.

### 5. LIKELIHOOD OF RECURRENCE OF INJURY

- (166) The Commission concluded in recital (165) that the Union industry did not suffer material injury during the review investigation period. Therefore, the Commission assessed, in accordance with Article 11(2) of the basic Regulation, whether there would be a likelihood of recurrence of injury caused by the dumped imports from the PRC if the measures were allowed to lapse.

- (167) The Union market, structurally attractive, is an open market. In case the AD measures would lapse, and taking into account that the existing safeguard measures in place are temporary, the result would likely be a significant increase of import of SSSPT from the PRC.
- (168) The investigation showed, that the Union industry was vulnerable. The investigation also revealed that the Union industry was in a process of restructuring, which was, amongst others, reflected in the decrease in production capacity over the period considered, to achieve a better price premium, given the expected continued low market demand.
- (169) For comparison purposes, the Commission determined the following prices:
- Average Union industry sales price: 12 166 EUR/tonne (see recital (148))
  - Chinese average export price: 5 894 EUR/tonne (see recital (120))
  - World (except China average export price: 9 864 EUR (see recital (128))
  - Indian average export price: 8 255 EUR/tonne (see recital (128))
  - Ukrainian average export price: 12 267 EUR/tonne (see recital (128))
- (170) The above clearly showed that the Chinese exporting producers were able to export at prices far below those of the Union industry, and also below the Indian and Ukrainian average export prices.
- (171) The Commission thus concluded that, should measures be allowed to lapse, the Chinese exporters would be able to exercise significant price pressure on the Union industry.
- (172) In this regard, the following elements were further analysed by the Commission: the spare capacity in the PRC, the attractiveness of the Union market, the post review investigation period developments and the impact of imports from the PRC if the measures were allowed to lapse.

#### 5.1. **Production capacity and spare capacity in the PRC**

- (173) As described in recital (109), according to the applicant the PRC's SSSPT industry is reputed as being by far the biggest in the world. The market analysis in the request identified 37 identified Chinese piercing/pilgers mills and 18 extrusion presses with capacities amounting to 915 000 tonnes. The seven biggest Chinese producers only represented in the review investigation period close to 100 000 tonnes of spare capacity, which almost equals the size of the Union consumption.

#### 5.2. **Attractiveness of the Union market**

- (174) The Union market remained a very attractive destination for SSSPT exports, as shown by the large volumes of imports accounting for nearly 50 % market share.
- (175) In addition, China already faced trade measures globally, which increased the risk of exports from the PRC being diverted to Union market.
- (176) One of the main markets, the United States, is protected by measures on the product under review, which reduced access of the Chinese producers. Furthermore, the existence of anti-dumping measures in India, specifically targeting imports from China since September 2022, further reduced the export destinations for Chinese exporting producers.

### 5.3. Likely Chinese import prices and impact on the Union industry

- (177) As referred to in recital (127) exports from the PRC to the Union undercut Union industry's average prices by around 51 %.
- (178) Given that the Union industry during the review investigation period had just rebounded from a turbulent and economically difficult period, including the Covid-19 pandemic, with accumulated losses, it was still in a fragile situation. It is therefore highly likely that the recurrence of low-priced dumped imports from China in significant volumes that undercut Union prices would have a significant adverse effect on the Union industry's performance, notably with regard to production, sales volumes and prices, profitability and investment needs, resulting in material injury recurring.

### 5.4. Conclusion

- (179) On the basis of the above, the Commission concluded that the absence of measures would in all likelihood result in a significant increase of dumped imports from the PRC at injurious prices. Thus material injury would be likely to recur, putting the viability of the Union industry at serious risk.

## 6. UNION INTEREST

- (180) 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, and users.

### 6.1. Interest of the Union industry

- (181) Although the anti-dumping measures had a tempering effect on the volume of dumped imports entering the Union market, as set out in recital (120), the Union industry remained in a fragile situation, as confirmed by the negative trends of injury indicators such as production, production capacity, employment, cashflow and investments.
- (182) Should the measures be allowed to lapse, it is likely that the influx of substantial volumes of dumped imports from the country concerned would cause further injury to the Union industry. This influx would be expected to cause, amongst others, loss of Union market share, decrease in Union sales prices, decrease in Union capacity utilisation and in general a serious deterioration of the Union industry's financial situation.
- (183) The Commission thus concluded that the continuation of the anti-dumping measures in force would be in the interest of the Union industry.

#### 6.1.1. Interest of users and unrelated importers

- (184) The Commission contacted all known users and unrelated importers. No users or unrelated importers came forward and cooperated in this investigation by submitting a questionnaire reply. Given the lack of interest shown by users and unrelated importers, and in the absence of any indications that the conclusions reached in previous investigations had changed, the continuation of the measures was not considered being against the interest of users and importers.

#### 6.1.2. Conclusion on Union interest

- (185) On the basis of the above, the Commission concluded that there were no compelling reasons of Union interest against the continuation of the existing measures on imports of SSSPT from the PRC.

## 7. ANTI-DUMPING MEASURES

- (186) On the basis of the conclusions reached by the Commission on continuation of dumping, continuation of injury and Union interest, the anti-dumping measures applicable to imports of SSSPT originating in the PRC should be maintained.
- (187) To minimise the risks of circumvention due to the difference in duty rates, special measures are needed to ensure the application of the individual anti-dumping duties. The companies with individual anti-dumping duties must present a valid commercial invoice to the customs authorities of the Member States. The invoice must conform to the requirements set out in Article 1(5) of this Regulation. Imports not accompanied by that invoice should be subject to the anti-dumping duty applicable to 'all other companies'.
- (188) While presentation of this invoice is necessary for the customs authorities of the Member States to apply the individual rates of anti-dumping duty to imports, it is not the only element to be taken into account by the customs authorities. Indeed, even if presented with an invoice meeting all the requirements set out in Article 1(5) of this regulation, the customs authorities of Member States must carry out their usual checks and may, like in all other cases, require additional documents (shipping documents, etc.) for the purpose of verifying the accuracy of the particulars contained in the declaration and ensure that the subsequent application of the lower rate of duty is justified, in compliance with customs law.
- (189) Should the exports by one of the companies benefiting from lower individual duty rates increase significantly in volume after the imposition of the measures concerned, such an increase in volume could be considered as constituting in itself a change in the pattern of trade due to the imposition of measures within the meaning of Article 13(1) of the basic Regulation. In such circumstances and provided the conditions are met an anti-circumvention investigation may be initiated. This investigation may, inter alia, examine the need for the removal of individual duty rate(s) and the consequent imposition of a country-wide duty.
- (190) The individual company anti-dumping duty rates specified in this Regulation are exclusively applicable to imports of the product under review originating in the PRC 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.
- (191) A company may request the application of these individual anti-dumping duty rates if it changes subsequently the name of its entity. The request must be addressed to the Commission <sup>(50)</sup>. The request must contain all the relevant information enabling to demonstrate that the change does not affect the right of the company to benefit from the duty rate which applies to it. If the change of name of the company does not affect its right to benefit from the duty rate which applies to it, a regulation about the change of name will be published in the *Official Journal of the European Union*.
- (192) An exporter or producer that did not export the product concerned to the Union during the period that was used to set the level of the duty currently applicable to its exports may request the Commission to be made subject to the anti-dumping duty rate for cooperating companies not included in the sample. The Commission should grant such request, provided that three conditions are met. The new exporting producer would have to demonstrate that: (i) it did not export the product concerned to the Union during the period that was used to set the level of the duty applicable to its exports; (ii) it is not related to a company that did so and thus is subject to the anti-dumping duties; and (iii) has exported the product concerned thereafter or has entered into an irrevocable contractual obligation to do so in substantial quantities.

<sup>(50)</sup> European Commission, Directorate-General for Trade, Directorate G, Rue de la Loi 170, 1040 Brussels, Belgium.

- (193) In view of Article 109 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council <sup>(21)</sup> when an amount is to be reimbursed following a judgment of the Court of Justice of the European Union, the interest to be paid should be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union* on the first calendar day of each month.
- (194) The measures provided for in this regulation are in accordance with the opinion of the Committee established by Article 15(1) Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:

#### Article 1

1. A definitive anti-dumping duty is imposed on imports of seamless pipes and tubes of stainless steel (excluding such pipes and tubes with attached fittings suitable for conducting gases or liquids for use in civil aircraft), currently falling within CN codes 7304 11 00, 7304 22 00, 7304 24 00, ex 7304 41 00, 7304 49 10, ex 7304 49 93, ex 7304 49 95, ex 7304 49 99 and ex 7304 90 00 (TARIC codes 7304410090, 7304499390, 7304499590, 7304499990 and 7304900091), and originating in the People's Republic of China.

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

| Company/companies                                                     | Definitive anti-dumping duty rate | TARIC additional code |
|-----------------------------------------------------------------------|-----------------------------------|-----------------------|
| Changshu Walsin Specialty Steel, Co. Ltd, Haiyu                       | 71,9 %                            | B120                  |
| Shanghai Jinchang Stainless Steel Tube Manufacturing, Co. Ltd, Situan | 48,3 %                            | B118                  |
| Wenzhou Jiangnan Steel Pipe Manufacuring, Co. Ltd, Yongz              | 48,6 %                            | B119                  |
| Companies listed in the Annex to this Regulation                      | 56,9 %                            |                       |
| All other companies                                                   | 71,9 %                            | B999                  |

3. Unless otherwise specified, the provisions in force concerning customs duties shall apply. The default interest to be paid in case of reimbursement that gives rise to a right to payment of default interest shall 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*, in force on the first calendar day of the month in which the deadline falls, increased by one percentage point.

4. Where any new exporting producer in the People's Republic of China provides sufficient evidence to the Commission that: (a) it did not export to the Union the product described in paragraph 1 in the period between 1 July 2009 and 30 June 2010 (original investigation period), (b) it is not related to any exporter or producer in the People's Republic of China which is subject to the anti-dumping measures imposed by this Regulation, (c) it has actually exported to the Union the product concerned or it has entered into an irrevocable contractual obligation to export a significant quantity to the Union after the end of the original investigation period, the Commission may amend the Annex to this Regulation by adding the new exporting producer to the cooperating companies not included in the sample of the original investigation and thus subject to the weighted average duty of not exceeding 56,9 %.

<sup>(21)</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

5. The application of the individual anti-dumping duty rates specified for the companies mentioned in paragraph 2 shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, on which shall appear a declaration dated and signed by an official of the entity issuing such invoice, identified by his/her name and function, drafted as follows: 'I, the undersigned, certify that the (volume) of seamless pipes and tubes of stainless steel sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in the (country concerned). I declare that the information provided in this invoice is complete and correct.' If no such invoice is presented, the duty rate applicable to 'all other companies' shall apply.

#### *Article 2*

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

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

Done at Brussels, 30 May 2024.

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

## ANNEX

## PRC COOPERATING EXPORTING PRODUCERS NOT SAMPLED IN THE ORIGINAL INVESTIGATION

| Name                                                                    | TARIC additional code |
|-------------------------------------------------------------------------|-----------------------|
| Baofeng Steel Group, Co. Ltd, Lishui,                                   | B 236                 |
| Changzhou City Lianyi Special Stainless Steel Tube, Co. Ltd, Changzhou, | B 237                 |
| Huadi Steel Group, Co. Ltd, Wenzhou,                                    | B 238                 |
| Huzhou Fengtai Stainless Steel Pipes, Co. Ltd, Huzhou,                  | B 239                 |
| Huzhou Gaolin Stainless Steel Tube Manufacture, Co. Ltd, Huzhou,        | B 240                 |
| Huzhou Zhongli Stainless Steel Pipe, Co. Ltd, Huzhou,                   | B 241                 |
| Jiangsu Wujin Stainless Steel Pipe Group, Co. Ltd, Beijing,             | B 242                 |
| Jiangyin Huachang Stainless Steel Pipe, Co. Ltd, Jiangyin               | B 243                 |
| Lixue Group, Co. Ltd, Ruian,                                            | B 244                 |
| Shanghai Crystal Palace Pipe, Co. Ltd, Shanghai,                        | B 245                 |
| Shanghai Baoluo Stainless Steel Tube, Co. Ltd, Shanghai,                | B 246                 |
| Shanghai Shangshang Stainless Steel Pipe, Co. Ltd, Shanghai,            | B 247                 |
| Shanghai Tianbao Stainless Steel, Co. Ltd, Shanghai,                    | B 248                 |
| Shanghai Tianyang Steel Tube, Co. Ltd, Shanghai,                        | B 249                 |
| Wenzhou Xindeda Stainless Steel Material, Co. Ltd, Wenzhou,             | B 250                 |
| Wenzhou Baorui Steel, Co. Ltd, Wenzhou,                                 | B 251                 |
| Zhejiang Conform Stainless Steel Tube, Co. Ltd, Jixing,                 | B 252                 |
| Zhejiang Easter Steel Pipe, Co. Ltd, Jiaxing,                           | B 253                 |
| Zhejiang Five – Star Steel Tube Manufacturing, Co. Ltd, Wenzhou,        | B 254                 |
| Zhejiang Guobang Steel, Co. Ltd, Lishui,                                | B 255                 |
| Zhejiang Hengyuan Steel, Co. Ltd, Lishui,                               | B 256                 |
| Zhejiang Jiashang Stainless Steel, Co. Ltd, Jiaxing City,               | B 257                 |
| Zhejiang Jinxin Stainless Steel Manufacture, Co. Ltd, Xiping Town,      | B 258                 |
| Zhejiang Jiuli Hi Tech Metals, Co. Ltd, Huzhou,                         | B 259                 |
| Zhejiang Kanglong Steel, Co. Ltd, Lishui,                               | B 260                 |
| Zhejiang Qiangli Stainless Steel Manufacture, Co. Ltd, Xiping Town,     | B 261                 |
| Zhejiang Tianbao Industrial, Co. Ltd, Wenzhou,                          | B 262                 |
| Tsingshan Steel Pipe, Co. Ltd, Lishui,                                  | B 263                 |
| Zhejiang Yida Special Steel, Co. Ltd, Xiping Town.                      | B 264                 |