



COMMISSION IMPLEMENTING REGULATION (EU) 2025/100

of 20 January 2025

imposing a definitive anti-dumping duty on imports of lever arch mechanisms 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 ⁽¹⁾ ('the basic Regulation'), and in particular Article 11(2) thereof,

Whereas:

1. PROCEDURE

1.1. Previous investigations and measures in force

- (1) By Regulation (EC) No 1136/2006 ⁽²⁾, the Council imposed anti-dumping duties on imports of lever arch mechanisms (LAM) originating in the People's Republic of China ('the original measures'). The investigation that led to the imposition of the original measures will hereinafter be referred to as 'the original investigation'.
- (2) By Regulation (EU) No 796/2012 ⁽³⁾, the Council re-imposed the definitive anti-dumping measures on imports of lever arch mechanisms originating in the People's Republic of China ('China') following an expiry review.
- (3) By Regulation (EU) 2018/1684 ⁽⁴⁾, the European Commission, re-imposed the definitive anti-dumping measures on imports of lever arch mechanisms originating in the People's Republic of China ('China') following an expiry review, (the 'previous expiry review').
- (4) The anti-dumping duties currently in force are at 27,1 % on imports from the sampled exporting producer and a duty rate of 47,4 % on imports from all other companies from the People's Republic of China.

1.2. Request for an expiry review

- (5) Following the publication of a notice of impending expiry ⁽⁵⁾ the European Commission ('the Commission') received a request for a review pursuant to Article 11(2) of the basic Regulation.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21, ELI: <http://data.europa.eu/eli/reg/2016/1036/oj>.

⁽²⁾ Council Regulation (EC) No 1136/2006 of 24 July 2006 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of lever arch mechanisms originating in the People's Republic of China (OJ L 205, 27.7.2006, p. 1, <http://data.europa.eu/eli/reg/2006/1136/oj>).

⁽³⁾ Council Implementing Regulation (EU) No 796/2012 of 30 August 2012 imposing a definitive anti-dumping duty on imports of lever arch mechanisms originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009 (OJ L 238, 4.9.2012, p. 5, ELI: http://data.europa.eu/eli/reg_impl/2012/796/oj).

⁽⁴⁾ Commission Implementing Regulation (EU) 2018/1684 of 8 November 2018 imposing a definitive anti-dumping duty on imports of lever arch mechanisms 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 279, 9.11.2018, p. 17, ELI: http://data.europa.eu/eli/reg_impl/2018/1684/oj).

⁽⁵⁾ OJ C 49, 9.2.2023, p. 8.

- (6) The request for review was submitted on 8 August 2023 by the Lever Arch Mechanism Manufacturers Association ('the applicant') on behalf of the Union industry of lever arch mechanisms 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 recurrence of dumping and recurrence of injury to the Union industry.

1.3. Initiation of an expiry review

- (7) Having determined, after consulting the Committee established by Article 15(1) of the basic Regulation, that sufficient evidence existed for the initiation of an expiry review, on 8 November 2023 the Commission initiated an expiry review with regard to imports into the Union of lever arch mechanisms originating in the People's Republic of China ('the country concerned') on the basis of Article 11(2) of the basic Regulation. It published a Notice of Initiation in the *Official Journal of the European Union* ⁽⁶⁾ ('the Notice of Initiation').

1.4. Review investigation period and period considered

- (8) The investigation of continuation or recurrence of dumping covered the period from 1 October 2022 to 30 September 2023 ('review investigation period' or 'RIP'). The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2020 to the end of the review investigation period ('the period considered').

1.5. Interested parties

- (9) In the Notice of Initiation, interested parties were invited to contact the Commission to participate in the investigation. In addition, the Commission specifically informed the applicant, the known producers in China, and the authorities of China, known importers and users about the initiation of the expiry and invited them to participate.
- (10) 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

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

1.7. Sampling of Union producers

- (12) In the Notice of Initiation, sampling of the Union producers was envisaged, however, after contacting all known producers of the like product in the Union, the Commission received information from two Union producers only. The Commission therefore invited both Union producers to complete the questionnaire for the Union producers.

1.8. Sampling of importers

- (13) In the Notice of Initiation, sampling of the unrelated importers was envisaged, however, no unrelated importers provided sampling information within the deadline given in the Notice of Initiation. One unrelated importer/trader came forward as an interested party within the deadline. The Commission decided that sampling was not necessary and invited the only one unrelated importer/trader that came forward to complete the questionnaire for importers.

⁽⁶⁾ OJ C, C/2023/614, 8.11.2023.

1.9. Sampling of exporting producers in China

- (14) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all exporting producers in China to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the People's Republic of China to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation. No replies were received.

1.10. Replies to the questionnaire

- (15) Questionnaires for Union producers, as well as those for importers, users and producers in China were made available online on the day of the initiation ⁽⁷⁾.
- (16) The Commission sent a questionnaire concerning the existence of significant distortions in China within the meaning of Article 2(6a)(b) of the basic Regulation to the Government of the People's Republic of China ("GOC").
- (17) The Commission invited the two Union producers and one unrelated importer that came forward after the initiation to complete the questionnaires.
- (18) Questionnaire replies were received from two Union producers. No questionnaire replies were received from unrelated importers/traders.
- (19) Neither the GOC nor any producer in China provided a questionnaire reply.

1.11. Verification

- (20) 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

- Interkov spol. s.r.o., Benešov nad Ploučnici, Czech Republic,
- Niko, d.o.o., Železniki, Slovenia.

1.12. Subsequent procedure

- (21) On 7 November 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. No comments were received. No parties requested a hearing.

2. PRODUCT UNDER REVIEW, PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product under review

- (22) The product under review is the same as in the original investigation and previous expiry review namely LAM generally used for archiving sheets and other documents in binders or files. These LAM consist of arched sturdy metal elements (normally two) on a back plate and having at least one opening trigger that permits inserting and filing of sheets and other documents ('product under review'), currently falling under CN code ex 8305 10 00 (TARIC code 8305 10 00 50).

⁽⁷⁾ <https://tron.trade.ec.europa.eu/investigations/case-view?caseId=2688>.

2.2. Product concerned

- (23) The product concerned by this investigation is the product under review originating in China currently falling under CN code ex 8305 10 00 (TARIC code 8305 10 00 50).

2.3. Like product

- (24) The investigation showed that the following products have the same basic physical and chemical characteristics as well as the same basic uses:
- the product under review when exported to the Union,
 - the product under review produced and sold on the domestic market of China,
 - the product under review exported by China to third countries, and
 - the product under review produced and sold in the Union by the Union industry.
- (25) The Commission decided at this stage that those products are therefore like products within the meaning of Article 1(4) of the basic Regulation.

3. DUMPING

3.1. Preliminary remarks

- (26) In accordance with Article 11(2) of the basic Regulation, the Commission examined whether dumping was taking place during the review investigation period and whether dumping was likely to continue or recur upon a possible expiry of the measures in force.
- (27) As mentioned in recital (19), none of the exporters/producers from China cooperated in the investigation. Therefore, the Commission informed the authorities of China that due to the absence of cooperation, the Commission might apply Article 18 of the basic Regulation concerning the findings with regard to China. The Commission did not receive any comments or requests for an intervention of the Hearing Officer in this regard.
- (28) Consequently, in accordance with Article 18 of the basic Regulation, the findings in relation to the likelihood of continuation or recurrence of dumping were based on facts available, in particular information in the request for review, and information obtained from cooperating parties in the course of the review investigation (namely, the applicant) and information from other publicly available sources, in particular the Global Trade Atlas ('GTA') ⁽⁸⁾.

3.2. Procedure for the determination of the normal value under Article 2(6a) of the basic Regulation for the imports of LAM originating in China

- (29) 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'.
- (30) 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').
- (31) As further explained below, the Commission concluded in the present investigation that, based on the evidence available, and in view of the lack of cooperation of the GOC and the exporting producers, the application of Article 2(6a) of the basic Regulation was appropriate.

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

3.3. Existence of significant distortions

- (32) In recent investigations concerning the steel sector ⁽⁹⁾ in China ⁽¹⁰⁾, the Commission found that significant distortions in the sense of Article 2(6a)(b) of the basic Regulation were present.
- (33) In those investigations, the Commission found that there is substantial government intervention in China resulting in a distortion of the effective allocation of resources in line with market principles ⁽¹¹⁾. In particular, the Commission concluded that in the steel sector, which is the main raw material to produce lever arch mechanism, 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 ⁽¹²⁾, 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 ⁽¹³⁾. 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 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 ⁽¹⁴⁾. Moreover, the Commission concluded that the Chinese bankruptcy and property laws do not work properly in the sense of Article 2(6a)(b), fourth indent of the basic Regulation, thus generating distortions in particular when maintaining insolvent firms afloat and when allocating

⁽⁹⁾ The main raw material to produce the lever arch mechanism, being cold rolled steel strip nickel plated above 50 % of the total cost of material and wire nickel plated above 30 % total cost of material.

⁽¹⁰⁾ 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, ELI: http://data.europa.eu/eli/reg_impl/2022/2068/oj); 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, ELI: http://data.europa.eu/eli/reg_impl/2022/191/oj); 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, ELI: http://data.europa.eu/eli/reg_impl/2022/95/oj); Commission Implementing Regulation (EU) 2021/2239 of 15 December 2021 imposing a definitive anti-dumping duty on imports of certain utility scale steel wind towers originating in the People's Republic of China (OJ L 450, 16.12.2021, p. 59, ELI: http://data.europa.eu/eli/reg_impl/2021/2239/oj); Commission Implementing Regulation (EU) 2021/635 of 16 April 2021 imposing a definitive anti-dumping duty on imports of certain welded pipes and tubes of iron or non-alloyed steel originating in Belarus, the People's Republic of China and Russia following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council (OJ L 132, 19.4.2021, p. 145, ELI: http://data.europa.eu/eli/reg_impl/2021/635/oj).

⁽¹¹⁾ See Implementing Regulation (EU) 2022/2068, recital 80; Implementing Regulation (EU) 2022/191, recital 208; Implementing Regulation (EU) 2022/95, recital 59; Implementing Regulation (EU) 2021/2239, recitals 67 to 74 and Implementing Regulation (EU) 2021/635, recitals 149 and 150.

⁽¹²⁾ See Implementing Regulation (EU) 2022/2068, recital 64; Implementing Regulation (EU) 2022/191, recital 192; Implementing Regulation (EU) 2022/95, recital 46; Implementing Regulation (EU) 2021/2239, recitals 67 to 74 and Implementing Regulation (EU) 2021/635, recitals 115 to 118.

⁽¹³⁾ See Implementing Regulation (EU) 2022/2068, recital 66; Implementing Regulation (EU) 2022/191, recitals 193 and 194; Implementing Regulation (EU) 2022/95, recital 47; Implementing Regulation (EU) 2021/2239, recitals 67 to 74 and Implementing Regulation (EU) 2021/635 recitals 119 to 122. 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 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.

⁽¹⁴⁾ See Implementing Regulation (EU) 2022/2068, recital 68; Implementing Regulation (EU) 2022/191, recitals 195 to 201; Implementing Regulation (EU) 2022/95, recitals 48 to 52; Implementing Regulation (EU) 2021/2239, recitals 67 to 74 and Implementing Regulation (EU) 2021/635, recitals 123 to 129.

land use rights in China ⁽¹⁵⁾. 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 ⁽¹⁶⁾, 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 China ⁽¹⁷⁾.

- (34) Like in previous investigations concerning the steel sector in China, the Commission examined in the present investigation 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 request, and 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 ⁽¹⁸⁾ ('Report') as well as in its updated version ('updated Report') ⁽¹⁹⁾, which relies on publicly available sources. That analysis covered the examination of the substantial government interventions in 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 China as also found by its previous investigations in this respect.
- (35) 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. To support its position, the request referred to the Report, to Chinese legislation, to further reports, as well as to additional anecdotal evidence of distortions implemented during the RIP.
- (36) More specifically, the request pointed out that against the background of the 'socialist market economy' doctrine enshrined in China Constitution, the omnipresence of the Chinese Communist Party ('CCP') and the government influence over the economy by means of strategic planning initiatives, the GOC's interventionism takes various forms, namely administrative, financial and regulatory.
- (37) 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, the applicant submitted that:
- The Chinese State does not only actively formulate and oversee the implementation of general economic policies by individual State-owned enterprises ('SOEs'), but it also claims its rights to participate in operational decision-making in SOEs. This is typically done through the rotation of cadres between government authorities and SOEs, through presence of party members in SOEs' executive bodies and of party cells in companies, as well as by shaping the corporate structure of the SOE sector. In exchange, SOEs

⁽¹⁵⁾ See Implementing Regulation (EU) 2022/2068, recital 74; Implementing Regulation (EU) 2022/191, recital 202; Implementing Regulation (EU) 2022/95, recital 53; Implementing Regulation (EU) 2021/2239, recitals 67 to 74 and Implementing Regulation (EU) 2021/635, recitals 130 to 133.

⁽¹⁶⁾ See Implementing Regulation (EU) 2022/2068, recital 75; Implementing Regulation (EU) 2022/191, recital 203; Implementing Regulation (EU) 2022/95, recital 54; Implementing Regulation (EU) 2021/2239, recitals 67 to 74 and Implementing Regulation (EU) 2021/635, recitals 134 and 135.

⁽¹⁷⁾ See Implementing Regulation (EU) 2022/2068, recital 76; Implementing Regulation (EU) 2022/191, recital 204; Implementing Regulation (EU) 2022/95, recital 55; Implementing Regulation (EU) 2021/2239, recitals 67 to 74 and Implementing Regulation (EU) 2021/635, recitals 136 to 145.

⁽¹⁸⁾ 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).

⁽¹⁹⁾ Commission Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the purposes of Trade Defence Investigations, 10 April 2024, SWD(2024) 91 final, available at: [https://ec.europa.eu/transparency/documents-register/detail?ref=SWD\(2024\)91&lang=en](https://ec.europa.eu/transparency/documents-register/detail?ref=SWD(2024)91&lang=en).

enjoy a particular status within the Chinese economy. This status entails a number of economic benefits, in particular the shielding from competition and the preferential access to relevant inputs, including financing. Higher leverage and labour productivity conduct to a surge in SOE debt, triggered by falling interest costs. This illustrates how easy monetary conditions can lead to a rapid SOE debt accumulation ⁽²⁰⁾. This control and policy supervision is particularly pressing in the steel sector – cold rolled steel strip nickel plated is an important input in the production of lever arch mechanisms, – where a substantial degree of ownership by the Chinese Government persists and where the GOC aims to consolidate 60 % of the iron and steel production to around ten large-scale enterprises by 2025.

- The State is in the position to interfere with prices and costs through State presence in firms, in particular through the CCP cells in enterprises, state-owned and private alike, including with respect to the producers of lever arch mechanisms and the suppliers of their inputs. The request further claimed that the high level of government intervention in the steel industry and non-ferrous metal industry, and the high share of SOEs in these sectors, prevents even privately owned steel producers from operating under market conditions. The request argued that in the steel sector in particular, many of the major producers are owned by the Chinese state. The Chinese state's presence and its intervention in the provision of raw materials and inputs as well as the financing through its presence and intervention in the financial markets have a distorting effect on sector manufacturing lever arch mechanisms.
- The GOC has measures in place to induce operators to comply with the public policy objectives of supporting particular industries, including the production of lever arch mechanisms and the sourcing of raw materials used for producing it. Such measures impede market forces from operating normally. Examples of such measures entail numerous plans, directives and other documents focusing on steel, which are issued at national, regional and municipal level. For example, in March 2022 the Ministry of Industry and Information Technology ('MIIT'), the National Development and Reform Commission ('NDRC') and the Ministry of Ecology and Environment issued a guideline on promoting the high-quality development of the iron and steel industry, calling, inter alia, for stable supply of resources, advanced technical equipment, high quality products and outstanding brands, high level of intelligentisation and strong global competitiveness by 2025. Other examples are the national 13th and 14th Five-Year Plans ('FYPs'); the 2021 development plan released by the Ministry of Industry and Information Technology that calls for reducing energy consumption in the steel industry; or the 2020 Catalogue for Guiding Industry Restructuring (2019 version) released by the NDRC.
- The Chinese bankruptcy system appears to be inadequate to deliver on its own main objectives such as to settle claims and debts fairly and to safeguard the lawful rights and interests of creditors and debtors. Moreover, the State plays a strong and active role in the insolvency proceedings, often having direct influence on their outcome. In addition, the shortcomings of the system of property rights are particularly obvious in relation to ownership of land and land-use rights in China, with all land owned by the State, its allocation remaining solely dependent on the State and authorities often pursuing political goals including the implementation of the economic plans when allocating land.
- The request also mentioned the existence of substantial distortions in the Chinese labour market, citing the Report. Workers and employers are impeded in their rights to collective organisation and mobility being restricted by the household registration system, which limits access to the full range of social security and other benefits. This leads to wage costs being distorted since they do not result from normal market forces or negotiation between companies and the work force. Furthermore, the request also mentioned that the steel and steel processing sectors are subject to the Chinese labour law system described. They are thus affected by the distortions of wage costs both directly (when making the product concerned or the main raw material for its production) as well as indirectly (when having access to capital or inputs from companies subject to the same labour system in China).

⁽²⁰⁾ OECD, State-owned Firms behind China's Corporate Debt, Economics Department Working Papers no. 1536, February 2019; available at: <https://www.oecdilibrary.org/docserver/7c66570een.pdf?expires=1634897777&id=id&accname=guest&checksum=3095BC87BC68666578D757C403B87307>.

- On the level of allocation of financial resources, the financial system in China is dominated by the State-owned commercial banks. Those banks, when setting up and implementing their lending policy need to align themselves with the government's industrial policy objectives rather than primarily assessing the economic merits of a given project. Furthermore, bond and credit ratings are often distorted for a variety of reasons, including the fact that the risk assessment is influenced by the firm's strategic importance to GOC the and the strength of any implicit guarantee by the government. Moreover, borrowing costs have been kept artificially low to stimulate investment growth, which has led to the excessive use of capital investment with ever-lower returns on investment and no signs of credit tightening.
- (38) The request further emphasised the systematic nature of the distortions. As a consequence, not only can the domestic sales prices of lever arch mechanisms not be used, but all the input costs such as raw materials including cold rolled steel strip nickel plated which constitutes about 50 % of the total cost of lever arch mechanisms and wire nickel plated which constitutes about 30 %; energy; land, financing, labour, etc. are also tainted because their price formation is affected by substantial government intervention.
- (39) In conclusion, the request took the position that prices or costs, including the costs of raw materials, energy and labour, are not the result of free market forces because they are affected by substantial government intervention within the meaning of Article 2(6a)(b) of the basic Regulation. On that basis, according to the request, it is not appropriate to use domestic prices and costs to establish normal value in this case.
- (40) The GOC did not comment or provide evidence supporting or rebutting the existing evidence on the case file, including the (updated) Report and the additional evidence provided by the applicant, on the existence of significant distortions and/or appropriateness of the application of Article 2(6a) of the basic Regulation in the case at hand.
- (41) Since there was no cooperation from Chinese exporters of the product under review, the exact ratio of the private and state-owned producers could not be determined. However, concerning the steel sector which is one of the main raw materials in the production of lever arch mechanism, several steel producers are directly controlled by the State. Examples entail the Baowu Steel Group – which is an SOE under the central SASAC⁽²¹⁾ – and its subsidiaries Chongqing Iron & Steel Company Ltd.⁽²²⁾ and Maanshan Iron & Steel Company Limited⁽²³⁾; the Baotou Steel Group – an SOE held by the Inner Mongolian Government⁽²⁴⁾, the Angang Steel Group – an SOE under the central SASAC⁽²⁵⁾, as well as the Shougang Group – an SOE 100 % held by the Beijing State-Owned Asset Management Ltd.⁽²⁶⁾
- (42) Moreover, the investigation found that the industry national association representing the producers of stationery (office supplies) products, such as lever arch mechanisms, the China Stationery & Sporting Goods Association ("CSSGA")⁽²⁷⁾ adheres to the overall leadership of the Communist Party of China, carries out Party activities, and provides necessary conditions for the activities of party organisations⁽²⁸⁾. Moreover, the *'registration and management authority of the Association is the Ministry of Civil Affairs, and the party building work organization is the Party Committee of the State-owned Assets Supervision and Administration Commission of the State Council. The conditions to be eligible as a representative of the Association include the adherence to the leadership of the CCP, support socialism with Chinese characteristics, resolutely implement the Party's line, principles, and policies, and possess good political qualities'*⁽²⁹⁾.

⁽²¹⁾ See: <http://wap.sasac.gov.cn/n2588045/n27271785/n27271792/c14159097/content.html> (accessed on 3 July 2024).

⁽²²⁾ See: www.cqgt.cn (accessed on 3 July 2024).

⁽²³⁾ See: <https://www.magang.com.cn/> (accessed on 3 July 2024).

⁽²⁴⁾ See: <https://www.qixin.com/company/ab02483a-5ed7-49fe-b6e6-8ea39dc4dc80> (accessed on 3 July 2024).

⁽²⁵⁾ See: http://www.ansteel.cn/about/company_profile/ (accessed on 3 July 2024).

⁽²⁶⁾ See: <https://www.qcc.com/firm/d620835aaae14e62fdc965fd41a51d8d.html> (accessed on 3 July 2024).

⁽²⁷⁾ See: <http://www.csg.org.cn/> (accessed on 3 July 2024).

⁽²⁸⁾ Article 3 of the constitution of China Stationery & Sporting Goods Association. See: <http://www.csa.org.cn/about-450.html> (accessed on 3 July 2024).

⁽²⁹⁾ Article 36 of the constitution of China Stationery & Sporting Goods Association. See: <http://www.csa.org.cn/about-450.html> (accessed on 3 July 2024).

- (43) Furthermore, at provincial level, the Ningbo Stationery Industry Association ⁽³⁰⁾ explained in its website that the Association is an industry social organisation of Ningbo's stationery industry and a bridge and link between enterprises and the government. In particular, in March 2020, the Association was awarded the honorary title of 'Outstanding Group of Social Organizations in the City' by the Ningbo Municipal CCP Committee and the Ningbo Municipal People's Government. Moreover, the website states that the *'association has always adhered to the purpose of being a government assistant, industry promoter, and enterprise helper, and has always adhered to the principle of what the government needs, what the enterprise hopes for, and what the association can do'*.
- (44) The investigation also found that one of the exporting producers, Anhui Qitian Stationery Mfg Co. Ltd. is located in the 'Anhui Chaohu Economic Development Zone' ⁽³¹⁾. There is evidence supporting the fact that the CCP interferes in this Economic Development Zone ⁽³²⁾. In particular, the investigation found that the zone is *'leading the city in economic growth next year and ranking among the first echelon of development zones in the province during the 14th Five-Year Plan period.'* The zone also offers preferential financial services and Anhui Qitian benefitted from this scheme, as explained during a meeting held on 24 September 2022, attended among others by a member of the Party Working Committee and the deputy director of the Management Committee of the zone and the Science and Technology Finance Special Team of the Provincial Branch of the Bank of Communications, representatives of the Chaohu Branch of the Bank of Communications, the Economic and Trade Bureau, the Finance Bureau, the Market Bureau, the Investment Promotion Bureau, the Taxation Bureau, representatives of Dongxin Group and the heads of 10 enterprises. At the meeting, the Bank of Communications Chaohu Branch introduced in detail the financial products and related support policies such as 'industrial park loan' ⁽³³⁾, 'technological special loan' and 'industrial base strengthening loan' in response to the personalised financing needs of enterprises, and conducted in-depth exchanges with enterprises on increasing the guarantee of financing factors, simplifying the approval process, and lowering the guarantee threshold, so as to broaden the financing channels for the enterprises.
- (45) Both public and privately owned enterprises in the steel sector are subject to policy supervision and guidance. The latest Chinese policy documents concerning the steel sector confirm the continued importance which GOC attributes to the sector, including the intention to intervene in the sector in order to shape it in line with the government policies. This is exemplified by the MIIT Guiding Opinion on Fostering a High Quality Development of Steel Industry which calls for further consolidation of the industrial foundation and significant improvement in the modernisation level of the industrial chain ⁽³⁴⁾, by the 14th FYP on Developing the Raw Material Industry according to which the sector will *'adhere to the combination of market leadership and government promotion'* and will *'cultivate a group of leading companies with ecological leadership and core competitiveness'* ⁽³⁵⁾, by the 14th FYP on Developing Scrap Steel Industry whose key objectives is to *'continuously increase the application ratio of scrap steel, and by the end of the 14th FYP, the comprehensive scrap ratio of national steel making will reach 30 %'* ⁽³⁶⁾, or by the 2023 Work Plan on the Stable Growth of the Steel Industry ⁽³⁷⁾ which sets the following objectives: *'In 2023, [...] the investment in fixed assets in the entire industry shall maintain a steady growth, and the economic benefits shall be significantly improved; the industry's R & D investment shall eventually reach 1,5 %; the industry's added value growth shall reach about 3,5 %; in 2024, the industry development environment and industry structure shall be further optimized, the move towards high-end, intelligent, and green products shall continue, and the industry added value growth shall exceed 4 %'*, which calls for collaboration to *'to guide China's steel products, equipment, technology, services, etc. to "go global" in a coordinated manner, promote green and low-carbon cooperation in the global steel industry, and improve the resilience and safety level of global industrial and supply chains [and to] implement supply capacity improvement actions to ensure the stable and efficient operation of the industry'* and which foresees government mandated corporate consolidation of the steel sector: *'[e]ncourage industry-leading enterprises to implement mergers and acquisitions, build world-class super-large iron and steel enterprise groups, and foster the optimal layout of national iron and steel production capacity. Support specialized enterprises with leading power in particular steel market segments to further integrate resources and create a steel industry ecosystem. Encourage iron and steel enterprises to carry out cross-regional [...] mergers and reorganizations [...]. Consider giving greater policy support for capacity replacement to iron and steel enterprises that have completed substantive mergers and reorganizations.'*

⁽³⁰⁾ See: <https://www.scimall.org.cn/Org/detail?id=16027> (accessed on 3 July 2024).

⁽³¹⁾ See: <http://cn.qitian.cn/singlepage/about.html> (accessed on 3 July 2024).

⁽³²⁾ See: https://www.sohu.com/a/478998813_362042 (accessed on 3 July 2024).

⁽³³⁾ See: <https://chjkkq.investchn.com/index.php/news/detail/id/307333.html> (accessed on 22 November 2024).

⁽³⁴⁾ See: https://www.gov.cn/zhengce/zhengceku/2022-02/08/content_5672513.htm (accessed on 3 July 2024).

⁽³⁵⁾ See Section IV, Subsection 3 of the 14th FYP on Developing the Raw Materials Industry.

⁽³⁶⁾ See Section II, Subsection 1 of the 14th FYP on Developing Scrap Steel Industry.

⁽³⁷⁾ See: https://www.miit.gov.cn/zwgk/zcwj/wjfb/tz/art/2023/art_2a4233d696984ab59610e7498e333920.html (accessed on 3 July 2024).

- (46) Similar examples of the intention by the Chinese authorities to supervise and guide the developments of the sector can be seen at the provincial level, such as in Hebei which plans to ‘steadily implement the group development of organizations, accelerate the reform of mixed ownership of state-owned enterprises, focus on promoting the cross-regional merger and reorganization of private iron and steel enterprises, and strive to establish 1-2 world-class large groups, 3-5 large groups with domestic influence as the support’ and to ‘further expand the recycling and circulation channels of scrap steel, strengthen the screening and classification of scrap steel’. Moreover, Hebei’s plan in the steel sector states: ‘Adhere to structural adjustment and highlight product diversification. Unswervingly promote the structural adjustment and layout optimization of the iron and steel industry, promote the consolidation, reorganization, transformation and upgrading of enterprises, and comprehensively promote the development of the iron and steel industry in the direction of large-scale enterprises, modernization of technical equipment, diversification of production processes, and diversification of downstream products’.
- (47) Similarly, the Henan Implementation Plan for the Transformation and Upgrade of the Steel Industry during the 14th FYP foresees the ‘construction of characteristic steel production bases [...], build 6 characteristic steel production bases in Anyang, Jiyuan, Pingdingshan, Xinyang, Shangqiu, Zhouou, etc., and improve the scale, intensification, specialization and specialization of the industry. Among them, by 2025, the production capacity of pig iron in Anyang will be controlled within 14 million tons, and the production capacity of crude steel will be controlled within 15 million tons’.
- (48) Further industrial policy objectives can also be seen in the planning documents of other provinces, such as Jiangsu, Shandong, Shanxi, Liaoning Dalian or Zhejiang.
- (49) As to the GOC being in a position to interfere with prices and costs through State presence in firms in the sense of Article 2(6a)(b), second indent of the basic Regulation, due to the lack of cooperation from the side of the exporting producers, it was impossible to systematically establish existence of personal connections between producers of the product under review and the CCP. However, given that the product under review represents a subsector of the steel sector, information established in the recent investigations concerning the steel sector, as indicated in recital (33), is relevant also to the product under review.
- (50) Further, policies discriminating in favour of domestic producers or otherwise influencing the market in the sense of Article 2(6a)(b), third indent of the basic Regulation are in place in the sector of the product under review. The investigation identified further documents showing that the industry benefits from governmental guidance and intervention into the steel sector, given that the product under review represents one of its subsectors.
- (51) The steel industry keeps being regarded as a key industry by the GOC ⁽³⁸⁾. This is confirmed in the numerous plans, directives and other documents focused on steel, which are issued at national, regional, and municipal level. Under the 14th FYP, the GOC earmarked the steel industry for transformation and upgrade, as well as optimisation and structural adjustment ⁽³⁹⁾. Similarly, the 14th FYP on Developing the Raw Materials Industry, applicable also to the 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 steel 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 ⁽⁴⁰⁾. Moreover, the abovementioned (see recital (45)) Work Plan on the Stable Growth of the Steel Industry demonstrates how the focus of the Chinese authorities on the steel 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’ ⁽⁴¹⁾.

⁽³⁸⁾ Report, Part III, Chapter 14, p. 346 ff.

⁽³⁹⁾ See People’s Republic of China 14th 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 3 July 2024).

⁽⁴⁰⁾ See in particular Sections I and II of the 14th FYP on Developing the Raw Materials Industry.

⁽⁴¹⁾ See: https://www.miit.gov.cn/zwgk/zcwj/wjfb/tz/art/2023/art_2a4233d696984ab59610e7498e333920.html (accessed on 3 July 2024).

- (52) The product under review is also affected by the distortions of wage costs in the sense of Article 2(6a)(b), fifth indent of the basic Regulation, as also referred to above in recitals (33) and (37). Those distortions affect the sector both directly (when producing the product under review or the main inputs), as well as indirectly (when having access to inputs from companies subject to the same labour system in China) ⁽⁴²⁾.
- (53) Moreover, no evidence was submitted in the present investigation demonstrating that the sector of the product under review 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. The abovementioned (see recital (45)) 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.
- (54) Finally, the Commission recalls that in order to produce the product under review, a number of inputs is needed. When the producers of the product under review 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.
- (55) As a consequence, not only the domestic sales prices of the product under review 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 (updated) Report. Indeed, the government interventions described in relation to the allocation of capital, land, labour, energy, and raw materials are present throughout China. This means, for instance, that an input that in itself was produced in China by combining a range of factors of production is exposed to significant distortions. The same applies for the input to the input and so forth.
- (56) In sum, the evidence available showed that prices or costs of the product under review, including the costs of raw materials, energy and labour, are not the result of free market forces because they are affected by substantial government intervention within the meaning of Article 2(6a)(b) of the basic Regulation, as shown by the actual or potential impact of one or more of the relevant elements listed therein. On that basis, and in the absence of any cooperation from the GOC, the Commission concluded that it is not appropriate to use domestic prices and costs to establish normal value in this case. Consequently, the Commission proceeded to construct the normal value exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks, that is, in this case, on the basis of corresponding costs of production and sale in an appropriate representative country, in accordance with Article 2(6a)(a) of the basic Regulation, as described in the following section.

3.3.1. Representative country

3.3.1.1. General remarks

- (57) The choice of the representative country was based on the following criteria pursuant to Article 2(6a) of the basic Regulation:
- a level of economic development similar to China. For this purpose, the Commission used countries with a gross national income per capita similar to China on the basis of the database of the World Bank ⁽⁴³⁾,

⁽⁴²⁾ See Implementing Regulation (EU) 2021/635, recitals 134 and 135 and Implementing Regulation (EU) 2020/508, recitals 143 and 144.

⁽⁴³⁾ World Bank Open Data – Upper Middle Income, <https://data.worldbank.org/income-level/upper-middle-income>.

- production of the product under review in that country ⁽⁴⁴⁾,
- availability of relevant readily available 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.

(58) The Commission issued a Note for the file on the sources for the determination of the normal value describing the facts and evidence underlying the relevant criteria ('the Note'). In the Note, the Commission informed interested parties of its intention to use Türkiye as an appropriate representative country in the present case.

3.3.1.2. A level of economic development similar to China

(59) In the Note, the Commission identified Türkiye as a country with a similar level of economic development as China according to the World Bank, i.e. both countries are classified by the World Bank as 'upper-middle income' countries on a gross national income basis.

3.3.1.3. Production of the product under review in that country

(60) In the Note, the Commission explained that, in addition to China and the European Union, the product under review appears to be produced only in India and Iran. Neither India nor Iran is a country with a level of economic development similar to China in accordance with the criteria mentioned in recital (57).

(61) As there was no production of the product under review in any country with a similar level of economic development, production of a product in the same general category and/or sector of the product under review was considered. The Commission therefore indicated that it would use production of products under the same NACE code as lever arch mechanisms (i.e. NACE 2599 – Manufacture of other fabricated metal products) to establish an appropriate representative country for the application of Article 2(6a) of the basic Regulation. Within this NACE 2599, Türkiye has metal working factories and large automobile and downstream steel product manufacturing companies with significant volumes of production for both the regional and the global market.

3.3.1.4. Availability of relevant readily available data in the representative country

(62) In the Note the Commission indicated that for Türkiye, financial data with regard to producers of products in the same general category and/or sector of the product under review as well as data on imports of relevant raw materials, on energy and on labour are readily available.

(63) Thus, the Commission searched on Orbis Bureau van Dijk for the availability of financial data of the producing companies in Türkiye. ⁽⁴⁵⁾ Readily available data was found for one producer in Türkiye – Iskenderun Demir Ve Celik A.S. The most recent financial statements of this company covered the financial year 2022. In addition, Türkiye had available data on factors of production, on electricity and on labour costs.

(64) The Commission informed the interested parties with the Note that it intends to use Türkiye as an appropriate representative country and the data from the company Iskenderun Demir Ve Celik A.S., 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.

(65) Interested parties were invited to comment on the appropriateness of Türkiye as a representative country and Iskenderun Demir Ve Celik A.S. as producer in the representative country.

⁽⁴⁴⁾ 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.

⁽⁴⁵⁾ <https://login.bvdinfo.com/R0/Orbis>.

- (66) Following publication of the Note, the applicant sent comments and noted that Iskenderun Demir Ve Celik A.S. is a complex group made of 98 conglomerates whose main activity is the production and sale of flat and long iron and steel products, as well as the sales of by-products formed during the production process. The applicant also argued that the proposed company manufactured certain raw materials that were used in the manufacture of the product under review and that its activity was therefore upstream of lever arch mechanism production. The applicant therefore proposed using the financial data of companies in the metal processing sector and using processes such as metal cutting, stamping, wire bending and nickel coating. In particular, the applicant proposed the companies Inka Yapi Baglanti Elemanlari Sanayi Ve Ticaret Anonim Sirketi and Samet Kalip Ve Madeni ESYA Sanayi Ve Ticaret Anonim Sirketi whose data are available for 2022.
- (67) Both these companies operate in the same sector as LAM (NACE 2599) as main business and manufacture products employing similar raw materials as LAM. Moreover, these companies have publicly available data for 2022.
- (68) The Commission agreed to use information from Inka Yapi Baglanti Elemanlari Sanayi Ve Ticaret Anonim Sirketi and Samet Kalip Ve Madeni ESYA Sanayi Ve Ticaret Anonim Sirketi to establish undistorted values for SG&A costs and profit.

3.3.1.5. Level of social and environmental protection

- (69) Having established that Türkiye was an appropriate representative country, based on all of the above elements and none of the interested parties contested the use of Türkiye nor proposed another representative country, 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.

3.3.1.6. Conclusion

- (70) In view of the above analysis, Türkiye 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.

3.3.2. Undistorted costs and benchmarks

- (71) In the Note, the Commission listed the factors of production such as materials, energy and labour used in the production of the product under review on the basis of information submitted by the applicant and reflecting the manufacturing process used in the Union. The Commission also stated that, in order to construct the normal value in accordance with Article 2(6a)(a) of the basic Regulation, it would use the Global Trade Atlas (GTA)⁽⁴⁶⁾ to establish the undistorted cost of most of the factors of production, notably the raw materials. In addition, the Commission stated that it would use the Turkish Statistical Institute for establishing undistorted cost of labour⁽⁴⁷⁾.
- (72) The Commission invited the interested parties to comment and propose publicly available information on undistorted values for each of the factors of production mentioned in that note. The Commission did not receive any comment concerning the list of factors of production after the publication of the Note.

⁽⁴⁶⁾ <https://connect.ihsmarkit.com/>.

⁽⁴⁷⁾ Labour data 2020 indexed to the RIP

<https://data.tuik.gov.tr/Bulten/DownloadIstatistikselTablo?p=tg4QGRdNcBVDQo/mmOOyD/8g3GlHdKhW0SMnhh4V/APyz9UrZvk0kK90vktK5jo>

CPI indexed 2020 / IP period <https://data.tuik.gov.tr/Bulten/Index?p=Labour-Input-Indices-Quarter-III:-July-September,-2023-49453>.

3.3.2.1. Factors of production

- (73) Considering all the information based on the request and subsequent information analysed by the Commission, 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 LAM

Factor of Production	Commodity Code in China	Undistorted value	Unit of measurement	Source of information
Raw materials				
Nickel strips	721250309019	23,11 CNY/Kg	Kg	Global Trade Atlas (GTA) ⁽⁴⁸⁾ Market Access Map, International Trade Centre (MacMap) ⁽⁴⁹⁾
Wire nickel plated	72173049	12,09 CNY/Kg	Kg	Global Trade Atlas (GTA) Market Access Map, International Trade Centre (MacMap)
Bright wire	721710390011 721710390012 721710390013	15,86 CNY/Kg	Kg	Global Trade Atlas (GTA) Market Access Map, International Trade Centre (MacMap)
Labour				
Labour	[N/A]	39,69 CNY/Manhour	Manhour	Turkish Statistical Institute ⁽⁵⁰⁾
Energy				
Electricity	[N/A]	1,313 CNY/KwH	KwH	Energy Market Regulatory Authority of Türkiye ⁽⁵¹⁾

3.3.2.2. Raw materials

- (74) 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 database in which import duties were included and transport costs were added. An import price in the representative country was determined as a weighted average of unit prices of imports from all third countries excluding China and countries which are not members of the WTO, listed in Annex I of Regulation (EU) 2015/755 of the European Parliament and the Council ⁽⁵²⁾.

⁽⁴⁸⁾ <http://www.gtis.com/gta/secure/default.cfm>.

⁽⁴⁹⁾ <http://www.macmap.org>.

⁽⁵⁰⁾ Labour data 2020 <https://data.tuik.gov.tr/Bulten/DownloadIstatistikselTablo?p=tg4QGRdNcBVDQo/mmOOyD/8g3GIHdKhWMOsMnhh4V/APyz9UrZvk0kK90vktK5jo>
CPI indexed 2020 / IP period <https://data.tuik.gov.tr/Bulten/Index?p=Labour-Input-Indices-Quarter-III:-July-September>.

⁽⁵¹⁾ EMRA | Energy Market Regulatory Authority (epdk.gov.tr).

⁽⁵²⁾ 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, ELI: <http://data.europa.eu/eli/reg/2015/755/oj>). Article 2(7) of the basic Regulation considers that domestic prices in those countries cannot be used for the purpose of determining normal value.

- (75) The Commission decided to exclude imports from China into the representative country as it concluded in recital (56) that it is not appropriate to use domestic prices and costs in China due to the existence of significant distortions in accordance with Article 2(6a)(b) of the basic Regulation. Given that there is no evidence showing that the same distortions do not equally affect products intended for export, the Commission considered that the same distortions affected export prices. After excluding imports from China into the representative country, the volume of imports from other third countries remained representative.

3.3.2.3. Labour

- (76) The Turkish Statistical Institute publishes detailed information on wages in different economic sectors in Türkiye ⁽⁵³⁾. The Commission established the benchmark for the RIP based on the hourly average labour cost for manufacturing in 2020 for the NACE code, which includes costs for labour in the manufacturing sector ⁽⁵⁴⁾. The average hourly labour cost per FTE ⁽⁵⁵⁾ amounted to 39,69 CNY per hour.

3.3.2.4. Electricity

- (77) In the Note, the Commission stated that it would use as undistorted value for electricity prices a basket of countries at a level of economic development similar to China (Brazil, Malaysia and Thailand). However, the Commission subsequently established that the evolution of the price of electricity in Türkiye in the RIP was in line with the inflation rate in the country and therefore the use of electricity prices in a basket of countries as set out in the Note and in recital (71) was not necessary and the price of electricity in Türkiye could be used. The price of electricity for companies (industrial users) in Türkiye is published by the Turkish Energy Market Regulatory Authority ⁽⁵⁶⁾. The Commission used the data on the industrial electricity prices as published on 15 July 2024. These statistics indicate an average industrial tariff for 2023 of 1,313 CNY per kWh.

3.3.2.5. Manufacturing overhead costs, SG&A, profits and depreciation

- (78) 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.
- (79) To establish undistorted values for manufacturing overheads, SG&A and profit and due to the absence of cooperation from Chinese exporting producers, the Commission used facts available in accordance with Article 18 of the basic Regulation.
- (80) Using data from two producers operating in the same sector as LAM (NACE 2599) manufacturing products employing similar raw materials as LAM in Türkiye, identified in recital (68) (i.e. Inka Yapi Baglanti Elemanlari Sanayi Ve Ticaret Anonim Sirketi and Samet Kalip Ve Madeni Elya Sanayi Ve Ticaret Anonim Sirketi), the Commission calculated the SG&A (16,0 %) and profit (15,7 %) as a percentage of the cost of goods sold.
- (81) The Commission used the information provided by the applicant in the review request to calculate manufacturing overhead costs. These costs were determined as a percentage, dividing manufacturing overheads by the direct and indirect costs. This percentage (8,9 %) was then applied to the undistorted value of the cost of manufacturing to obtain the undistorted value of manufacturing overheads.

⁽⁵³⁾ TÜİK – Veri Portalı (tuik.gov.tr) and TÜİK – Veri Portalı (tuik.gov.tr) and Labour data 2020 <https://data.tuik.gov.tr/Bulten/DownloadIstatistikselTablo?p=tg4QGRdNcBVDQo/mmOOyD/8g3GlHdKhWMOsMnhh4V/APyz9UrZvk0kK90vktK5jo>
CPI indexed 2020 / IP period <https://data.tuik.gov.tr/Bulten/Index?p=Labour-Input-Indices-Quarter-III:-July-September>.

⁽⁵⁴⁾ Average for manufacture of fabricated metal products, excluding machinery and equipment.

⁽⁵⁵⁾ Full time equivalent.

⁽⁵⁶⁾ EMRA | Energy Market Regulatory Authority (epdk.gov.tr).

3.3.3. Calculation of the normal value

- (82) 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.
- (83) First, the Commission established the undistorted manufacturing costs. In the absence of cooperation by the exporting producers, the Commission relied on the information provided by the applicant in the review request on the usage of each factor (materials and labour) for the production of LAM. The Commission multiplied the consumption ratios by the undistorted costs per unit observed in the representative country Türkiye, as described in Section 3.3.2.
- (84) Once the undistorted manufacturing costs were established, the Commission added the manufacturing overheads, SG&A and profit as noted in Section 3.3.2.5.
- Manufacturing overheads, which accounted in total for 8,9 % of the direct costs of manufacturing,
 - SG&A and other costs, which accounted for 16,0 % of the Costs of Goods Sold ("COGS") of Inka Yapi Baglanti Elemanlari Sanayi Ve Ticaret Anonim Sirketi and Samet Kalip Ve Madeni Elya Sanayi Ve Ticaret Anonim Sirketi, and
 - Profits, which amounted to 15,7 % of the COGS as achieved by Inka Yapi Baglanti Elemanlari Sanayi Ve Ticaret Anonim Sirketi and Samet Kalip Ve Madeni Elya Sanayi Ve Ticaret Anonim Sirketi, were applied to the total undistorted costs of manufacturing.
- (85) On that basis, the Commission constructed the normal value on an ex-works basis in accordance with Article 2(6a)(a) of the basic Regulation.

3.3.4. Continuation of dumping

- (86) During the period considered and, in particular, during the review investigation period imports of LAM from China were negligible. According to Eurostat, during the period considered there were almost no imports of LAM from China. Accordingly, the Chinese market share was practically 0 % during the whole period considered. In comparison, the market share of Chinese imports amounted to 51 % in the investigation period of the original investigation which was January to December 2004.
- (87) This negligible volume could not form the basis for analysing the continuation of dumping. The Commission therefore analysed the likelihood of recurrence of dumping in the next section.

3.3.5. Likelihood of recurrence of dumping

- (88) The Commission investigated, in accordance with Article 11(2) of the basic Regulation, the likelihood of recurrence of dumping should the measures be allowed to lapse. The following elements were analysed: the export prices from China to third countries, the production capacity and spare capacity in China, the attractiveness of the Union market and the possible absorption capacity of third country markets in view of the anti-dumping measures in place in these countries.

3.3.5.1. Comparison between export prices to third countries and the normal value

- (89) The Commission analysed the price level of Chinese exports to third countries during the review investigation period.
- (90) The Commission first analysed export data from China to third countries at eight-digit commodity code level in GTA during the review investigation period. However, these export prices were not considered to accurately represent LAM prices as the classifications at that level included a wide range of products in addition to the product concerned, by far exceeding the volume of exports of LAM. Therefore, GTA data on Chinese exports did not provide conclusive evidence concerning Chinese export prices on other markets.
- (91) In turn, due to the non-cooperation of exporting producers from China, the estimation of export prices from China was based on the information available to the Commission, that is, information supplied in the request for review, namely eleven actual online quotations by the Chinese exporting producers to the global market.
- (92) The average export global prices estimated as described in recital (102) was 140 EUR/1 000 pieces expressed in FOB.
- (93) The resulting average export price to global markets found during the review investigation period was 58 % below the normal value established as described in Sections 3.2 and 3.3. Therefore, it was considered likely that, if the current measures were to be repealed, the Chinese exporting producers would start selling to the Union at levels below that normal value.

3.3.5.2. Production capacity and spare capacity in China

- (94) Concerning the production capacity and spare capacity in China, due to the non-cooperation of the Chinese producers, findings had to be based on the information provided in the expiry review request. The applicant provided evidence that China production capacity of LAM was estimated to be around 760 million pieces per year ⁽⁵⁷⁾, which is within the range of production capacity estimated in the previous expiry review investigation (600 to 850 million pieces) ⁽⁵⁸⁾. The production capacity was estimated to be higher than the actual production which was estimated to around 421 million pieces. The resulting spare capacity is 342 million pieces.
- (95) Therefore, production capacity in China is around more than five times bigger than the Union consumption during the review investigation period (ranging 100-150 million pieces in the RIP) and more than four times the Union production during that same period (ranging 150-200 million pieces). Similarly, the spare capacity is roughly twice as big as the Union consumption in the RIP.
- (96) In addition, as already established in the previous expiry review ⁽⁵⁹⁾, given the nature of the manufacturing process in China (mainly labour), the production capacity in China for LAM can be easily increased, inter alia, through the employment of additional workforce with only limited investment in equipment.
- (97) Finally, in the absence of any other information, the Commission considered that neither Chinese domestic demand nor worldwide demand will be able to absorb the significant spare capacity available in China.
- (98) This confirmed the Commission's conclusions from the previous expiry review ⁽⁶⁰⁾ that Chinese producers have sufficient spare capacity to supply the Union market if the measures are allowed to lapse.

⁽⁵⁷⁾ Source: Request for review, Section G.2.1 and Annex E.2.

⁽⁵⁸⁾ Recital (50) of Regulation (EU) 2018/1684.

⁽⁵⁹⁾ Recital (51) of Regulation (EU) 2018/1684.

⁽⁶⁰⁾ Sections 3.4.1 and 3.6.1.1 of Regulation (EU) 2018/1684.

3.3.5.3. Attractiveness of the Union market and export prices to third countries

- (99) In order to establish the possible development of imports in case measures are repealed, the Commission considered the attractiveness of the Union market with regard to prices. The Union market is attractive in terms of size and prices.
- (100) In terms of size, despite the declining consumption of LAM in the Union market, the Union demand for LAM remains substantial and accounts for around 45 % of the world market. The Union market remains the largest worldwide market for LAM.
- (101) Moreover, there is only a limited number of other markets where LAM is used. In addition, important markets such as US and Canada remain closed as consumers use other formats of filing. The remaining markets have a much lower size than the Union market and, therefore, they would not be able to absorb the large excess Chinese capacity. In addition, based on the information available, LAM consumption in China is very low and not expected to increase in any significant way. This indicates that it is likely that Chinese exports in large quantities putting the spare capacity into use would be redirected towards the Union, should the measures be allowed to lapse.
- (102) In terms of prices, during the RIP, the Union industry average selling price ranged between 200 and 250 EUR per 1 000 pieces. This is significantly higher than the selling price of Chinese LAM to the global market (i.e. 140 EUR/1 000 pieces, see recital (92)), estimated using the actual online quotations made by Chinese exporting to the global market provided in the request for review.
- (103) These export prices were considerably lower compared to the Union industry prices and therefore, the Union market, in terms of prices, remained attractive for Chinese producers.

3.3.5.4. Conclusion

- (104) Based on the above, in particular given the significant spare capacity available in China and the attractiveness of Union market, the Commission concluded that a repeal of measures would likely result in a recurrence of dumping, and that dumped exports would enter the Union market in significant quantities. It is therefore considered that there is a likelihood of recurrence of dumping should the current anti-dumping measures be allowed to lapse.

4. INJURY

4.1. Definition of the Union industry and Union production

- (105) The like product was manufactured by four producers in the Union during the period considered. They constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.
- (106) The total Union production during the review investigation period was established to be within the range of 150 and 200 million pieces. The Commission established the total Union production during the review investigation period on the basis of all the available information concerning the Union industry, such as the review request and verified replies of the two Union producers. The two Union producers (in Slovenia and the Czech Republic) that replied to the questionnaire represented above 90 % of the total Union production of the like product in the review investigation period. Out of the two remaining Union producers, the one in Italy permanently stopped producing the like product in March 2023.
- (107) Considering that from the four Union producers two are related and both replied to the questionnaire, the data used for the whole injury analysis is provided in ranges and indexed form in this Regulation, to preserve confidentiality of business-sensitive information between the two cooperating Union producers, pursuant to Article 19 of the basic Regulation. Therefore, the data was provided in ranges, and indexes were used to show the trends during the period considered.

4.2. Union consumption

(108) The Commission established the Union consumption on the basis of total sales volume of the Union producers and total imports in the Union sourced from Eurostat at TARIC code level. Since Eurostat records import volumes in kilograms it was converted to pieces by using the average conversion rate of the two Union producers that replied to the questionnaire.

(109) Union consumption developed as follows:

Table 2

Union consumption

	2020	2021	2022	Review Investigation period
Union consumption (1 000 pieces)	180 000 – 220 000	175 000 – 215 000	145 000 – 185 000	125 000 – 165 000
Index (2020 = 100)	100	104	85	78

Source: Information provided in the review request, Eurostat and verified questionnaire replies from the Union producers.

(110) Overall, the Union consumption declined by 22 % during the period considered which is mainly explained by the continuous digitalisation of the office management and electronic filing which led to less paper copy filing and consequently declining consumption of the product under review.

4.3. Imports from the country concerned

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

(111) The Commission established the volume of imports on the basis of Eurostat at TARIC code level, as indicated on recital (108). On that basis, imports into the Union from the PRC and its market share developed as follows:

Table 3

Import volume and market share

	2020	2021	2022	Review Investigation period
Volume of imports from the country concerned (1 000 pieces)	500 – 1 000	0 – 500	100 – 600	200 – 700
Index (2020 = 100)	100	6	42	43
Market share (%)	0 – 3	0 – 3	0 – 3	0 – 3

Source: Eurostat.

- (112) During the period considered, the import volume of LAM from China dropped considerably to reach only a few thousand pieces by the end of the review investigation period.
- (113) Consequently, the market share of Chinese imports was insignificant.

4.3.2. Prices of the imports from the country concerned

- (114) The Commission established the prices of imports on the basis of Eurostat.
- (115) The average price of imports into the Union from the country concerned developed as follows:

Table 4

Import prices

	2020	2021	2022	Review Investigation period
China import price (EUR/1 000 pieces)	200 – 300	300 – 400	150 – 250	150 – 250
Index (2020 = 100)	100	141	74	79

Source: Eurostat.

- (116) While import prices increased by 41 % in 2021 and then decreased by 21 % by the end of the review investigation period, this trend is not very informative due to the very small import quantity during the review investigation period.

4.4. Imports from third countries other than the PRC

- (117) The imports of LAM from third countries other than China were mainly from India.
- (118) The total volume of imports into the Union as well as the market share and price trends for imports of LAM from other third countries developed as follows:

Table 5

Imports from third countries

Country		2020	2021	2022	Review Investigation period
Total of all third countries except China	Volume (1 000 pieces)	10 000 – 13 000	11 000 – 13 000	5 000 – 8 000	6 000 – 9 000
	Index (2020 = 100)	100	99	54	67
	Market share (%)	6 – 9	5 – 8	2 – 5	3 – 6
	Average price (EUR/1 000 pieces)	150 – 250	150 – 250	200 – 300	200 – 300
	Index (2020 = 100)	100	94	108	113

Source: Eurostat.

- (119) Overall, the import volume from other third countries decreased by 33 % over the period considered. This decrease resulted in a reduction of their market share over the same period from 6,2 % in 2020 to 5,3 % during the review investigation period.
- (120) During the period considered, the average price of the product imported from other third countries decreased in 2021, but then increased in 2022 and continued increasing in the review investigation period. Overall, the prices increased by 13 % during the period considered.

4.5. Economic situation of the Union industry

4.5.1. General remarks

- (121) 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.
- (122) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators on the basis of data contained in the review request (when available) and the questionnaire replies of the two verified of the Union producers. The data thus related to all Union producers. The Commission evaluated the microeconomic indicators on the basis of data contained in the questionnaire replies from the two Union producers. Both sets of data were found to be representative of the economic situation of the Union industry.
- (123) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity, magnitude of the dumping margin, and recovery from past dumping.
- (124) The microeconomic indicators are: average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital.

4.5.2. Macroeconomic indicators

4.5.2.1. Production, production capacity and capacity utilisation

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

Table 6

Production, production capacity and capacity utilisation

	2020	2021	2022	Review Investigation period
Production volume (1 000 pieces)	210 000 – 250 000	230 000 – 270 000	210 000 – 250 000	150 000 – 200 000
Index (2020 = 100)	100	109	94	77
Production capacity (1 000 pieces)	360 000 – 400 000	360 000 – 400 000	360 000 – 400 000	310 000 – 350 000
Index (2020 = 100)	100	100	100	88

	2020	2021	2022	Review Investigation period
Capacity utilisation (%)	65 – 70	70 – 75	60 – 65	55 – 60
<i>Index</i> (2020 = 100)	100	109	94	88

Source: Information provided in the review request and verified questionnaire replies from the Union producers.

- (126) The total Union production volume increased in 2021, but since then continuously decreased. Overall, there was a decrease of 23 % over the period considered, following the trend of decreasing consumption on the Union market.
- (127) The Union's production capacity remained stable from 2020 to 2022. It decreased however by 12 % due to the fact one Union producer stopped its activity in the review investigation period.
- (128) The capacity utilisation rate followed the trend of production. Consequently, it decreased by 12 % during the period considered.

4.5.2.2. Sales volume and market share

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

Table 7

Sales volume and market share

	2020	2021	2022	Review Investigation period
Sales volume on the Union market (1 000 pieces)	160 000 – 200 000	160 000 – 200 000	130 000 – 170 000	120 000 – 160 000
<i>Index</i> (2020 = 100)	100	104	87	79
Market share (%)	90 – 95	90 – 95	93 – 98	93 – 98

Source: Information provided in the review request and verified questionnaire replies from the Union producers.

- (130) The sales volume of the Union producers on the Union market decreased by 21 % during the period considered. In comparison, the market share of the Union industry increased by 1 %, mainly due to the declining Union consumption and the decrease in imports from the other third countries, like India.

4.5.2.3. Growth

- (131) During the period considered the production of the Union industry decreased by 23 %, Union consumption decreased by 23 % whereas sales volume of the Union industry on the Union market decreased by 21 %.

4.5.2.4. Employment and productivity

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

Table 8

Employment and productivity

	2020	2021	2022	Review Investigation period
Number of employees (Full Time Equivalent ('FTE'))	300 – 350	310 – 360	300 – 350	290 – 340
Index (2020 = 100)	100	100	96	92
Productivity (1 000 pieces/FTE)	500 – 600	550 – 650	500 – 600	500 – 600
Index (2020 = 100)	100	108	101	97

Source: verified questionnaire replies from the Union producers.

(133) Employment decreased by 8 % over the period considered. Productivity developed in line with the changes in production and employment, i.e. it increased by 8 % from 2020 to 2021, then decreased in 2022 and the review investigation period. Overall, there was a decrease of 3 % over the period considered.

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

(134) As explained in recital (87), it was not possible to establish an affirmative determination of dumping during the review investigation period. Therefore, no dumping margin could be established. The investigation therefore focused on the likelihood of a recurrence of dumping should the anti-dumping measures be repealed.

(135) The anti-dumping measures imposed following the original investigation allowed the Union industry to recover from past dumping, as is shown by the data for the review investigation period, where profitability remained above the target profit, as elaborated below.

4.5.3. Microeconomic indicators

4.5.3.1. Prices and factors affecting prices

(136) The average unit sales prices of the two Union producers that replied to the questionnaire to unrelated customers in the Union developed over the period considered as follows:

Table 9

Sales prices and cost of production in the Union

	2020	2021	2022	Review Investigation period
Average unit sales price in the Union on the total market (EUR/1 000 pieces)	150 – 250	150 – 250	200 – 300	200 – 300

	2020	2021	2022	Review Investigation period
<i>Index</i> (2020 = 100)	100	112	135	137
Unit cost of production (EUR/1 000 pieces)	150 – 250	150 – 250	200 – 300	200 – 300
<i>Index</i> (2020 = 100)	100	114	147	147

Source: verified questionnaire replies from the Union producers.

- (137) The Union industry's average unit sales price to unrelated customers in the Union increased by 37 % over the period considered.
- (138) Over the same period, the average unit cost of production increased more prominently than the average unit sales price, by 47 %, mainly due to the increased cost of the raw materials and the energy prices. This resulted in decreasing profitability, as elaborated below.

4.5.3.2. Labour costs

- (139) The average labour costs of the two Union producers that replied to the questionnaire developed over the period considered as follows:

Table 10

Average labour costs per employee

	2020	2021	2022	Review Investigation period
Average labour costs per employee (EUR/FTE)	20 000 – 25 000	25 000 – 30 000	25 000 – 30 000	25 000 – 30 000
<i>Index</i> (2020 = 100)	100	112	118	129

Source: verified questionnaire replies from the Union producers.

- (140) Average labour cost increased by 29 % over the period considered.

4.5.3.3. Inventories

- (141) Stock levels of the two Union producers that replied to the questionnaire developed over the period considered as follows:

Table 11

Inventories

	2020	2021	2022	Review Investigation period
Closing stocks (1 000 pieces)	25 000 – 30 000	25 000 – 30 000	35 000 – 40 000	40 000 – 45 000
Index (2020 = 100)	100	101	127	150
Closing stocks as a percentage of production	15	14	19	24

Source: verified questionnaire replies from the Union producers

- (142) The level of inventories increased by 50 % over the period considered. This increase of stocks at the end of the period considered was explained by the Union industry as a seasonal sales effect, as the review investigation period ended in September whereas the peak of the sales for LAM traditionally takes place in December while production is stable throughout the year.

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

- (143) Profitability, cash flow, investments and return on investments of the two Union producers that replied to the questionnaire developed over the period considered as follows:

Table 12

Profitability, cash flow, investments and return on investments

	2020	2021	2022	Review Investigation period
Profitability of sales in the Union to unrelated customers (%)	9 – 12	8 – 11	5 – 8	5 – 8
Index (2020 = 100)	100	83	59	57
Cash flow (EUR)	3 500 000 – 4 000 000	3 000 000 – 3 500 000	500 000 – 1 000 000	2 000 000 – 2 500 000
Index (2020 = 100)	100	82	13	61
Investments (EUR)	1 000 000 – 1 500 000	1 000 000 – 1 500 000	500 000 – 1 000 000	2 000 000 – 2 500 000
Index (2020 = 100)	100	108	70	170
Return on investments (%)	20 – 25	15 – 20	15 – 20	15 – 20
Index (2020 = 100)	100	80	65	68

Source: verified questionnaire replies from the Union producers.

- (144) The Commission established the profitability of the two Union producers that replied to the questionnaire by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales. Profitability of the Union industry decreased continuously over the period considered. Overall, it decreased by 43 % during the period considered, but it remained above the target profit of 5 % as established in the previous investigations on the same product.
- (145) The net cash flow is the ability of the Union producers to self-finance their activities. The net cash flow was decreasing from 2020 to 2022, by 7 % overall, while it picked up in the review investigation period but was still by 39 % lower than at the start of the period considered.
- (146) Investments by the Union industry, primarily in the maintenance of like product production, increased by 8 % in 2021, then decreased by 35 % in 2022. However, by the end of the review investigation period, they surged due to the replacement of certain production machinery, resulting in an overall increase of 70 % over the period considered.
- (147) The return on investments is the profit in percentage of the net book value of investments. It was decreasing from 2020 to 2022 by 35 %, then stabilised by the end of the review investigation period.

4.6. Conclusion on injury

- (148) The investigation showed that during the period considered, due to the anti-dumping duties in place, the Union industry was able to continue to recover from the injury previously suffered. Although injury indicators such as production and sales declined in line with the decreasing consumption trend, the industry's market share increased by two percentage points due to a reduction in imports from other third countries, particularly India. Profitability remained above the target profit throughout the period, though it declined as the average cost of production rose more sharply than the average sales price. Nevertheless, positive profitability and positive cash flow enabled the Union industry to continue investing.
- (149) LAM imports from China during the period considered had hardly any impact on the Union industry's situation. Due to the measures in force, their market share was minimal throughout the whole period.
- (150) The Commission thus concluded that although some of the injury indicators deteriorated, 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

- (151) The Commission concluded in recital (150) 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 China if the measures against were allowed to lapse.
- (152) In this regard, the Commission examined the production capacity and spare capacity in China and the attractiveness of the Union market, likely price levels of imports from China in the absence of anti-dumping measures, and their impact on the Union industry.

5.1. Production capacity and spare capacity available in China

- (153) As explained in Section 3.3.5.2, producers in China have significant production capacity in China and, as a result, spare capacity which more than twice exceeded the total Union consumption during the review investigation period.

- (154) In addition, there were no elements found that could indicate any significant increase of domestic demand of LAM in China or in any other third country market in the near future. Considering the decline of the Union LAM consumption during the period considered, the Commission concluded that domestic demand in China or in other third country markets could not absorb the available spare capacity in China.

5.2. Attractiveness of the Union market

- (155) As mentioned in Section 3.3.5.3, the Union market is the largest single market for LAM and additionally, the prices are attractive for Chinese producers. There are no other major export markets to absorb the Chinese excess capacity because LAM are only used in a limited number of markets. Those reasons are a high incentive for Chinese exporting producers to divert their exports to the Union where they would achieve higher prices, while still being able to significantly undercut the Union industry sales price. In addition, they would have an incentive use at least part of their spare capacity to export at low prices to the Union market.
- (156) It is therefore concluded that the exporting producers in China have the potential and incentive to substantially raise the volume of their exports of LAM to the Union at dumped prices and substantially undercutting the prices of the Union industry, should the anti-dumping measures be allowed to lapse.

5.3. Possible price levels of Chinese imports

- (157) As mentioned in recital (14), there was no cooperation from exporting producers in China, and imports from China were insignificant in the review investigation period. Therefore, the most appropriate basis for possible price levels of Chinese imports was the average export price to global markets found during the review investigation period as detailed in recitals (92) and (93). Based on these export prices, adjusted for transportation costs, landing costs and conventional customs duties, imports from China into the Union, excluding the anti-dumping duty, would undercut the Union sales price by 27 % in the RIP. This indicates that the Chinese imports, at increased volumes, would impose substantial price pressure on the Union industry in the absence of measures.
- (158) On this basis, it is concluded that imports from China will very likely exert high price pressure on the Union industry, should the anti-dumping measures be repealed.

5.4. Impact on the Union industry

- (159) An increase in low-priced imports would exert significant pressure on the price-sensitive Union market. If the Union industry were to maintain its current price levels, it would likely lose sales volume and market share to the cheaper imports from China. It is highly likely that the Chinese market share in the Union would increase rapidly if the measures were allowed to lapse, directly impacting the Union industry. Losing sales volume would lead to a lower utilisation rate and an increase in the average cost of production. This would lead to a deterioration of the financial situation of the Union industry and to a decrease of its profitability which, while being above the target profit throughout the period considered had decreased between 2020 and the review investigation period by more than 40 %. Under this scenario, any increase in cost would lead the profitability to fall below the target profit in the short term which would remove the past recovery efforts made by the Union industry which up to now has been able to maintain the required level of investments to remain competitive.
- (160) However, should the Union industry decide to lower its price levels in an attempt to keep its sales volume and market share the deterioration of its financial situation would occur almost immediately. Indeed, if the Union industry would have to lower its sales prices on the Union market by 27 %, to match the prices of the incoming Chinese products, they would immediately become loss making.

- (161) In this scenario, the expiry of the measures would likely have an immediate negative impact on the Union industry, pushing it into a loss-making situation. In the mid-term, this would become unsustainable, leading to the closure of production sites and, eventually, the disappearance of the Union industry. Already during the period considered, the number of Union producers dropped from four to three due to the challenging market conditions.
- (162) Therefore, it can be concluded that there is a strong likelihood that the expiry of the existing measures would lead to a recurrence of injury from Chinese imports of LAM and that the economic situation of the Union industry would likely deteriorate and lead to material injury.
- (163) The fact that Chinese LAM imports are currently entering the Union market in much lower numbers than before the imposition of measures shows that the current anti-dumping duties successfully re-established undistorted competitive conditions between Chinese exporters of the product under review and the Union industry.

5.5. Conclusion

- (164) The Commission concludes that a repeal of the measures would in all likelihood result in a significant increase of Chinese dumped LAM imports at prices undercutting the Union industry prices and resulting in recurrence of material injury to the Union industry caused by dumped imports of LAMs from China. As a consequence, the viability of the Union industry would be at serious risk.

6. UNION INTEREST

- (165) 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.
- (166) All interested parties were given the opportunity to make their views known pursuant to Article 21(2) of the basic Regulation.
- (167) It should be recalled that, in the previous expiry review, the adoption of measures was considered not to be against the interest of the Union. Furthermore, the fact that this investigation is an expiry review, thus analysing a situation in which anti-dumping measures have already been in place, allows the assessment of any undue negative impact on the parties concerned by the current anti-dumping measures.
- (168) On that basis, it was examined whether, despite the conclusions on the likelihood of a recurrence of dumping and recurrence of injury, compelling reasons existed which would lead to the conclusion that it is not in the Union interest to maintain measures in this particular case.

6.1. Interest of the Union industry

- (169) The investigation has shown that should the measures expire, this would likely have a significant negative effect on the Union industry. This would shortly lead to a decrease in profitability and even in a loss-making situation of Union industry, having also a negative impact on other injury factors such as production volume, utilisation rates, investments and employment. In the longer term, such situation would not be viable, forcing the Union producers to close their operations in the Union market.

(170) In the past, the Union industry proved to be a viable industry with positive economic and financial results. In the virtual absence of dumped imports from China, it managed to remain profitable with profit margin exceeding the target profit.

(171) Therefore, maintaining the anti-dumping measures in force is in the interest of the Union industry.

6.2. Interest of unrelated importers/users

(172) LAM importers are usually also LAM users, since they import it to produce lever arch files. As indicated in recital (18) no unrelated importer-trader or user replied to the questionnaire, several of those have provided positive or negative opinions towards the anti-dumping measures, without substantiated information.

(173) The previous investigations established that the cost of LAM in the retail price of lever arch files only represented a very small percentage and therefore the impact of the duties (if any) was not considered significant. In the absence of evidence suggesting otherwise, it can accordingly be confirmed that the measures currently in force had no substantial negative effect on their financial situation and that the continuation of the measures would not unduly affect importers/traders.

(174) Moreover, the investigation has shown that it is likely that without any measures against dumped imports the Union industry would lose most of its market presence and in the longer run could even disappear. This would certainly lead to the dependence of lever arch files producers on imports and to a significant reduction of competition on the Union market.

(175) On this basis, it can be concluded that the measures on LAM are not against the overall Union interest.

6.3. Conclusion on Union interest

(176) On the basis of the above, the Commission concluded that there were no compelling reasons of the Union interest against the maintenance of the existing measures on imports of LAM originating in the People's Republic of China.

7. ANTI-DUMPING MEASURES

(177) On the basis of the conclusions reached by the Commission on recurrence of dumping, recurrence of injury and Union interest, the anti-dumping measures on LAM originating in the People's Republic of China should be maintained.

(178) 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 of this regulation. Imports not accompanied by that invoice should be subject to the anti-dumping duty applicable to 'all other companies'.

(179) 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 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.

- (180) 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, [a percentage may be introduced, depending on the case, although not advisable] 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.
- (181) The individual company anti-dumping duty rates specified in this Regulation are exclusively applicable to imports of the product under review originating in [countr[y]ies concerned] and produced by the named legal entities. Imports of the product under review produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to ‘all other companies’. They should not be subject to any of the individual anti-dumping duty rates.
- (182) 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 ⁽⁶¹⁾. 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*.
- (183) In view of Article 109 of Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council ⁽⁶²⁾ 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.
- (184) 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 lever arch mechanisms, currently falling under CN code ex 8305 10 00 (TARIC code 8305 10 00 50) and originating in the People's Republic of China.
2. The rates of the definitive anti-dumping duty applicable to the net, free-at-Union-frontier price, before duty, of the product described in paragraph 1 and produced by the companies listed below shall be as follows:

Company	Anti-dumping duty	TARIC additional code
DongGuan Humen Nanzha World Wide Stationery Mfg. Co., Ltd	27,1 %	A729
All other companies	47,4 %	A999

⁽⁶¹⁾ European Commission, Directorate-General for Trade, Directorate G, Rue de la Loi/Wetstraat 170, 1040 Bruxelles/Brussel, BELGIQUE/BELGIË.

⁽⁶²⁾ Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council of 23 September 2024 on the financial rules applicable to the general budget of the Union (OJ L, 2024/2509, 26.9.2024, ELI: <http://data.europa.eu/eli/reg/2024/2509/oj>).

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

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

Article 2

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

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

Done at Brussels, 20 January 2025.

For the Commission
The President
Ursula VON DER LEYEN
