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►B ►C1 **COMMISSION IMPLEMENTING REGULATION (EU) 2016/113** ◄

of 28 January 2016

imposing a provisional anti-dumping duty on imports of high fatigue performance steel concrete reinforcement bars originating in the People's Republic of China

(OJ L 23, 29.1.2016, p. 16)

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COMMISSION IMPLEMENTING REGULATION (EU) 2016/113

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of 28 January 2016

imposing a provisional anti-dumping duty on imports of high fatigue performance steel concrete reinforcement bars 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 Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community [1] ('the basic Regulation'), and in particular Article 7(4) thereof,

After consulting the Member States,

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 30 April 2015, the European Commission ('the Commission') announced, by a notice published in the *Official Journal of the European Union* [2] ('the notice of initiation'), the initiation of an anti-dumping proceeding ('the anti-dumping proceeding') with regard to imports into the Union of high fatigue performance steel concrete reinforcement bars ('HFP rebars') originating in the People's Republic of China ('PRC' or 'the country concerned').

(2) The anti-dumping proceeding was initiated following a complaint lodged on 17 March 2015 by the European Steel Association ('Eurofer' or 'the complainant') on behalf of producers representing more than 25 % of the total Union production of HFP rebars. The complaint contained prima facie evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of an investigation.

1.2. Registration

(3) Following a request by the complainant supported by the required evidence the Commission adopted on 17 December 2015 Regulation (EU) 2015/2386 [3] making imports of HFP rebars originating in the PRC subject to registration as of 19 December 2015.

[1] OJ L 343, 22.12.2009, p. 51.
[2] OJ C 143, 30.4.2015, p. 12.
[3] OJ L 332, 18.12.2015, p. 111.

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1.3. **Parties concerned by the investigation**

(4) The Commission officially advised the complainant, other known Union producers, the known exporting producers, known importers and users, and the Chinese authorities of the initiation of the investigation. It informed interested parties in the notice of initiation that it had provisionally chosen United Arab Emirates as a third market economy country ('analogue country') within the meaning of Article 2(7)(a) of the basic Regulation and invited comments on this choice.

(5) Interested parties were given an opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation. All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

1.4. **Sampling**

(6) In view of the potentially large number of exporting producers in the country concerned, unrelated importers and Union producers involved in the proceeding and in order to complete the investigation within the statutory time limits, the Commission announced in the notice of initiation that it might sample the companies that would be investigated in accordance with Article 17 of the basic Regulation.

a) *Sampling of exporting producers*

(7) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all exporting producers in the country concerned were requested to make themselves known to the Commission and to provide information specified in the notice of initiation. In addition, the Commission asked the Chinese authorities to identify and/or contact other exporting producers that could be interested in participating in the investigation.

(8) In total, three groups of exporting producers provided the requested information, agreed to be included in the sample and asked for individual examination in case they would not be included in the sample. In view of the small number of cooperating companies (in total, the three groups consisting of six producers, three related exporters in China and two related exporters in Singapore), the Commission decided that sampling was not necessary with respect to exporting producers in the country concerned.

b) *Sampling of Union producers*

(9) The Commission announced in the notice of initiation that it had provisionally selected a sample of Union producers. This sample initially consisted of four producers that were known to the Commission prior to the initiation of the investigation to produce HFP rebars in the Union. The Commission selected the sample on the basis of the sales volume to unrelated customers. Interested parties were also invited in the notice of

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initiation to make their views known on the provisional sample. No comment was received on the proposed sample. The sampled Union producers accounted for 90 % of the estimated total Union production. The sample is considered to be representative of the Union industry.

c) *Sampling of importers*

(10) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all unrelated importers were requested to make themselves known to the Commission and to provide information specified in the notice of initiation.

(11) A total of four unrelated importers provided the requested information and agreed to be included in the sample. In view of the limited number of cooperating importers, the Commission decided that sampling was not necessary.

1.5. **Market economy treatment claim forms**

(12) For the purposes of Article 2(7)(b) of the basic Regulation, the Commission sent market economy treatment claim forms to the authorities and to the cooperating exporting producers in the PRC. None of the cooperating exporting producers claimed market economy treatment.

1.6. **Questionnaire replies and verification visits**

(13) Questionnaires were sent to all parties known to be concerned and to all other companies that made themselves known within the deadlines set out in the notice of initiation. Questionnaire replies were received from the three cooperating (groups of) exporting producers in PRC, the four sampled Union producers, four unrelated importers, five unrelated users and four related users. Two unrelated importers and three unrelated users subsequently withdrew their cooperation.

(14) The Commission sought and verified all the information provided by interested parties and deemed necessary for a provisional determination of dumping, resulting injury and Union interest. Verification visits were carried out at the premises of the following parties:

a) *Union producers*

— Celsa UK, United Kingdom

— Megasa Siderur, Spain

— Riva Acier, France

— SN Maia, Portugal

b) *Unrelated importers in the Union*

— Ronly Ltd, United Kingdom

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c) *Users in the Union*

Related users:

— BRC, United Kingdom

— Express Limited, United Kingdom

— Rom, United Kingdom

— Romtech, United Kingdom

Unrelated users:

— Capital, United Kingdom

— Roe Bros and Northwest Steel, United Kingdom

d) *Exporting producers in the PRC*

— Jiangyin Xicheng Group:

  — Jiangyin Xicheng Steel Co., Ltd

  — Jiangyin Ruihe Metal Products Co., Ltd

  — Wuxi Xijun International Trade Co. Ltd (related exporter in the PRC)

  — Jiangsu Xichuang International Trade Co., Ltd (related exporter in the PRC)

— Jiangsu Yonggang Group:

  — Jiangsu Yonggang Group Co., Ltd

  — Jiangsu Lianfeng Industrial Co., Ltd

— Jiangsu Shagang Group:

  — Zhangjiagang Hongchang High Wires Co., Ltd

  — Zhangjiagang Shatai Steel Co., Ltd

  — Jiangsu Shagang International Co., Ltd (related exporter in the PRC)

e) *Producer in the analogue country*

— ArcelorMittal South Africa (South Africa)

(15) The Commission did not visit the premises of the two related exporters of the cooperating Chinese companies in Singapore, namely Lianfeng International PTE., Ltd (related exporter of Yonggang Group) and Xinsha International PTE, Ltd (related exporter of Shagang Group). Their files and accounts, to the extent requested by the Commission, were however made available for inspection during on spot visits at the premises of their respective related producers in PRC.

1.7. **Investigation period and period considered**

(16) The investigation of dumping and injury covered the period from 1 April 2014 to 31 March 2015 (‘the investigation period’ or ‘IP’). The examination of trends relevant for the assessment of injury covered the period from 1 January 2011 to the end of the investigation period (‘period considered’). Due to the specific

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circumstances in the market in the 2011 explained in recital (148), the weight of the year 2011 in the injury analysis was reduced, and the developments since 1 January 2012 were given accordingly more emphasis. The indexes are thus based on the year 2012, whenever applicable.

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

(17) The product subject to this investigation are high fatigue performance iron or steel concrete reinforcing bars and rods made of iron, non-alloy steel or alloy steel (but excluding of stainless steel, high-speed steel and silico-manganese steel), not further worked than hot-rolled, but including those twisted after rolling; these bars and rods contain indentations, ribs, grooves or other deformations produced during the rolling process or are twisted after rolling. The key characteristic of high fatigue performance is the ability to endure repeated stress without breaking and, specifically, the ability to resist in excess of 4,5 million fatigue cycles using a stress ratio (min/max) of 0,2 and a stress range exceeding 150 MPa.

(18) The product definition corresponds to the requirements of the British Standard BS4449 and is typically distinguishable by CARES certification and markings on the rebars themselves. Therefore, contrary to the view expressed by certain interested parties, there is no problem of practical implementation of the measures.

(19) The product concerned is the product described in recital (17) above, originating in the PRC, currently falling within CN codes ex 7214 20 00, ex 7228 30 20, ex 7228 30 41, ex 7228 30 49, ex 7228 30 61, ex 7228 30 69, ex 7228 30 70 and ex 7228 30 89.

2.2. Like product

(20) The investigation showed that the product concerned and the product produced and sold on the domestic market of PRC and analogue country, as well as the product produced by the Union industry and sold on the Union market have the same basic physical, chemical and technical characteristics and uses. They are therefore provisionally considered to be alike within the meaning of Article 1(4) of the basic Regulation.

3. DUMPING

3.1. Introduction

(21) Six Chinese exporting producers belonging to three groups (Jiangyin Xicheng Group, Jiangsu Yonggang Group and Jiangsu Shagang Group) cooperated with the investigation. They represented above 95 % of all the Chinese exports to the Union in the IP. All the companies exported to the Union via related exporters located in PRC and/or Singapore.

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(22) Two of the cooperating groups, Jiangsu Yonggang and Jiangsu Shagang, are related through common ownership of one of the exporting producer of the HFP rebars, which was admitted in the questionnaire replies of both groups. However, the companies claimed that the two groups nevertheless should be treated as separate entities for the purpose of this investigation. The companies stressed, inter alia, no involvement in each other decision making processes, lack of operational link whatsoever, separate production lines and completely independent sales distribution channels in the domestic and international markets.

(23) With regard to this claim, taking into account the nature and strength of the relation between the groups, namely the fact that one of the companies of one group is the biggest single shareholder in the main producer of the product concerned of the second group, and that the former company's officials are present in the main statutory bodies of the latter company, the Commission preliminarily concludes that both groups should be treated as related. Thus, one weighted average provisional duty for the companies of the both groups shall be applied.

(24) None of the cooperating exporting producers in the PRC claimed market economy treatment. Therefore, the normal value was determined on the basis of the price or constructed value in a market economy third country (‘analogue country’) in accordance with Article 2(7)(a) of the basic Regulation.

3.2. **Analogue country**

(25) In the notice of initiation, the Commission informed interested parties that it proposed United Arab Emirates as an appropriate analogue country and invited them to comment. However, the Commission did not receive any cooperation of known and contacted producers of the product concerned in this country.

(26) The Commission also examined whether any other market economy country in which HFP rebars are produced, could constitute an appropriate analogue country. According to the information available to the Commission on the basis of the complaint, the submissions from the parties and Eurostat data, the other countries producing HFP rebars are Egypt, Oman, Qatar, Saudi Arabia, South Africa, Turkey, and Ukraine. In total 38 potential producers of the product concerned in these countries were contacted by the Commission.

(27) The cooperation was received from only one company located in South Africa. This company responded to the analogue country questionnaire and agreed to the on spot verification of its reply. One other producer located in Turkey had initially expressed willingness to cooperate but finally did not submit a questionnaire reply, despite repeated attempts by the Commission to obtain the reply.

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(28) With regard to the South African company in question, China Iron and Steel Association ('CISA') an interested party in this procedure, raised the point that the company was a subsidiary of one of the EU producers who supported the complaint. According to CISA, the objectivity of any data provided by this company would be questionable.

(29) With regard to this claim it has to be first noted that the Commission was limited with its choice as to the analogue country due to lack of cooperation from other countries. Secondly, the relation between analogue country company and EU producer is irrelevant for the purpose of this investigation. The Commission notes that even if the producers in the analogue countries are related to Union producers, such a link does not invalidate or affect the determination of the normal value based on verified data, which was confirmed by the recent judgment of the Court of Justice in a similar case ([1]). Furthermore, there is no specific reason for questioning the use of data of this analogue country producer which was properly verified. Furthermore, as far as South Africa is concerned, the domestic market for HFP rebars is relatively open, not protected by import custom duties with regard to product concerned, with internal competition of several domestic producers and imports having a sizeable market share of 13 %. The analogue country producer verified has extensive quantities of domestic and export sales, with a market share on its domestic market in a range of 13-23 %. It produces similar types of the like product to those exported to the Union by the Chinese producers.

(30) Taking into account the above, the Commission concluded at this stage of the proceeding that South Africa is an appropriate analogue country under Article 2(7)(a) of the basic Regulation.

3.3. **Normal value**

(31) As mentioned in recital (24) above, the normal value for exporting producers in the PRC was determined on the basis of the constructed value in the analogue country, in this case South Africa, in accordance with Article 2(7)(a) of the basic Regulation.

(32) For this determination, the Commission first examined whether the total volume of domestic sales of the like product to independent customers made by the cooperating producer in the analogue country was representative, i.e. whether the total volume of such domestic sales represented at least 5 % of the total volume of export sales of the product concerned of each of the respective Chinese cooperating exporters to the Union during the IP in accordance with Article 2(2) of the basic Regulation. On this basis, it was found that the overall domestic sales in the analogue country were representative.

(33) Subsequently the Commission made the same comparison for each product type, i.e. it was examined whether the domestic sales of a given type of the product in the analogue country were representative for the purposes of Article 2(2) of the basic

([1]) C-687/13 of 10 September 2015, para 68.

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Regulation. On this basis, it was found that domestic sales in the analogue country were not representative for any of the product types with regard to any of the Chinese exporters.

(34) The normal value was thus constructed in line with Article 2(3) and (6) of the basic Regulation by adding to the average cost of manufacturing of the relevant product type the weighted average selling, general and administrative ('SG&A') expenses incurred (1 %-5 %) and the weighted average profit realised (10 %-20 %) by the producer in the analogue country on domestic sales, in the ordinary course of trade, during the investigation period.

3.4. **Export price**

(35) The cooperating exporting producers exported to the Union either through related exporters located in China and/or Singapore or through independent trading companies located in China.

(36) The export price was thus established in accordance with Article 2(8) of the basic Regulation on the basis of export prices actually paid or payable to the first independent customers, whether importers in the Union or trading companies in the PRC.

3.5. **Comparison**

(37) The normal value and export price of the cooperating exporting producers were compared on an ex-works basis.

(38) For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation.

(39) On this basis, adjustments were made for transport, ocean freight and insurance costs, handling, loading and ancillary costs, packing costs, credit costs, discounts and commissions where demonstrated to affect price comparability. The total adjustments were in the range of 5 %-10 %.

(40) China applies a policy of re-imbursing VAT only partially upon export. 4 % VAT are not re-imbursed. To ensure that it was expressed at the same level of taxation as the export price, the normal value was adjusted upward by that part of the VAT charged on exports of HFP rebars that was not refunded to the Chinese exporting producers. ([1])

([1]) That method has been accepted by the General Court in case T-423/09 Dashiqiao v Council/Judgment of 16 Dec 2011, para 34 to 50

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3.6. **Dumping margins**

(41) As provided by Article 2(11) and (12) of the basic Regulation, for each cooperating group of companies, the weighted average normal value of each type of the like product in the analogue country was compared with the weighted average export price of the corresponding type of the product concerned.

(42) As explained in recital (23) the Commission concluded that two of the cooperating groups of companies should be treated as related.

(43) A single dumping margin was therefore established for the exporting producers of the two groups by expressing the sum of their individual dumping amounts as a percentage of the sum of their constructed (due to the presence of related exporters) CIF values at the Union frontier.

(44) With regard to the country-wide dumping margin, the Commission first established the level of cooperation. To this end, a comparison was made between the total export quantities of the cooperating exporting producers and the total imports from the PRC as derived from the Eurostat import statistics. Since the level of cooperation was high, the country-wide dumping margin was provisionally set-up at the level of the highest dumping margin established for the cooperating exporting producers.

(45) On this basis, the provisional weighted average dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Company	Provisional dumping margin (%)
Jiangyin Xicheng Steel Co., Ltd	66,0
Jiangyin Ruihe Metal Products Co., Ltd	66,0
Jiangsu Yonggang Group Co., Ltd	51,5
Jiangsu Lianfeng Industrial Co., Ltd	51,5
Zhangjiagang Hongchang High Wires Co., Ltd	51,5
Zhangjiagang Shatai Steel Co., Ltd	51,5
All other companies	66,0

4. **UNION INDUSTRY**

4.1. **Union industry**

(46) The like product was manufactured by 11 Union producers. They are deemed to constitute the Union industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation and will hereinafter be referred to as the ‘Union industry’.

(47) One interested party requested the Commission to clarify whether the Union industry is limited to a particular region within the meaning of Article 4(1)(b) of the basic Regulation.

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(48) The Commission notes that even though the users of the product concerned are located in UK and Ireland only, the producers of the like product are located in several Member States, not limited to UK and Ireland. Therefore the Union industry is interpreted as referring to the producers in the whole of the Union.

4.2. **Union production**

(49) All available information concerning the Union industry, such as information provided in the complaint, data collected from Union producers before and after initiation of the investigation and the questionnaire responses of the sampled Union producers, was used in order to establish the total Union production for the investigation period.

(50) On this basis, the total Union production was estimated to be around 506 000 tonnes during the IP. This figure includes the production of all Union producers that made themselves known, constituting the entire Union industry.

4.3. **Sampling of Union producers**

(51) As indicated in recital (9) above four Union producers were included in the sample representing 90 % of the estimated total Union production of the like product.

4.4. **Free and captive markets**

(52) To establish whether the Union industry suffered injury and to determine consumption and the various economic indicators related to the situation of the Union industry, the Commission examined whether and to what extent the subsequent use of the Union industry's production of the like product had to be taken into account in the analysis.

(53) HFP rebars are used by fabricators who cut and bend the rebars to tailor-made shapes and lengths and deliver them to construction sites. The Commission found that a substantial part (56 %) of the sampled Union producers' production was destined for captive use. In fact, HFP rebars were sold by one Union producer to related companies which did not have a free choice of suppliers.

(54) The distinction between captive and free market is relevant for the injury analysis because products destined for captive use are not exposed to direct competition from imports, and prices are set within the group and are therefore not reliable. By contrast, production destined for free market sale is in direct competition with imports of the product concerned, and prices are free market prices.

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(55) To provide a picture of the Union industry that is as complete as possible, the Commission obtained data for the entire production of HFP rebars and determined whether the production was destined for captive use or for the free market. For some injury indicators relating to the Union industry, the Commission analysed separately data related to the free and the captive market and made a comparative analysis. These factors are: sales, market share, unit prices, unit cost, profitability, and cash flow. However, other economic indicators could meaningfully be examined only by referring to the whole activity, including the captive use of the Union industry because they depend on the whole activity, whether the production is captive or sold on the free market. These factors are: production, capacity, capacity utilisation, investments, return on investments, employment, productivity, stocks and labour costs. For these factors, analysis of the whole Union industry is warranted in order to establish a complete injury picture of the Union industry, as the data in question cannot be separated out between captive sales and free sales.

(56) The Commission notes that this analysis is, in line with case-law of the Union Courts and the WTO ([1]).

5. **INJURY**

5.1. **Union consumption**

(57) Union consumption was established on the basis of the total sales volume of the Union industry on the Union market and the total imports. The year of 2011 was marked by a low level of Union consumption compared to the rest of the period considered. However, the market situation improved, as shown in the table below and Union consumption increased by 50 % between 2011 and the IP and by 38 % between 2012 and the IP.

	2011	2012	2013	2014	IP
Consumption (in tonnes)	546 359	595 797	628 099	854 328	822 060
Index (2012 = 100)	*92*	*100*	*105*	*143*	*138*

Source: European Commission (Customs Surveillance Database), complaint and questionnaire replies

5.2. **Imports into the Union from the country concerned**

5.2.1. *Volume and market share of the imports concerned*

(58) During the period considered the imports into the Union from the People's Republic of China, which started only in 2013, were found to have developed in terms of volume and market share as follows:

([1]) Case C-315/90 Gimelec v Commission EU:C:1991:447, paragraphs 16 to 29; Report of the WTO Appellate Body 24.7.2001, WT/DS184/AB/R, para 181 to 215.

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	2011	2012	2013	2014	IP
Volume (tonnes)			49 480	279 484	292 304
Index (2013 = 100)			*100*	*565*	*591*
Market share on EU consumption (%)			7,9	32,7	35,6
Market share on the free market (%)			11,7	45,9	50,9
Index (2013 = 100)			*100*	*415*	*451*

Source: European Commission (Customs Surveillance Database), complaint and questionnaire replies

(59) Import volumes from China increased considerably over the period considered, from zero to 292 000 tonnes in the IP. The market share of imports from China increased significantly, from 0 % to 36 % during the period considered.

5.2.2. *Prices of imports and price undercutting*

(60) The table below shows the average price of imports from China:

	2011	2012	2013	2014	IP
Average price (EUR/tonne)			442	400	401
Index (2013 = 100)			*100*	*90*	*91*

Source: European Commission (Customs Surveillance Database) and questionnaire replies

(61) The average import prices from China decreased during the period considered, in line with the decrease of worldwide prices of iron ore which is used as raw material in China and in the analogue country (see table in the recital (81) below). The import prices for the IP were established on the basis of the verified export sales prices from the sampled Chinese exporting producers. The average import prices for 2013 and 2014 were established on the basis of the Surveillance Database. The Commission took into account the long time-lag between the invoice dates and the customs clearance dates, which otherwise could have resulted in prices from different periods being compared with each other. The import prices from China remained below both the unrelated and related sales prices of the Union industry during the same period. As can be seen in recital (82) below, in 2013 the average related sale price of the Union industry was 483 EUR/tonne and the average unrelated sale price 456 EUR/tonne. In 2014, the average related sale price of the Union industry was 464 EUR/tonne and the average unrelated sale price 434 EUR/tonne. In the IP, the average related sale price of the Union industry was 458 EUR/tonne and the average unrelated sale price 427 EUR/tonne.

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(62) In order to determine whether there was price undercutting during the IP, and to what extent, the weighted average sales prices per product type of the sampled Union producers charged to unrelated customers on the Union market, adjusted to an ex-works level by deducting the actual delivery costs, commissions and credit notes, were compared to the corresponding weighted average prices per product type of the dumped imports from the sampled Chinese producers to the first independent customer on the Union market, established on a CIF basis. As explained in recital (102) below, undercutting was established in comparison with unrelated sales only, since the comparison only took into account matching product types. The related sales were exclusively composed of product types not being imported from China.

(63) The result of the comparison, when expressed as a percentage of the sampled Union producers' turnover during the IP, showed an undercutting margin of ranging from 1,7 % to 5,6 %. The lower prices of the dumped imports compared to the Union prices during the period considered explain the significant increase in Chinese import volume and in the market share held by the imports from China from 2013 onwards.

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

5.3.1. *Preliminary remarks*

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

(65) As mentioned in recital (9), sampling was used for the examination of the possible injury suffered by the Union industry.

(66) For the purpose of the injury analysis, the Commission distinguished between macroeconomic and microeconomic injury indicators. In this regard, the economic situation of the Union industry is assessed on the basis of (a) macroeconomic indicators, namely production, production capacity, capacity utilisation, sales volume, market share and growth, employment, productivity, magnitude of the actual dumping margin and recovery from past dumping, for which the data was collected at the level of the total Union industry and on the basis of (b) microeconomic indicators, namely average unit prices, unit cost, profitability, cash flow, investments, return on investment and ability to raise capital, stocks and labour costs, for which the data was collected at the level of the sampled Union producers.

(67) All available information concerning the Union industry including information provided in the complaint, data collected from the Union producers before and after the initiation of the

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investigation, and the questionnaire responses of the sampled Union producers, was used in order to establish the macro-economic indicators and in particular the data pertaining to the non-sampled Union producers.

(68) The microeconomic indicators were established on the basis of information provided by the sampled Union producers in their questionnaire replies.

(69) As explained in recital (103) below, undercutting and underselling were established on the basis of product types that were comparable with the imports from China, i.e. that fell within the same product code number, and therefore excluded sales to related customers, which were composed only of product types not imported from China. The remaining injury indicators were established on the basis of all product types. Even if the remaining injury indicators would have been established on the basis of the comparable product types only, it would not have altered the trends observed.

5.3.2. *Macroeconomic indicators*

(a) Production, production capacity and capacity utilisation

(70) The trends for Union production, production capacity and the utilization of the capacity developed as follows during the period considered:

	2011	2012	2013	2014	IP
Production volume HFP rebars (tonnes)	533 612	569 599	507 046	516 762	506 361
Index (2012 = 100)	*94*	*100*	*89*	*91*	*89*
Production volume all products (tonnes)	5 364 368	5 416 193	5 169 720	5 510 322	5 500 486
Index (2012 = 100)	*99*	*100*	*95*	*102*	*102*
Production capacity all products (tonnes)	7 700 405	7 710 620	7 705 934	7 688 851	7 709 741
Index (2012 = 100)	*100*	*100*	*100*	*100*	*100*
Capacity utilisation all products (%)	70	70	67	72	71
Index (2012 = 100)	*99*	*100*	*96*	*102*	*102*

Source: Complaint, questionnaire replies

(71) Union production decreased during the period considered, despite increasing Union consumption.

(72) Since the same machinery can be used to manufacture both the like product and other types of rebars, production capacity and utilisation was calculated for all types of rebars. There is no specific machinery for HFP rebars that could be taken into account to calculate capacity and capacity utilisation for the

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like product only. Capacity and capacity utilisation remained constant during the period considered, despite increasing Union consumption. The decrease in the production volume of the product concerned was compensated by an increase in the production volume of other products.

(b) Sales volume, market share and growth

(73) The sales of one Union producer included captive sales to its related companies. Sales volume, market share and growth were therefore assessed separately for captive market (related sales) and free market (unrelated sales).

(74) The trends concerning sales volumes, market share and growth developed as follows during the period considered:

	2011	2012	2013	2014	IP
Sales volume related sales (tonnes)	255 388	249 832	206 004	246 055	248 213
Index (2012 = 100)	*102*	*100*	*82*	*98*	*99*
Market share related sales on EU consumption (%)	46,7	41,9	32,8	28,8	30,2
Index (2012 = 100)	*111*	*100*	*78*	*69*	*72*
Sales volume unrelated sales (tonnes)	269 728	319 148	292 521	260 470	261 180
Index (2012 = 100)	*85*	*100*	*92*	*82*	*82*
Market share unrelated sales on EU consumption (%)	49,4	53,6	46,6	30,5	31,8
Index (2012 = 100)	*92*	*100*	*87*	*57*	*59*

Source: European Commission (Customs Surveillance Database), complaint, questionnaire replies

(75) After an increase between 2011 and 2012, in the context of an increasing consumption, the sales volume to unrelated customers started to decrease from 2013 onwards, in parallel with the rapid increase of the dumped imports. This is also reflected in the upward trend of closing stocks, which increased overall by 27 % during the period considered and by 28 % from 2012 to the IP.

(76) Furthermore, the market share of unrelated sales by the Union industry decreased significantly by 18 percentage points since 2011 and by 22 percentage points since 2012, in the context of a steady increase in consumption. This shows that Union industry could not fully benefit from the growth in Union consumption due to the increasing market share of dumped imports.

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(77) The related sales first decreased in 2013, at the same time with the start of the dumped imports from China, but then increased back to their previous level. The market share of the related sales decreased by 17 percentage points since 2011 and by 12 percentage points since 2012. However, the related sales took place in a captive market and were therefore only indirectly affected by the Chinese imports.

(c) Employment and productivity

(78) Employment decreased from 253 in 2011 to 231 in 2012, and then further decreased to 209 in the IP. The employment in the Union industry was calculated by considering the number of employees working directly with the product concerned, when available, or by allocating total employment of the producers proportionally to the share of output of the product concerned. Productivity, measured as output in tonnes per person employed per year, increased by 15 % from 2011 to 2012. From 2012 to the IP, the productivity first fell in 2013 in line with the decreased output, but then regained its previous levels, suggesting that the Union industry made significant efforts to improve its efficiency while its production remained at the 2013 levels.

	2011	2012	2013	2014	IP
Number of employees	253	231	243	221	209
Index (2012 = 100)	*109*	*100*	*105*	*96*	*90*
Productivity (MT/ employee)	2 113	2 465	2 090	2 334	2 423
Index (2012 = 100)	*86*	*100*	*85*	*95*	*98*

Source: Complaint, questionnaire replies

(d) Magnitude of the actual dumping margin and recovery from past dumping

(79) The dumping margins of the sampled Chinese exporting producers are considerable (see recital (45) above). Given the sector of the product concerned, the volume, market share and prices of the dumped imports from China, discussed above, the impact on the Union industry of the actual dumping margin cannot be considered to be negligible.

(80) No imports have taken place previously. As a result, the industry is not still recovering from past dumping practices.

5.3.3. *Microeconomic indicators*

(a) Average unit selling prices on the Union market and unit cost of production

(81) The average sales prices of the sampled Union producers to unrelated customers in the Union decreased by 16 % from 2012 to the IP. The price decrease reflects a general lowering trend in

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the worldwide cost of raw material, both shredded scrap used in the Union and iron ore used in China and in the analogue country, as shown in the table below.

	2011	2012	2013	2014	IP
Scrap price in EUR/tonne (sampled Union producers)	320	308	281	270	260
Index (2012 = 100)	*104*	*100*	*91*	*88*	*85*
Shredded scrap price in EUR/tonne (Union market)	318	285	254	261	251
Index (2012 = 100)	*112*	*100*	*89*	*92*	*88*
Iron ore price in EUR/tonne (imports to China)	124	100	96	72	60
Index (2012 = 100)	*125*	*100*	*96*	*73*	*61*
Iron ore price in EUR/tonne (imports to China) submitted by the Chinese exporting producers	Not provided	Not provided	[90-110]	[60-80]	[50-70]

Source: Complainant, questionnaire replies, www.indexmundi.com, CISA

(82) However, the sales prices of the Union industry decreased from 2012 to the IP faster than the raw material prices for shredded scrap, both in absolute and in relative terms. As can be seen in the table below, this resulted in losses from 2013 onwards.

	2011	2012	2013	2014	IP
Average unit selling price in the Union to related customers	529	540	483	464	458
Index (2012 = 100)	*98*	*100*	*89*	*86*	*85*
Average unit selling price in the Union to unrelated customers	505	507	456	434	427
Index (2012 = 100)	*100*	*100*	*90*	*86*	*84*
Unit cost of goods sold for related sales (EUR/tonne)	544	527	490	479	470
Index (2012 = 100)	*103*	*100*	*93*	*91*	*89*

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	2011	2012	2013	2014	IP
Unit cost of goods sold for unrelated sales (EUR/ tonne)	515	502	469	448	439
Index (2012 = 100)	*103*	*100*	*93*	*89*	*87*

Source: Questionnaire replies

(b) Profitability, cash flow, investments, return on investments and ability to raise capital

(83) During the period considered the Union producers' cash flow, investment, return on investment and their ability to raise capital developed as follows:

	2011	2012	2013	2014	IP
Profitability of sales in the Union to related customers (% of sales turnover)	– 2,8	+ 2,5	– 1,5	– 3,2	– 2,7
Profitability of sales in the Union to unrelated customers adjusted for comparable product types (% of sales turnover)	– 3,5	+ 1,6	– 2,5	– 3,1	– 2,4
Cash flow related sales (EUR)	– 336 830	6 965 666	1 619 217	619 310	1 582 626
Cash flow unrelated sales (EUR)	14 899 504	5 240 507	600 099	– 389 019	– 946 642
Investments (EUR)	7 176 323	6 546 524	5 880 627	4 504 181	5 030 792
Index (2012 = 100)	*110*	*100*	*90*	*69*	*77*
Return on investments (%)	– 83	71	– 76	– 144	– 110

Source: Questionnaire replies

(84) The profitability of the sampled Union producers was established separately for related and unrelated sales. Profitability was expressed as the pre-tax net profit of the sales of the like product to customers in the Union as a percentage of the turnover of those sales.

(85) For their related sales, the sampled Union producers were loss-making in 2011, but started to recover in 2012 in line with the increase in Union consumption. In 2012 a profit of +2,5 % on the related sales was made. The related sales became again loss-making from 2013 onwards. However, the related sales prices

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do not necessarily reflect market prices, since the prices are set in an agreement between related parties. The profits of related sales could therefore not be considered to reflect the profitability of the Union industry.

(86) For their unrelated sales, a similar trend as for the related sales was followed. The unrelated sales were loss-making before 2012, profitable in 2012 and then loss-making from 2013 onwards.

(87) Cash flow, which is the ability of the industry to self-finance its activities, was initially positive for unrelated sales but became negative since 2014, in line with the continuing losses. Cash flow from related sales was negative in 2011 but positive in the rest of the period considered. However, since the related sales prices do not necessarily reflect market prices, the cash flow from related sales could not be considered to reflect the cash flow situation of the Union industry.

(88) The evolution of profitability and cash flow during the period considered limited the ability of the sampled Union producers to invest in their activities and undermined their development. However, due to the nature of the industry, investments are used to manufacture various products, including products outside the scope of the investigation. For this reason it was not possible to directly establish investments and return on investment, which is profit in percentage of the net book value of investments, specifically for the product under investigation. Instead the overall investments of the industry were presumed to be allocated to the product concerned in line with share of turnover.

(89) In light of the above, it can be concluded that the financial performance of the sampled Union producers remained negative during the IP.

(c) Stocks

(90) The level of stocks of the sampled Union producers increased by 27 % during the period considered; their increase coincided with losses in market share.

	2011	2012	2013	2014	IP
Closing stocks (tonnes)	56 934	56 537	57 280	69 942	72 473
Index (2012 = 100)	*101*	*100*	*101*	*124*	*128*

Source: Questionnaire replies

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(d) Labour costs

(91) The average labour costs of the sampled Union producers increased modestly during the period considered. At the same time the average productivity improved. Labour costs represented 13 % of the total costs of production. Therefore labour costs do not represent a determining factor in the cost of production.

	2011	2012	2013	2014	IP
Average labour costs per employee (EUR)	104 161	112 246	108 249	127 588	138 047
Index (2012 = 100)	*93*	*100*	*96*	*114*	*123*

Source: Questionnaire replies

5.4. **Conclusion on injury**

(92) The investigation showed that the Union industry did not benefit from the increase in consumption during the period considered. Initially, from 2011 to 2012, there is no injury, not least because there were no imports, but subsequently, from 2013 onwards, its economic situation deteriorated when compared with the 2012 levels. Indeed, certain indicators such as production and sales volume of the Union industry stagnated despite a continued increase in Union consumption. The market share of the Union industry dropped significantly, since the increased Union consumption was met by the rapid increase of Chinese imports.

(93) Furthermore, certain injury indicators related to the financial performance, namely profitability and cash flow of the Union industry were seriously affected (drop of profitability by 4 percentage points) by the price pressure which prevailed in the Union market. The Union industry was not able to maintain its prices at a level necessary to reach a profitability in line with the year 2012 and became loss-making as a consequence.

(94) In light of the foregoing, it is provisionally concluded that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.

6. CAUSATION

6.1. **Introduction**

(95) In accordance with Article 3(6) and (7) of the basic Regulation, the Commission examined whether the dumped imports from China had caused injury to the Union industry to a degree sufficient to be considered as material. Known factors other than the dumped imports, which could at the same time be injuring the Union industry, were also examined to ensure that the possible injury caused by these other factors was not attributed to the dumped imports.

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6.2. **Effect of the dumped imports**

(96) The investigation showed that the Union consumption increased by 50 % over the period considered and at the same time the volume of imports originating in China increased significantly. As explained in recitals (58)-(59), the imports from China increased from zero in 2012 to 292 000 tonnes in the IP. The increase of dumped imports coincided with a drastic drop in the market share of the Union industry: as explained in recitals (74)-(76), the Union industry's unrelated sales dropped from 319 000 tonnes in 2012 to 261 000 tonnes in the IP.

(97) With regard to the price pressure prevailing on the Union market during the period considered, it was found that the average import prices from China remained constantly lower than the average sales prices of the Union industry. By undercutting the Union industry, Chinese imports increased their market share from zero in 2012 to 36 % of the Union consumption in the IP. In the free market, the market share of Chinese imports increased from zero in 2012 to 51 % in the IP. The market share of the Union industry in the free market decreased from 92 % in 2012 to 46 % in the IP. The loss in market share reveals that the Union industry could not benefit from the increased consumption.

(98) Due to the price pressure exerted by the increasing volumes of Chinese imports, the Union industry was not able to cover its costs. The Union industry was loss-making in 2011, and narrowly profitable before the start of the dumping in 2012. The Union industry became loss-making from 2013 onwards, at the same time when the dumped imports started to enter the Union market.

(99) Based on the above, it is concluded that the surge of dumped imports from China at prices constantly undercutting those of the Union industry caused material injury suffered by the Union industry.

6.3. **Effect of other factors**

6.3.1. *Export performance of the Union industry*

(100) There are hardly any exports by the Union industry. Exports to third countries decreased from 1 % to 0 % of sales during the period considered. It can be therefore concluded that the export activity of the Union industry could not be a cause of the material injury found.

6.3.2. *Sales to related parties*

(101) Chinese exporters have alleged that the causal link is broken because the sales of one of the Union producers are almost exclusively made to related parties in a captive market. Thus any injury would be caused by low transfer prices set between related companies, not by the Chinese imports.

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(102) First, the Commission observes that only one of the Union producers in the sample sells in a captive market and furthermore also has non-captive sales of the like product.

(103) Second, the investigation showed that the prices to related parties were higher than the sales prices in the free market. It was also found that the related sales concerned product types not imported from China. Undercutting and underselling were established on the basis of matching product types only, by comparing the Chinese import prices and the sales prices of the Union producers of matching product types. Thus the related sales did not affect the determination of undercutting and underselling. Finally, the development of injury indicators which were analysed separately for free and captive sales showed a comparable trend. On that basis, the argument made by the Chinese exporters has been taken into account but it does not affect the findings.

6.3.3. *Imports from third countries*

Country		2011	2012	2013	2014	IP
The PRC	Volume (tonnes)			49 480	279 484	292 304
	Index (2013 = 100)			*100*	*565*	*591*
	Market share on EU consumption (%)			7,9	32,7	35,6
	Index (2013 = 100)			*100*	*415*	*451*
	Av. price			442	400	401
	Index (2013 = 100)			*100*	*90*	*91*
Turkey	Volume (tonnes)	8 726	1 182	74 965	65 299	16 323
	Index (2012 = 100)	*738*	*100*	*6 342*	*5 525*	*1 381*
	Market share on EU consumption (%)	1,6	0,2	11,9	7,6	2,0
	Index (2012 = 100)	*805*	*100*	*6 016*	*3 853*	*1 001*
	Av. price	697	508	463	565	691
	Index (2012 = 100)	*137*	*100*	*91*	*111*	*136*
Total of all third countries except China	Volume (tonnes)	21 243	26 817	80 094	68 319	20 362
	Index (2012 = 100)	*79*	*100*	*299*	*255*	*76*
	Market share on EU consumption (%)	3,9	4,5	12,8	8,0	2,5
	Index (2012 = 100)	*86*	*100*	*283*	*178*	*55*
	Av. price	657	610	488	659	570
	Index (2012 = 100)	*108*	*100*	*80*	*108*	*94*

Source: European Commission (Customs Surveillance Database), complaint and questionnaire replies

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(104) The dumped imports from China constituted 93 % of all imports into the Union market during the IP. There were other sources of imports, including Turkey that had to be examined in the context of the causal link.

(105) The investigation showed that the average sales prices of Turkish exporting producers remained above the sales prices of the Chinese exporting producers and those of the Union industry during the period considered. Moreover, the market share of Turkish imports decreased from 12 % in 2013 to 2,0 % during the IP.

(106) On the basis of above, it is concluded that the impact of these imports is not such as to break the causal link between Chinese imports and the material injury suffered by the Union industry.

6.3.4. *The economic crisis*

(107) As explained in recital (83), the Union industry was loss-making in 2011, when the effects of the economic crisis were visible in the low consumption of rebars. The situation of the industry improved in 2012 and it became profitable. The industry then became again loss-making since 2013, in parallel with the start of the low-priced imports from China.

(108) Hence, the economic crisis cannot explain the difficulties of the industry that have reappeared since 2013. Therefore, it cannot be considered to have an impact such as to break the causal link between the dumped imports and the material injury that the Union industry suffered during the IP.

6.3.5. *Cost of the main raw material*

(109) The Chinese exporters claimed that the injury suffered by the Union industry is a result of the use of scrap as a main raw material, whereas the Chinese producers are using iron ore.

(110) However, the price information supplied by the Chinese exporters shows that the prices of scrap broadly follow the trends of the prices of iron ore in the world markets. As shown in recital (81), the prices of both scrap and iron ore have decreased by roughly the same amount in terms of price per tonne. The fact that the decrease is different in percentage terms is not relevant for determining causality because the impact on production costs is determined by the development of the price per tonne in absolute terms. Furthermore, the difference of costs in absolute

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terms between iron ore and scrap reflects the fact that the transformation process into steel is different depending on the raw material used. The costs of two different raw materials are thus not directly comparable. Alleged differences in the development of the cost of raw material could therefore not break the causal link between the material injury found and the dumped imports. This claim must therefore be rejected.

6.4. **Conclusion on causation**

(111) It has been demonstrated that there was a substantial increase in the volume and market share of the dumped imports originating in China in the period considered. In addition, it was found that these imports were constantly undercutting the prices charged by the Union industry on the Union market and in particular during the IP.

(112) This increase in volume and market share of the dumped imports from China coincided with the deterioration of the financial situation of the Union industry as of 2013. Thus, despite the recovery in consumption, the Union industry was unable to increase its sales and prices, and consequently financial indicators such as profitability remained negative.

(113) The examination of the other known factors which could have caused injury to the Union industry revealed that these factors were not such as to break the causal link established between the dumped imports from China and the injury suffered by the Union industry.

(114) Based on the above analysis, which had distinguished and separated the effects of all known factors on the situation of the Union industry from the injurious effects of the dumped imports, it is provisionally concluded that the dumped imports from China have caused material injury to the Union industry within the meaning of Article 3(6) of the basic Regulation.

7. **UNION INTEREST**

7.1. **General considerations**

(115) In accordance with Article 21 of the basic Regulation it has been examined whether, despite the provisional finding of injurious dumping, compelling reasons exist for concluding that it is not in the Union interest to adopt measures in this particular case. The analysis of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, importers, and users.

(116) CISA, an interested party, claimed that imposing measures for the entire Union would be unnecessary since imports from China are directed only to UK and Ireland.

(117) The Commission notes that even though the consumption is limited to UK and Ireland, the Union industry is located in several Member States and therefore the Union interest must be assessed concerning the entire Union. As there are intra-Union trade flows of the product concerned between UK, Ireland and the other Member States, measures must be imposed for the entire Union in order for them to be efficient.

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7.2. **Interest of the Union industry**

(118) The Union industry is composed of 11 known producers representing all of the Union production of the like product. The producers are located in different Member States of the Union, employing directly 209 people in relation to the like product during the IP.

(119) It has been established that the Union industry suffered material injury caused by the dumped imports from China. It is recalled that the Union industry could not fully benefit from the growing consumption and the financial situation of the Union industry remained fragile.

(120) It is expected that the imposition of anti-dumping duties will restore fair trade conditions on the Union market, allowing the Union industry to align its prices of the like product to the costs of production.

(121) It can also be expected that the imposition of measures will enable the Union industry to regain at least part of the market share lost during the period considered, with a positive impact on its profitability and overall financial situation. The imposition of measures would enable the industry to maintain and further develop its efforts to be cost efficient.

(122) Should measures not be imposed, further losses in market share could be expected and the Union industry's profitability would deteriorate.

(123) One Union producer made its sales predominantly in a captive market which is not directly affected by the imports from China. Indirectly, however, it may benefit from the growing market in the absence of dumped imports where the prices would be set according to sound market conditions.

(124) It is, therefore, provisionally concluded that the imposition of anti-dumping measures on imports originating in China would be in the interest of the Union industry.

7.3. **Interest of users**

(125) Questionnaires were sent to 11 users in the Union. Nine users replied to the questionnaires, but three of them subsequently withdrew their cooperation. The likely effect of the proposed measures was assessed on the basis of questionnaire replies received from the other users and the total Union market for the product concerned and the like product.

(126) Four of the cooperating users were related to one Union producer. They only purchased the product concerned from their parent company. The imposition of the measures would therefore have no direct impact on their purchases. Indirectly, their position in the downstream market might improve given that their competitors would no longer be able to purchase low-priced dumped imports from China.

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(127) The two cooperating unrelated users represented around 33 % of total imports from China of the product concerned during the IP. On average, purchases from China constituted around 88 % of their total purchases of the product concerned. Cost of the product concerned represented typically 75 % of the sales incorporating the product concerned. During the IP, the average percentage of the turnover incorporating the product concerned represented 76 % of their total turnover.

(128) The investigation showed that, during the IP, the average profitability of the cooperating unrelated users on the sales incorporating the product concerned was 1 % on turnover.

(129) Assuming the worst case scenario for the unrelated users, i.e. that no price increase could be passed on to the distribution chain and that they would continue purchasing from China in previous volumes, the impact of the duty on the users' profitability, considering their narrow profits, high share of Chinese imports, and high share of the product concerned in their overall costs, would mean that the users would become loss-making.

(130) However, it should be pointed out that since the product concerned is standardised, users could easily change their sources of supply as far as the product quality is concerned. The imposition of measures should not preclude the possibility for importing the product concerned from other countries and even from China once trade distorting effects due to dumping have been removed.

(131) The unrelated users claimed that the current high volumes of imports from China could not be easily replaced by other sources, and that they would therefore face a situation of shortage of supply. This would make them lose market shares to the related users.

(132) However, given the moderate level of the duties, they are unlikely to completely eliminate imports from China, which could continue to enter the Union market at fair prices. The investigation has shown that there is sufficient spare capacity in the Union industry for the independent users to replace any decrease in the Chinese imports.

(133) Certain importers and users claimed that the imposition of measures would lead to one Union producer located in the UK and its related users reaching a monopolistic situation by eliminating the competing independent users who would no longer have access to raw materials at competitive prices.

(134) The Commission notes, firstly, that the acquisitions of the downstream users has been approved by both the UK and the Irish competition authorities. They have in that context assessed potential monopolistic behaviour.

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(135) Secondly, as explained in recital (130) above, there are alternative sources of supply available to the independent users, which will ensure that independent users can continue to compete on the UK market.

(136) Taken the above into consideration, even if certain users are likely to be impacted more negatively than others by the measures on Chinese imports, the Commission takes at this point in time the view that overall impact on users is limited, as well as possible restrictive effects on competition.

7.4. **Interest of importers**

(137) Limited cooperation was obtained from unrelated importers. Three importers provided sampling information, but only two cooperated. They accounted for around 37 % of total imports from China during the IP. The importers oppose the imposition of measures since China is by far their most important supplier of the product concerned.

(138) However, the importers should be in a position to pass on at least part of any price increases due to the imposition of measures to their customers. The importers could also shift to other sources of supply.

(139) On this basis, it is provisionally concluded that the imposition of anti-dumping measures will not have substantially negative effects on the interest of importers.

7.5. **Conclusion on Union interest**

(140) In view of the above, it is provisionally concluded that overall, based on the information concerning the Union interest, there are no compelling reasons against the imposition of measures on imports of the product concerned from China.

(141) Any negative effects on the unrelated users are mitigated by the availability of alternative sources of supply.

(142) Moreover, when considering the overall impact of the anti-dumping measures on the Union market, the positive effects, in particular on the Union industry, appear to outweigh the potential negative impacts on the other interest groups.

8. **PROPOSAL FOR PROVISIONAL ANTI-DUMPING MEASURES**

(143) In view of the conclusions reached with regard to dumping, injury, causation and Union interest, provisional anti-dumping measures should be imposed in order to prevent further injury being caused to the Union industry by the dumped imports.

8.1. **Injury elimination level**

(144) For the purpose of determining the level of these measures, account was taken of the dumping margins found and the amount of duty necessary to eliminate the injury suffered by the Union industry.

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(145) When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measure should allow the Union industry to cover its costs of production and obtain a profit before tax that could be reasonably achieved by an industry of this type in the sector under normal conditions of competition, i.e. in the absence of dumped imports, on sales of the like product in the Union.

(146) In order to determine the target profit, the Commission considered the profits made in the unrelated sales which are used for the purpose of determining the injury elimination level.

(147) The target profit margin was provisionally set at 1,65 %, in line with the 2012 profits from the unrelated sales. As the dumped imports started in 2013, it is considered that the 2012 level of profits reflects what could be reasonably achieved under normal conditions of competition, i.e. in the absence of dumped imports.

(148) By contrast, the year 2011 was not considered to be a suitable reference year for normal conditions of competition: as explained in recital (107), the Union industry was still recovering from the impact of the economic crisis and was loss-making. The complainants have shown that the demand for steel in the UK was estimated at an exceptionally low level in 2011 (25 % lower than in 2007) Also the production costs were very high due to a peak in the price of scrap in 2011, as shown in recital (81). Finally, the complainants alleged that the rebars market in the UK was temporary disrupted by the sell-off of the stock of one UK producer, Thamesteel, before its liquidation in January 2012, which led to a temporary surge of supply volumes and discounted prices in 2011. For these reasons, the year 2011 could not be considered to be a period under normal market conditions and did not affect the setting of the target profit.

(149) On this basis, the injury elimination level was calculated as a comparison of the weighted average price of the dumped imports, as established for the price undercutting calculations in recital (62) above, and the non-injurious price of the Union industry for the like product.

(150) Any difference resulting from this comparison was then expressed as a percentage of the average total CIF import price.

(151) As explained in recital (23) the Commission concluded that two of the cooperating groups of companies should be treated as related. A single injury margin was therefore established for the exporting producers of the two groups by expressing the sum of their individual underselling values as a percentage of the sum of their constructed CIF values on the Union frontier.

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8.2. **Provisional measures**

(152) In the light of the foregoing, it is considered that, in accordance with Article 7(2) of the basic Regulation, provisional anti-dumping duties should be imposed in respect of imports of HFP rebars originating in PRC at the level of the lower of the dumping and the injury margins, in accordance with the lesser duty rule.

(153) As mentioned in recital (3) above the Commission made imports of the product concerned originating in the PRC subject to registration by Regulation (EU) 2015/2386 in view of the possible retroactive application of any anti-dumping measures under Article 10(4) of the basic Regulation.

(154) In view of the above findings, the registration of imports in accordance with Article 14(5) of the basic Regulation should be discontinued.

(155) No decision on a possible retroactive application of anti-dumping measures can be taken at this stage of the proceeding.

(156) On the basis of the above, the provisional anti-dumping duty rates have been established by comparing the injury margins and the dumping margins. Consequently, the proposed anti-dumping duties are as follows:

Company	Injury margin (%)	Dumping margin (%)	Provisional anti-dumping duty rate (%)
Jiangyin Xicheng Steel Co., Ltd Jiangyin	9,2	66,0	9,2
Jiangyin Ruihe Metal Products Co., Ltd Jiangyin	9,2	66,0	9,2
Jiangsu Yonggang Group Co., Ltd Zhangjiagang	13,0	51,5	13,0
Jiangsu Lianfeng Industrial Co., Ltd Zhangjiagang	13,0	51,5	13,0
Zhangjiagang Hongchang High Wires Co., Ltd Zhangjiagang	13,0	51,5	13,0
Zhangjiagang Shatai Steel Co., Ltd Zhangjiagang	13,0	51,5	13,0
All other companies	13,0	66,0	13,0

(157) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the country-wide duty applicable to ‘all other companies’) are thus exclusively applicable to imports of

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product concerned originating in PRC and produced by the companies and thus by the specific legal entities mentioned. Imported product concerned produced by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.

(158) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission ([1]) forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, that name change or that change in the production and sales entities. If appropriate, the Regulation will accordingly be amended by updating the list of companies benefiting from individual duty rates.

(159) To minimise the risks of circumvention due to a 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(3) hereof. Imports not accompanied by that invoice should be subject to the anti-dumping duty applicable to 'all other companies'.

(160) In order to ensure a proper enforcement of the anti-dumping duty, the residual duty level should not only apply to the non-cooperating exporting producers but also to those producers which did not have any exports to the Union during the IP.

9. **FINAL PROVISION**

(161) In the interests of sound administration, the Commission will invite the interested parties to submit written comments and/or to request a hearing with the Commission and/or the Hearing Officer in trade proceedings within a fixed deadline.

(162) The findings concerning the imposition of provisional duties are provisional and may be amended at the definitive stage of the investigation.

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports high fatigue performance iron or steel concrete reinforcing bars and rods made of iron, non-alloy steel or alloy steel (but excluding of stainless steel, high-speed steel and silico-manganese steel), not further worked than hot-rolled, but including those twisted after rolling; these bars and rods contain indentations, ribs, grooves or other deformations produced during the rolling process or are twisted after rolling; the key characteristic of high fatigue performance is the ability to endure repeated stress without breaking and, specifically, the

([1]) European Commission, Directorate-General for Trade, Directorate H, CHAR 04/039, 1049 Brussels, Belgium.

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ability to resist in excess of 4,5 million fatigue cycles using a stress ratio (min/max) of 0,2 and a stress range exceeding 150 MPa, currently falling within CN codes ex 7214 20 00, ex 7228 30 20, ex 7228 30 41, ex 7228 30 49, ex 7228 30 61, ex 7228 30 69, ex 7228 30 70 and ex 7228 30 89 (TARIC codes 7214 20 00 10, 7228 30 20 10, 7228 30 41 10, 7228 30 49 10, 7228 30 61 10, 7228 30 69 10, 7228 30 70 10 and 7228 30 89 10) and originating in the People's Republic of China.

2. The rates of the provisional 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 below shall be:

Company	Duty (%)	TARIC additional code
Jiangyin Xicheng Steel Co., Ltd, Jiangyin	9,2	C060
Jiangyin Ruihe Metal Products Co., Ltd, Jiangyin	9,2	C061
Jiangsu Yonggang Group Co., Ltd, Zhangjiagang	13,0	C062
Jiangsu Lianfeng Industrial Co., Ltd, Zhangjiagang	13,0	C063
Zhangjiagang Hongchang High Wires Co., Ltd, Zhangjiagang	13,0	C064
Zhangjiagang Shatai Steel Co., Ltd, Zhangjiagang	13,0	C065
All other companies	13,0	C999

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

4. The release for free circulation in the Union of the product referred to in paragraph 1 shall be subject to the provision of a security equivalent to the amount of the provisional duty.

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

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Article 2

1. Within 25 calendar days of the date of entry into force of this Regulation, interested parties may:

(a) Request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted;

(b) Submit their written comments to the Commission; and

(c) Request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

2. Within 25 calendar days of the date of entry into force of this Regulation, the parties referred to in Article 21(4) of Regulation (EC) No 1225/2009 may comment on the application of the provisional measures.

Article 3

1. Customs authorities are hereby directed to discontinue the registration of imports established in accordance with Article 1 of Regulation (EU) 2015/2386.

2. Data collected regarding products which were entered for consumption not more than 90 days prior to the date of entry into force of this regulation shall be kept until the entry into force of possible definitive measures, or the termination of this proceeding.

Article 4

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

Article 1 of this Regulation shall apply for a period of six months.

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