

DECISIONS

COMMISSION IMPLEMENTING DECISION (EU) 2022/1178

of 7 July 2022

not to prolong the suspension of the definitive anti-dumping duties imposed by Implementing Regulation (EU) 2021/1784 on imports of aluminium flat-rolled products originating in the People's Republic of China

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 14(4) thereof,

After consulting the Advisory Committee,

Whereas:

1. PROCEDURE

- (1) On 14 August 2020, the European Commission ('the Commission') initiated an anti-dumping investigation ('the investigation') with regard to imports of aluminium flat-rolled products ('AFRPs' or 'the product concerned') originating in the People's Republic of China ('the PRC', 'China' or the 'country concerned') ⁽²⁾ on the basis of Article 5 of the basic Regulation.
- (2) On 12 April 2021, the Commission imposed a provisional anti-dumping duty by Commission Implementing Regulation (EU) 2021/582 ⁽³⁾ ('the provisional Regulation').
- (3) On 11 October 2021, by Commission Implementing Regulation (EU) 2021/1784 ⁽⁴⁾ ('the definitive Regulation'), the Commission imposed a definitive anti-dumping duty on the product concerned. The rates of the anti-dumping duty range from 14,3 % to 24,6 %.
- (4) On the same date, by Commission Implementing Decision (EU) 2021/1788 ⁽⁵⁾ ('the suspension Decision'), the Commission suspended the definitive anti-dumping duty on the product concerned for a period of 9 months, i.e. until 11 July 2022.
- (5) On 9 March 2022, at its own initiative, the Commission sent questionnaires to the European Aluminium Association ('EA'), to the sampled Union producers and to all other interested parties. The purpose of the questionnaire was to provide information allowing the Commission to assess whether to prolong the suspension or not. Comments were received from the three sampled Union producers and their association (EA), from 14 users, including the European Association of Automotive Suppliers (CLEPA) and from 6 importers and their association (EURANIMI). The sampled Union producers and EA were also requested to provide information as regards certain injury indicators for the most recent period after the period analysed in the suspension Decision (the so-called 'period of analysis' (hereinafter 'PoA') of 8 months, that is from 1 July 2021 until 28 February 2022). They provided the requested information relating to certain indicators. Replies were submitted at the end of March 2022.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ OJ C 268, 14.8.2020, p. 5.

⁽³⁾ Commission Implementing Regulation (EU) 2021/582 of 9 April 2021 imposing a provisional duty on imports of aluminium flat-rolled products originating in the People's Republic of China (OJ L 124, 12.4.2021, p. 40).

⁽⁴⁾ Commission Implementing Regulation (EU) 2021/1784 of 8 October 2021 imposing a definitive anti-dumping duty on imports of aluminium flat-rolled products originating in the People's Republic of China (OJ L 359, 11.10.2021, p. 6).

⁽⁵⁾ Commission Implementing Decision (EU) 2021/1788 of 8 October 2021 suspending the definitive anti-dumping duties imposed by Implementing Regulation (EU) 2021/1784 on imports of aluminium flat-rolled products originating in the People's Republic of China (OJ L 359, 11.10.2021, p. 105).

- (6) In their replies several users requested to prolong the suspension. In addition, on 25 April 2022, EA filed a formal request for an immediate end of the suspension.
- (7) On 24 May 2022, the Commission disclosed its intention not to prolong the suspension of the measures and asked parties to provide comments by 2 June 2022. Seven interested parties provided submissions within the set deadline: TDK Hungary Components Kft. ('TDK Hungary'), Euranimi, Valeo Group ('Valeo'), TitanX Holding ('TitanX'), Airoidi Metalli S.p.a. ('Airoidi'), SATMA and Lodec Metall-Handel ('Lodec'). TDK Foil Italy SpA ('TDK Italy') provided comments after the deadline, which were therefore not taken into account.
- (8) After disclosure, Airoidi claimed that its rights of defence were violated because the Commission used EA's data, in particular about market developments and capacity, which were not available to other parties. The Commission, however, observed that EA's data was based on information provided by all of its members and that EA provided non-confidential version of this data. Consequently, all parties could exercise their rights of defence and could comment on the provided data. The Commission thus rejected the claim.
- (9) Some interested parties proposed amendments of the measures, such as the exclusion of certain products of the scope of the measure or the introduction of a quota of duty free imports. The Commission recalled that, pursuant to Article 14(4) of the basic Regulation, it can only decide either to prolong the suspension for a period not exceeding 1 year or not to prolong the suspension. Accordingly, the Commission could not review the measures imposed by the definitive Regulation. There is a specific procedure provided in Article 11(3) of the basic Regulation for interim reviews. These claims were therefore rejected.

2. EXAMINATION OF THE MARKET CONDITIONS AND OPERATORS ON THE UNION MARKET DURING THE POA

- (10) Article 14(4) of the basic Regulation provides that, in the Union interest, anti-dumping measures may be suspended where market conditions have temporarily changed to an extent that injury would be unlikely to resume as a result of such a suspension.
- (11) On 12 October 2021, the measures were suspended because the Commission established that there was a temporary imbalance between supply and demand in the post-COVID-19 recovery period and the economic situation of the Union industry had developed favourably in the 1st semester of 2021, in comparison with the investigation period ('IP', 1 July 2019 until 30 June 2020) and with 2017 (the best year of the period considered during the original investigation). The expectation was that the positive trends of the economic situation of the Union industry would continue during the 9 months' period of suspension, and that therefore injury was unlikely to resume as a result of the suspension. However, the changed market conditions were considered temporary in nature.
- (12) Article 14(4) provides that the suspension may be extended for a further period, not exceeding 1 year. To decide on whether to extend the suspension or not, the Commission analysed the prevailing market conditions during the PoA as well as the economic situation of the Union industry and the views of importers and users.

2.1. Market conditions

- (13) During the PoA, Union consumption decreased significantly, that is by 13,5 %, in comparison with the 1st semester of 2021 ⁽⁶⁾. Demand peaked in the 1st semester of 2021, when it increased by 27 % in comparison with the IP and declined significantly during the PoA.
- (14) After disclosure, Valeo claimed that the disclosure document did not provide the source for the consumption figures or explanations and that those figures contradicted the data submitted by EA for the PoA. The Commission noted that the general disclosure document already indicated that data was provided by EA. The Commission calculated the consumption for the PoA by adding the total imports to the sales volume of the Union industry. For a proper comparison with the 1st semester 2021, the consumption figures presented at recital 12 were recalculated from the data submitted by EA on a semester basis ⁽⁷⁾. The Commission thus had relied on the data submitted by EA for the PoA and, therefore, rejected this claim.

⁽⁶⁾ From 1 331 005 tonnes in the 1st semester of 2021 to 1 150 832 tonnes in the PoA.

⁽⁷⁾ That is by dividing by 8 (number of months covered by the PoA) and multiplying by 6.

- (15) After disclosure, Euranimi, Airoidi and Lodec argued that the finding of a decrease in demand contradicted the projection that the global demand of aluminium will increase by 40 % by 2030 according to a report by CRU International. However, the Commission noted that the study in question was not limited to AFRPs only, but concerned all types of aluminium products. Besides, Europe (not only the EU but also other European countries) represents only a small fraction of the entire growth (14 %) that is forecasted. Finally, this projection did not contradict the Commission's findings, which concerned the PoA and short-term growth perspectives, whereas the study concerned growth prospects in the next 8 years. Consequently, the claim was rejected.
- (16) In the first months of 2022 the following trends could be observed: according to a CRU Report ⁽⁸⁾, demand for rolled aluminium products in Europe remained satisfactory, driven by stockpiling following the war in Ukraine and by the construction sector, which has sustained its activity. Demand from the automotive sector, on the contrary, was weak, due to continuing shortages of semi-conductors and a shortage of wiring harnesses originating from Ukraine. This situation is expected to last for some more months. As for the construction industry, the same report also mentions the risk of fewer projects due to high inflation.
- (17) On the supply side, the Union industry increased its capacity after the IP (+ 20 %), but the capacity utilisation did not increase and remained around 80 %. There is therefore room for the Union industry to increase production.
- (18) Prices for the main raw materials (aluminium, magnesium) and energy increased significantly during the entire period since the IP, mainly because of the post-COVID recovery. These increases were exacerbated by the unprovoked and unjustified military aggression of Russia against Ukraine. This trend is likely to continue in the coming months. This will have an impact on the price of AFRPs and consequently curb the overall demand for these products.
- (19) Regarding metal imports from Russia, including primary aluminium, the Union industry has reduced its imports from 22 % in 2015 to around 11 % in 2021. Also, the export tax of 15 % imposed by Russia on primary aluminium expired on 31 December 2021 ⁽⁹⁾ as initially planned. According to the Union industry, there is no shortage of primary or semi-finished aluminium, in spite of the sanctions against Russia, which, even though they do not concern directly aluminium products, have a strong negative impact on trade with Russia in general.
- (20) In view of the above, it appears that demand peaked in the 1st semester of 2021. This is shown by the orders intake which, as explained in recital 33 below, decreased by 12 % during the PoA when compared with the 1st semester of 2021. In addition, the lead times were back to normal in the PoA: 5-7 weeks according to a CRU Report of April 2022, and 6-8 weeks according to EA ⁽¹⁰⁾. This is significantly shorter compared to the 1st semester 2021, in which the lead time was sometimes as long as 6 to 10 months. The reduction in lead times was also confirmed by many users.
- (21) On this basis, the Commission concluded that during the PoA the imbalance between supply and demand, that characterized the first semester of 2021, was significantly reduced. Whilst the future remains uncertain, the peak in demand in the post-COVID period of recovery seems to be over, as illustrated by the significant drop in orders intake and lead-times. There is some uncertainty, however, regarding future demand from the two main downstream sectors, i.e. the automotive and construction sectors.

2.2. Situation of the Union industry

- (22) Sales volumes in the EU decreased by 12,8 % in the PoA in comparison with the 1st semester 2021, from 1 056 668 tonnes to 921 701 tonnes. In comparison with the IP, sales volumes increased by 36 % and by 17 % in comparison with 2017.

⁽⁸⁾ CRU Aluminium products Monitor, April 2022 report.

⁽⁹⁾ <https://steelnews.biz/russia-lifts-aluminium-alloys-export-tax/>

⁽¹⁰⁾ In the suspension decision (rec. 30) the normal lead time was defined as 4-12 weeks.

- (23) After disclosure, Valeo claimed that the data submitted by EA in the PoA contradicted the sales and production trends set out in the disclosure document. As explained in recital 14 above, to allow a proper comparison with the 1st semester 2021, the Commission recalculated the data submitted by EA on a semester basis and applied a similar methodology for the other periods of comparison (2017 and IP). Therefore, this claim was rejected.
- (24) Prices of AFRPs in the Union steadily increased from an average of EUR/tonne 2 703 during the IP, to EUR/tonne 2 879 in the 1st semester of 2021, and then at a faster pace to EUR/tonne 3 555 in the PoA. That is an increase by 23 % between the 1st semester of 2021 and the PoA. This was the result of the increase of demand in a post-COVID context and the increase in the prices of the raw materials (primary aluminium, magnesium) and energy.
- (25) The users, including Euranimi, Lodec and Airoidi Metalli, pointed in their initial submissions, as well as after disclosure, to the steep increase of the conversion fee (+ 100 % and up to + 160 %, according to these users). The Commission's estimates indicated that the conversion fee ⁽¹¹⁾ increased by 8 % between the post-IP period (2nd semester of 2020 and 1st semester of 2021) and the PoA. Depending on the specific sale (which company or group of companies, whether this sale is part of a long-term contract or not, which product type, etc.) and the time periods considered, the conversion fee can greatly vary, but overall there appeared to be a general understanding among all interested parties that this conversion fee indeed increased. This increase could be explained in part by the increase in production costs other than the cost of primary aluminium (prices of energy and raw materials such as alloying elements increased), and in part by the increased profit of the Union producers.
- (26) Regarding market share, in the year following the IP, an increase in sales by the Union industry led to an increase in the Union market share (from 64,8 % in the IP to 79,4 % during the first semester of 2021). This level of market share has been maintained during the PoA (80,1 %), as a decrease in sales volumes was accompanied by a decrease in consumption, as set out in recital 13 above.
- (27) During the PoA, production volume slightly decreased by 2 % in comparison with the first semester of 2021. Compared with the IP, production increased by 22 % and by 9 % in comparison with 2017.
- (28) Capacity decreased slightly by 1,3 % during the PoA in comparison with the 1st semester of 2021. Compared with the IP, capacity increased significantly by 20,8 % and by 23 % in comparison with 2017. Moreover, the available capacity was no longer impacted by:
- (i) the effects of previous downsizing of active capacity pointed out in recitals 29 and 36 of the suspension Decision during the COVID-19 pandemic, which were no longer observed during the PoA; and
 - (ii) the temporary shortage of semi-finished and primary aluminium experienced during the post IP period (see recitals 29 and 31 of the suspension Decision). As indicated in recital 18, even though prices of primary aluminium, magnesium and energy have increased significantly, they remain available and would not impact actual capacity.
- (29) Capacity utilisation remained relatively stable, at 80,8 % in the PoA, as compared to 81,5 % during the first semester of 2021 and 91,3 % in 2017. Orders intake for the sampled companies for the product concerned decreased by 12 % during the PoA as compared to the first semester of 2021, and was slightly lower (by 2 %) than during the IP. The level of orders was lower than in the IP and even lower than in 2017 ⁽¹²⁾. This shows that the Union industry will not be fully booked in the coming months.

⁽¹¹⁾ The conversion fee is – roughly – the difference between the sales prices and the LME (3-months) prices of primary aluminium. To establish the sales prices, the Commission used the information provided by the sampled Union producers. See Table 2 below. To establish LME (3-months) prices, the Commission used as a source Fastmarket. The data were extracted on a daily basis and used to compute averages for the two periods: July 2020 to June 2021 and July 2021 to February 2022 (PoA). These averages were converted from USD to EUR using the official exchange rates (averages for the corresponding periods). The average LME prices were respectively for the two periods of 1 710 and 2 431 EUR.

⁽¹²⁾ However, 2017 data provided by EA included some out of scope products.

- (30) After disclosure, Valeo argued that the decrease in capacity is consistent with the lack of supply and that the Union industry never reached 100 % capacity utilisation. It thus has no spare capacity with 80,8 % utilisation rate in the PoA. Finally, Valeo argued that the findings of the Commission contradicted the user's claims that the Union industry lacks capacity. First, contrary to Valeo's claim, the Commission established that the capacity increased by 20,8 % in the PoA in comparison with the IP and by 23 % in comparison with 2017. Second, the argument that 80,8 % capacity utilisation rate does not leave room for spare capacity contradicted the Commission's findings in the definitive Regulation ⁽¹³⁾ that the Union industry operated at 91,3 % capacity utilisation in 2017. Moreover, Valeo did not contest the Commission's findings that the actual/active capacity no longer differed from the declared capacity. Consequently, these claims were rejected.
- (31) After disclosure, Euranimi, Airoldi and Lodec claimed that the Union industry did not invest sufficiently in new capacity in the last decades. None of the parties, however, provided any evidence supporting this claim and that it concerned specifically AFRPs. By contrast, in the definitive Regulation ⁽¹⁴⁾ the Commission established that capacity increased by 2 % during the period considered and by 20 % in the PoA. Consequently, this claim was rejected.
- (32) Euranimi and Airoldi also argued that many Union producers were forced to idle rolling capacities due to the lack of primary aluminium. This shortage would allegedly be in part explained by the decrease in the production of primary aluminium in the EU by more than 30 % since 2000. The shortage would be further limiting the capacity of the Union industry to supply AFRPs. However, EA explained that there is no shortage of primary aluminium and that the Union industry is able to supply itself from third countries. This was confirmed by the fact that imports of primary aluminium into the EU increased in January-April 2022 as compared to January-April 2021. In addition, the Commission noted that global primary aluminium stocks amounted in the second quarter of 2022 to levels of [9,2-10,7] billion tons ⁽¹⁵⁾, which was lower than the levels of 2020-2021 ([10,1-11,4 billion tons on average), but comparable to the pre-COVID 2019 levels [9,1-10,5] billion tons on average). The stock of European producers ([310 000-330 000] tons) in the first quarter of 2022 was also in line with the past 3-year average ([320 000-340 000] tons for 2019-2021). The Commission concluded that, while there are still tensions on several raw materials markets, including for primary aluminium, this is a global phenomenon not specifically related to the Union market and that primary aluminium supplies were available for the Union industry, albeit generally at increasing prices. The claim that this market situation would limit the ability of the Union industry to produce, especially as compared to its Chinese competitors, was therefore rejected.
- (33) Profitability improved and reached 2,8 % in the PoA. Profitability was – 1,8 % in the IP and 1,9 % in the first semester of 2021, but the profitability in the PoA remained below the 3,1 % profit achieved in the reference year 2017, and was far below the minimum profit margin of 6 % provided for in Article 7(2c) of the basic Regulation, used for the purpose of the underselling calculations in the definitive Regulation.
- (34) To sum up, some indicators declined during the PoA compared to the 1st semester of 2021 (sales volumes, production), whereas other indicators improved (prices, profitability). Overall, the Commission concluded that the Union industry did not suffer material injury during the PoA.

2.3. Situation of the users

- (35) The users argued in favour of the prolongation of the suspension, on the grounds that the conditions of the suspension are still valid.
- (36) The Commission noted, however, that the temporary situation that prevailed at the moment of the suspension has evolved as indicated in recitals 13-23 above.
- (37) Several users also argued that the conditions for suspension were fulfilled with regard to the specific aluminium flat rolled products that they respectively use, since there is allegedly still lack of supply for those products. They reiterated their claim after disclosure and argued that suspension should be extended for the products in question. However, these products only concerned a minority of total imports and Article 14(4) of the basic Regulation provides for suspension of measures imposed on imports of the product concerned as a whole, and not part thereof.

⁽¹³⁾ Recital 439 thereof.

⁽¹⁴⁾ Recital 438 thereof.

⁽¹⁵⁾ The source of the data for stocks of primary aluminium is the CRU Aluminium Monitor of June 2022 (Inventories).

- (38) The users also argued that there is still a shortage of supply in the EU in general and in particular for the specific aluminium flat rolled product that they use and that the end of the suspension will further aggravate this shortage by reducing supplies originating in China.
- (39) The Commission, however, noted the Union industry still has important spare capacity, which as explained in recital 28, already matches the actual/active capacity. There had been a significant extension of capacity by the Union industry since the original IP. The Union industry is by far the main supplier of the product concerned to the users. The Commission also noted that alternative sources of supplies exist, such as Turkey and other third countries. Furthermore, many users confirmed that the lead times are significantly shorter compared to the 1st semester of 2021, as explained in recital 20. Finally, as indicated in recital 37, Article 14(4) does not allow for only a partial suspension. The Commission further noted that the exclusion requests were already addressed in the definitive Regulation ⁽¹⁶⁾.
- (40) Following disclosure, Valeo claimed that the orders intake was not shown in the open version of the Union industry's submissions and should be verified by the Commission. Also, the decrease in orders intake contradicted the fact that demand during the PoA was higher than the first semester of 2021 and the IP. The Commission observed that the orders intake concerned confidential data, company specific and not subject to summary. However, the Commission provided sufficient data in the disclosure to enable the parties to exercise their rights of defence and to comment on the trend described. Also, to the extent possible, the Commission cross-checked the accuracy of the information provided. Finally, contrary to what Valeo claimed, as explained in recital 13 above, consumption decreased by 13,5 % during the PoA in comparison with the first semester of 2021. Consequently, the decrease in orders intake by 12 % is in line with the decrease in demand. The claim was thus rejected.
- (41) Regarding the decrease in lead times, Valeo argued following disclosure that this has to be weighed against the fact that many users are unable to purchase AFRPs and that the Union industry rejected many orders so that they could supply the limited quantities they have capacity for within the prescribed lead times. The Commission observed, firstly, that this claim was not backed by any evidence. Secondly, it contradicts the assertions previously made by virtually all users, backed by independent sources ⁽¹⁷⁾, that the increased lead times were an indication of imbalance between supply and demand on the Union market. Accordingly, the fact that in the PoA lead times decreased to normal levels was an element pointing to an improvement of the balance between supply and demand. Consequently, this claim was rejected.
- (42) After disclosure, users questioned the Commission's findings regarding the availability of supply on the Union market of specific product types and the possibility of sourcing those product types from other third countries.
- (43) Regarding the issue of supply of aluminium heat exchangers AFRPs ('AHEX'), the Commission observed that both users who commented on the disclosure, that is TitanX and Valeo, already sourced significant quantities from the Union industry. In addition, part of the correspondence between Valeo and Union producers, as provided by Valeo, concerned negotiations about future supplies from Union producers, for the period beyond 2023. Most of this correspondence appeared to concern issues of negotiating new prices and not necessarily capacity issues, or a lack thereof.
- (44) Valeo also argued that one of its biggest suppliers refused to supply it with already agreed quantities and had recently had a fire which destroyed its new mill. However, the supplier in question provided evidence that it is rather Valeo who did not comply with its contractual obligations and cancelled already agreed volumes. Given that this concerns a specific contractual dispute between the two companies, the Commission could not draw any conclusion about the general issue of supply of AHEX on the Union market. Regarding the fire, the press article quoted did not indicate that the mill was entirely destroyed. Rather, it stated that the mill will start operating with a few months' delay (instead of 2nd half of 2022, it will start in 2023). Besides, as stated in the same article, this will affect only new volumes but not the already committed existing volumes. Consequently, the claim was rejected.
- (45) TitanX argued that its largest supplier increased its prices and that it was not able to find additional suppliers in the Union. However, it did not claim that it had issues of supplies from its largest supplier, and TitanX failed to provide evidence regarding refusals to supply from other suppliers in the Union. Consequently, the claim was rejected.

⁽¹⁶⁾ All product exclusion requests were dealt with in Section 2.2 of the definitive regulation. For all but AFRPs used for the production of coated coils and aluminium composite panels (Section 2.2.2 of the same regulation), the Commission concluded that there is sufficient production capacity on the Union market and, consequently, rejected the product exclusion requests.

⁽¹⁷⁾ See recital 36 and footnote 6 of the suspension Decision.

- (46) Regarding imports from third countries of AHEx, the Commission observed that imports from Turkey of AHEx used to have an important share of total consumption of that product type, while imports of all types of AFRPs from Turkey represented only 2,2 % market share during the PoA, down from [5,9-6,3] % during the IP. There is no evidence on the file that Turkey cannot increase its exports to previous levels. In this respect, the email correspondence provided by Valeo and a Turkish supplier did not point to any issues of supply by the latter.
- (47) Finally, AHEx are used in the automobile sector. As indicated in recital 71 below, this sector experienced bottlenecks and a temporary decrease in demand, which necessarily resulted in a decrease in demand also for AHEx. This was confirmed by the evidence provided by EA that during the PoA there was a decrease in orders of AHEx, below the already contracted quantities, by the users Valeo, Mahle and Marelli, due to that contraction in demand ⁽¹⁸⁾.
- (48) In view of the above considerations, the Commission rejected the claims regarding current lack of supply of AHEx.
- (49) Regarding AFRPs for use in the production of aluminium electrolytic capacitors, after disclosure SATMA and TDK Hungary argued that there are no producers in the Union of this product type, Turkey cannot be a source of supply as this product type is not produced there, while Japanese producers ceased production in 2021. However, SATMA did not provide any supporting evidence that Japan, which has always been a major source of supply of this product type, ceased production. The Commission also noted that there was an on-going project to restart production in the Union. Finally, this product type represented a very small fraction of the total Union consumption of AFRPs and, as explained in recital 39 above, under Article 14(4) it is not possible to suspend measures only for specific product types. Therefore, the Commission rejected the claim.
- (50) The users also reported on the likely financial difficulties of a number of downstream companies or production units if the duties were to be re-instated. They warned about the possible closure of production sites in the EU.
- (51) In this respect, the Commission referred to its findings in recitals 532-548 of the definitive Regulation, where it concluded that the imposition of the measures would not be against the interests of the users because the impact on the financial situation of the users would be limited. Moreover, during the suspension period, users had time to adapt their production units to other sources of supply.
- (52) Furthermore, as indicated in recital 75 of the suspension Decision, the Commission considered that the 9-month period of suspension gave users, especially those that requested the exclusion of certain products, an additional period to (re-) validate Union producers. The redirection of users towards supplies from the Union industry appears to be confirmed by the fact that the Union industry gained market share during the peak in demand in the 1st semester of 2021 and kept the same market share in the PoA.

2.4. Situation of the importers and traders

- (53) EURANIMI, the European association of mill-independent importers and distributors of aluminium and/or stainless steel and 6 of their members provided their comments on the market developments and the suspension. They were in favour of the continuation of the suspension.
- (54) They pointed mainly to the current situation of acute shortage of aluminium as well as to the risk for the downstream manufacturers, which could be at a risk of losing competitiveness. The Commission already addressed this claim in recital 51.

3. LIKELIHOOD OF RESUMPTION OF INJURY AS A RESULT OF A PROLONGATION OF THE SUSPENSION

- (55) As mentioned in recital 34, the Union industry appears to be in a situation where several positive trends have stagnated or reversed. Some indicators declined during the PoA compared to the 1st semester of 2021 (sales volumes, production), while others improved (prices, profitability). Overall, the Commission concluded that the Union industry did not suffer material injury during the PoA. The Commission assessed whether injury would be unlikely to resume as a result of the prolongation of the suspension. Two factors were analysed in particular: the evolution of Chinese imports and the most recent market developments.

⁽¹⁸⁾ t21.006374.

3.1. Evolution of imports from China

- (56) The market share of the imports from China dropped from 8 % in the IP to 2,2 % in the 1st semester of 2021, but subsequently increased by 49 % to reach 3,2 % in the PoA. The analysis of imports from the PRC in the months of February and March 2022 showed, however, a rapid increase, which resulted in a market share in the months of February and March of over 6,0 %, close to the market share in the IP.

Table 1

Imports from China during the PoA (in tonnes)

	POA								Post POA	
	July 2021	Aug. 2021	Sept. 2021	Oct. 2021	Nov. 2021	Dec. 2021	Jan.- 2022	Feb. 2022	March 2022	April 2022
Volume of imports from the country concerned	2 905	3 224	4 852	5 639	6 134	4 292	9 300	12 818	13 832	14 027
Index	100	111	167	194	211	148	320	441	476	482

Source: Eurostat (PoA) and Surveillance database (Post-PoA).

- (57) The volumes developed as follows: imports from China decreased significantly post-IP from 171 240 tonnes during the IP to 56 470 tonnes in the year following the IP. Subsequently imports increased again during the PoA to 73 752 tonnes (average for the 8 months, annualised), yet remained below the levels of the IP and the 2017 levels (around 100 000 tonnes for the latter). At the beginning of 2022, imports continued to increase (11 000 tonnes on a monthly basis for January and February 2022 – that is 132 000 tonnes on an annual basis – and 14 027 tonnes for April 2022 – more than 168 000 tonnes on an annual basis).
- (58) Prices of imports from China increased significantly, in a context of increase in the prices of inputs as well as higher transport costs. Contrary to what was claimed by some interested parties following disclosure, this price increase could not be considered in isolation and it needed to be put in perspective and compared with other prices and costs, such as the Union sales prices.
- (59) The level of undercutting observed during the IP was 17,3 %. The price gap between the Chinese import prices and the sales prices of the Union industry gradually increased throughout the PoA as illustrated by Table 2 below. Import prices were therefore lower than the Union industry prices (at the level of 4-5 %) in January-February 2022.
- (60) The above showed that imports from China did not immediately pick-up after the IP but gradually increased during the PoA and even further in the months after the PoA, almost reaching the monthly average volumes of the IP in the context of declining consumption compared to the 1st semester of 2021. The Commission noted that the general situation of the manufacturing sector in China was characterised by uncertainties linked to the COVID-19 outbreaks, the zero COVID policy and its consequence on the Chinese economy. March and April 2022 were therefore characterised by a general contraction in Chinese factory activity. Industrial output, orders, employment were on the decline, while backlogs and delivery times rose further. However, despite these issues imports from China of the product concerned steadily increased during the PoA, especially in January-April 2022. At the same time, prices decreased and the gap with the Union industry sales prices was widening, as shown in Table 2 below. Consequently, despite COVID-related contractions in Chinese manufacturing, imports from China were recovering during the POA, and after a period of further adjustment, imports from China to the EU increased even further.

Table 2

Price comparison during the PoA (in EUR/tonne)

	POA								Post POA	
	July 2021	Aug. 2021	Sept. 2021	Oct. 2021	Nov. 2021	Dec. 2021	Jan.- 2022	Feb. 2022	March 2022	April 2022
Imports prices from the country concerned	3 051	3 135	3 334	3 453	3 398	3 592	3 753	3 871	3 799	3 967
<i>Index</i>	100	103	109	113	111	118	123	127	125	130
Sales prices in the Union	3 065	3 137	3 335	3 507	3 686	3 705	3 915	4 077	-	-
<i>Index</i>	100	102	109	114	120	121	128	133		

Source: Eurostat (PoA), Surveillance database (Post-PoA), sampled Union producers.

- (61) Following disclosure, Airoidi first claimed that the Commission's analysis of imports from China was incorrect since, according to the import data provided in its submission, Chinese imports did not increase, while Chinese import prices increased. Second, Airoidi claimed that the import trend should be analysed in proportion to 2021 and that imports increases in February and March 2022 should not be taken into account, since they were affected by the extraordinary events of the Ukrainian crisis. Third, concerning prices, Airoidi claimed that Chinese prices are in line with EU sales prices and that the Commission's analysis should adjust the imports from China with the transport costs.
- (62) Concerning the first claim, the Commission noted that Airoidi's claim was wrong as it was based on the much broader CN level (8 digits), while the Commission's analysis was based on statistics at TARIC level (10 digits), which only included the product concerned.
- (63) Concerning the periods that were compared, the Commission recalled that both the year after the IP (1 July 2020-30 June 2021) and the PoA, fell, partially, within the year 2021. Therefore, any comparison of the evolution between the first half of 2021 and the PoA does not allow to establish an average for the entire 2021, since the two semesters of 2021 belong to different reference periods. Consequently, any comparison between the PoA and 2021 of the import trends would be meaningless and not reliable. As per the exclusion of the months of January and February 2022, Airoidi did not provide any explanation or justification concerning the impact of the Ukrainian crisis, beyond arguing that it was extraordinary.
- (64) Concerning the prices, contrary to what Airoidi claimed, as explained in recital 60, the gap between import prices from China and the Union prices widened during the PoA. Finally, concerning the transport adjustments, the Commission recalled that the import statistics are collected at CIF level, thus capturing a substantial part of the transport costs in the price. Consequently, these claims were rejected.
- (65) Following disclosure, EURANIMI claimed that the recent surge of imports from China was linked to the anticipation that the suspension would end and that these imports were made under similar price conditions as those of the European producers. The Commission noted that several factors were influencing the level of imports from China and that the suspension of the measures possibly was one of these factors. As regards the level of prices, the Commission noted that, when comparing average sales prices of the sampled Union producers and average import prices from China, the latter were lower during the whole PoA.
- (66) Following disclosure, Lodec claimed that the level of market share reached by Chinese imports coupled with the lower prices did not represent a threat to the Union industry since, allegedly, this would be the result of a free market where the Chinese exporting producers are more competitive. Similarly, SATMA claimed that the Commission failed to prove the existence of injury caused to the Union industry by imports from aluminium foils used for the production of aluminium capacitors, as there is allegedly no production in the Union.

- (67) The Commission observed that a causation analysis was carried out in the definitive Regulation. The Commission had been able to conclude that the product concerned had been a cause of injury to the Union industry during the original IP. There was no evidence to suggest that if the conditions that had led the Commission to temporarily suspend the collection of the definitive measures were no longer present, that that causal relationship between the imported products and the Union sales had ceased, or that those causation findings would otherwise have been invalidated in the meantime. Moreover, Lodec ought to have brought forward those claims at the stage of the original investigation imposing the definitive measures. Finally, that causation analysis had been carried out for the product as a whole, and there was no obligation to carry out the analysis on the basis of a specific product type. Therefore, the claims were rejected.
- (68) Lodec and EURANIMI claimed that, for certain product types, the cessation of imports from Russia would create additional shortages in the Union market, which should be addressed by the Commission with some mitigating measures. However, the Commission noted that imports of the product concerned from Russia represented a negligible part of Union consumption, with a market share below 0,5 % during the Post-IP and the POA. Consequently, variations on the volume of imports from Russia were not considered have any substantial impact. The claim was therefore rejected.

3.2. Recent market developments

- (69) The future is uncertain, with different factors impacting the market. Stockpiling will not last as it was a temporary response to the uncertainties linked to the invasion of Ukraine. Furthermore, increases in raw material and energy prices, which have been strongly impacted by the post-COVID-19 recovery and, since February 2022, by the unprovoked and unjustified military aggression of Russia against Ukraine, are also key variables to take into account.
- (70) As far as demand in the construction sector is concerned, although it remains strong, there are indications that due to the increase in raw material prices and possible increases in interest rates, new projects may be hampered and demand may therefore be tempered ⁽¹⁹⁾.
- (71) As for the production in the automotive industry, it will possibly reach normal levels again in the near future. However, in the short term the automotive industry's demand has been negatively affected by shortage of wiring harnesses from Ukraine and a worldwide chip shortage ⁽²⁰⁾. The latter is expected to continue at least for some time in 2022 ⁽²¹⁾.
- (72) According to the EA's forecasts, the overall market will decline in the next months. EA forecasted a drop in sales of 3,8 % for the 1st semester of 2022, as compared to the PoA and a drop in production of 5,7 %. This was based on a combination of a drop in consumption from the automotive industry and a significant increase of imports from China. The Commission noted that Eurofer estimated that the automotive sector will grow in 2022 but will stagnate in 2023 ⁽²²⁾. However, Eurofer conditions its forecast for 2022 on a number of unknown variables: the future magnitude of the current downside risks stemming from continuing semi-conductors shortages; potential decrease in demand in view of growing economic uncertainties in case of a prolonged war in Ukraine; stagnant consumer disposable income (in the EU) and high energy and raw materials inflation; and the growth demand in EU major export markets (UK, USA, China and Turkey), which is currently subdued. Consequently, demand for the automotive sector remains uncertain.
- (73) The Commission also analysed whether the unprovoked and unjustified military aggression of Russia against Ukraine and the sanctions on Russia impacted the supply chain of the Union industry. At the moment, none of the sanctions and other measures prevent exports of aluminium products from Russia to the EU. In addition, the Union industry also has other sources of supply than Russia. Consequently, the Commission did not find any tangible

⁽¹⁹⁾ CRU Report March 2022.

⁽²⁰⁾ According to ACEA, registration of new cars declined by 12,3 % in the 1st quarter 2022 <https://www.acea.auto/pc-registrations/passenger-car-registrations-12-3-first-quarter-of-2022-20-5-in-march/>

⁽²¹⁾ <https://www.autocar.co.uk/car-news/business-tech/2C-development-and-manufacturing/latest-updates-semiconductor-chip-crisis>; <https://www.bbc.com/news/business-60313571>

⁽²²⁾ https://www.eurofer.eu/assets/publications/economic-market-outlook/economic-and-steel-market-outlook-2022-2023-first-quarter-2/EUROFER_ECONOMIC_REPORT_Q2_2022-23_final.pdf

evidence that the sanctions on Russia impacted the supply chain of the Union industry to the extent that it would be relevant for the analysis of the impact of lifting the suspension. However, sanctions excluding some banks from using the SWIFT payment system may present challenges, as may the fact that some freight companies have ceased all container shipping to and from Russia. Furthermore, the application of sanctions to certain Russian individuals with stakes in this sector may have an impact. Therefore, this situation adds to the uncertainty of how the market situation may develop in the short to medium term.

3.3. Conclusion on whether injury is unlikely to resume

- (74) After the improvement of the Union industry's performance in the 1st semester of 2021 in comparison with the IP, its economic situation remained rather stable during the PoA, although some injury indicators deteriorated. Thus, while the Union industry market share remained stable, sales volumes declined significantly by 12,8 %, while production and capacity slightly decreased, by 2 % and 1,3 % respectively. Profitability improved and reached 2,8 % in the PoA, which is however still lower than the reference year 2017 and is far below the minimum profit of 6 % used for the purpose of the underselling calculations.
- (75) In particular, the prospects for the Union industry after the PoA are not that positive. The orders intake of the product concerned decreased by 12 % in the PoA in comparison with the 1st semester of 2021 and by 2 % in comparison with the IP (at which point the Union industry was found to be in an injurious situation). Consequently, in contrast to the findings set out in recital 49 of the suspension Decision, the Union industry is no longer fully booked for the coming months and its future level of activity is not assured. Consumption reached its peak in the 1st semester of 2021 and then decreased by 13,5 % during the PoA. This was confirmed by the drop in orders intake and also by the significant reduction of the lead times. During the next months, demand is not expected to pick up given the uncertainties of demand in the car manufacturing and construction sector, coupled with the expected further increase in costs of the main inputs. Finally, in the context of an improving balance between supply and demand, the Union industry would have less bargaining power in the price setting, and its economic performance would thereby be negatively impacted.
- (76) At the same time, Chinese imports constantly and significantly increased during the PoA, and even further in the 2 months following the PoA, at prices that are lower than the Union industry's average prices. In particular, the price gap between the Chinese import prices and the sales prices of the Union industry gradually increased throughout the PoA. This occurred despite the increase in international transport costs and bottlenecks in deliveries pointed to by users, and the COVID-related difficulties generally affecting Chinese manufacturers. This recent and significant trend of a rapid increase in Chinese imports is likely to continue in the future and result in the same situation that was observed during the original IP, should the measures continue to be suspended. Coupled with the expected further increase in costs and uncertainties in demand, the further increase of imports from China at lower prices would clearly have a negative impact on the Union industry's economic performance.
- (77) In view of the above analysis, the Commission concluded that it was no longer the case that injury to the Union industry was unlikely to resume in case the current suspension of the anti-dumping duties were to be prolonged.

4. CONCLUSION

- (78) Following an examination of the market developments during the PoA, the likely developments in the near future, the situation of the Union industry, and the views of importers and users, the Commission concluded that the conditions to prolong the suspension of the measures are no longer fulfilled. In this respect, the Commission recalled that suspending the collection of anti-dumping duties is an exceptional measure in view of the general rule provided in the Basic Regulation.
- (79) Therefore, absent any of the necessary elements, and considering the views of all parties, the Commission decided not to prolong the suspension of the anti-dumping duties on imports of AFRPs originating in China. Consequently, the duties should be re-instated when the application of the suspension Decision ends (as of 12 July 2022),

HAS ADOPTED THIS DECISION:

Article 1

The suspension of the definitive anti-dumping duties on imports of aluminium flat-rolled products originating in the People's Republic of China imposed by Article 1 of Implementing Decision (EU) 2021/1788 is not further prolonged.

Article 2

The definitive anti-dumping duty imposed by Article 1 of Implementing Regulation (EU) 2021/1784 on imports of aluminium flat-rolled products originating in the People's Republic of China is hereby reinstated as of 12 July 2022.

Article 3

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

Done at Brussels, 7 July 2022.

For the Commission
The President
Ursula VON DER LEYEN
