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⁽¹⁾ Text with EEA relevance.

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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DECISIONS

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II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2022/1391

of 26 July 2022

granting a Union authorisation for the biocidal product family 'Lactic acid based products – CID Lines NV'*(Text with EEA relevance)*

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products ⁽¹⁾, and in particular Article 44(5), first paragraph, thereof,

Whereas:

- (1) On 18 April 2019, CID Lines NV submitted an application in accordance with Article 43(1) of Regulation (EU) No 528/2012 for authorisation of a biocidal product family named 'Lactic acid based products – CID Lines NV' of product-types 1, 2, 3 and 4, as described in Annex V to that Regulation, providing written confirmation that the competent authority of Belgium had agreed to evaluate the application. The application was recorded under case number BC-RC051007-54 in the Register for Biocidal Products.
- (2) 'Lactic acid based products – CID Lines NV' contains L-(+)-lactic acid as the active substance, which is included in the Union list of approved active substance referred to in Article 9(2) of Regulation (EU) No 528/2012 for product-types 1, 2, 3 and 4.
- (3) On 23 June 2021, the evaluating competent authority submitted, in accordance with Article 44(1) of Regulation (EU) No 528/2012, an assessment report and the conclusions of its evaluation to the European Chemicals Agency ('the Agency').
- (4) On 16 December 2021, the Agency submitted to the Commission an opinion ⁽²⁾, including the draft summary of the biocidal product characteristics ('SPC') of 'Lactic acid based products – CID Lines NV' and the final assessment report on the biocidal product family, in accordance with Article 44(3) of Regulation (EU) No 528/2012.
- (5) The opinion concludes that 'Lactic acid based products – CID Lines NV' is a 'biocidal product family' within the meaning of Article 3(1), point (s), of Regulation (EU) No 528/2012, that it is eligible for Union authorisation in accordance with Article 42(1) of that Regulation and that subject to compliance with the draft SPC, it meets the conditions laid down in Article 19(1) and (6) of that Regulation.
- (6) On 11 January 2022, the Agency transmitted to the Commission the draft SPC in all the official languages of the Union in accordance with Article 44(4) of Regulation (EU) No 528/2012.

⁽¹⁾ OJ L 167, 27.6.2012, p. 1.⁽²⁾ ECHA opinion of 29 November 2021 on the Union authorisation of 'Lactic acid based products – CID Lines NV' (ECHA/BPC/299/2021), <https://echa.europa.eu/bpc-opinions-on-union-authorisation>

- (7) The Commission concurs with the opinion of the Agency and considers it therefore appropriate to grant a Union authorisation for 'Lactic acid based products – CID Lines NV'.
- (8) In its opinion, the Agency recommends that the authorisation holder should conduct a long-term storage stability test as a condition of the authorisation. The Commission agrees with that recommendation and considers that the submission of the results of that test should be a condition relating to the making available on the market and use of the biocidal product family pursuant to Article 22(1) of Regulation (EU) No 528/2012. The Commission also considers that the fact that data is to be provided after the authorisation is granted does not affect the conclusion on the fulfilment of the condition under Article 19(1), point (d), of that Regulation on the basis of the existing data.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on biocidal products,

HAS ADOPTED THIS REGULATION:

Article 1

A Union authorisation with authorisation number EU-0027740-0000 is granted to CID Lines NV for the making available on the market and use of the biocidal product family 'Lactic acid based products – CID Lines NV' subject to compliance with the terms and conditions set out in Annex I and in accordance with the summary of the biocidal product characteristics set out in Annex II.

The Union Authorisation is valid from 1 September 2022 to 31 August 2032.

Article 2

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

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

Done at Brussels, 26 July 2022.

For the Commission
The President
Ursula VON DER LEYEN

*ANNEX I***TERMS AND CONDITIONS (EU-0027740-0000)**

The authorisation holder shall conduct a long-term storage stability test at ambient temperature of 'Lactic acid based products – CID Lines NV' in commercial packaging in which the products in the family will be made available on the market. All relevant properties should be determined prior and after storage.

By 1 March 2023 the authorisation holder shall submit the results of the test to the Agency.

ANNEX II

Summary of product characteristics for a biocidal product family

Lactic acid based products – CID LINES NV

Product type 1 – Human hygiene (Disinfectants)

Product type 2 – Disinfectants and algaecides not intended for direct application to humans or animals (Disinfectants)

Product type 3 – Veterinary hygiene (Disinfectants)

Product type 4 – Food and feed area (Disinfectants)

Authorisation number: EU-0027740-0000

R4BP asset number: EU-0027740-0000

PART I

FIRST INFORMATION LEVEL

1. ADMINISTRATIVE INFORMATION

1.1. **Family name**

Name	Lactic acid based products – CID LINES NV
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1.2. **Product type(s)**

Product type(s)	PT01 – Human hygiene (Disinfectants) PT02 – Disinfectants and algaecides not intended for direct application to humans or animals (Disinfectants) PT03 – Veterinary hygiene (Disinfectants) PT04 – Food and feed area (Disinfectants)
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1.3. **Authorisation holder**

Name and address of the authorisation holder	Name	CID LINES NV
	Address	Waterpoortstraat 2, 8900 Ieper Belgium
Authorisation number	EU-0027740-0000	
R4BP asset number	EU-0027740-0000	
Date of the authorisation	1 September 2022	
Expiry date of the authorisation	31 August 2032	

1.4. **Manufacturer(s) of the biocidal products**

Name of manufacturer	CID LINES NV
Address of manufacturer	Waterpoortstraat 2, 8900 Ieper Belgium
Location of manufacturing sites	Waterpoortstraat 2, 8900 Ieper Belgium

1.5. **Manufacturer(s) of the active substance(s)**

Active substance	L-(+)-lactic acid
Name of manufacturer	Purac Biochem bv
Address of manufacturer	Arkelsedijk 46, 4206 Gorinchem Netherlands
Location of manufacturing sites	Arkelsedijk 46, 4206 Gorinchem Netherlands
Active substance	L-(+)-lactic acid
Name of manufacturer	Jungbunzlauer S.A.
Address of manufacturer	Z.I. et Portuaire, B.P. 32, 67 390 Marckolsheim France
Location of manufacturing sites	Z.I. et Portuaire, B.P. 32, 67 390 Marckolsheim France

2. **PRODUCT FAMILY COMPOSITION AND FORMULATION**2.1. **Qualitative and quantitative information on the composition of the family**

Common name	IUPAC name	Function	CAS number	EC number	Content (%)	
					Min	Max
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	2,0	70,0
Sodium Lauryl sulphate	Sulfuric acid, mono-C12-14-alkyl esters, sodium salts	Non-active substance	85586-07-8	287-809-4	0,0	12,0
Sodium lauryl ether sulfate	Alcohols, C12-14, ethoxylated, sulfates, sodium salts	Non-active substance	68891-38-3	500-234-8	0,0	8,4
Sulfonic acids, C14-17-sec-alkane, sodium salts	Sulfonic acids, C14-17-sec-alkane, sodium salts	Non-active substance	97489-15-1	307-055-2	0,0	2,25
C6 alkyl glucoside	Hexyl D-Glucoside	Non-active substance	54549-24-5	259-217-6	0,0	2,4
Isopropanol	Propan-2-ol	Non-active substance	67-63-0	200-661-7	0,0	5,0
Methanesulfonic acid	Methanesulfonic acid	Non-active substance	75-75-2	200-898-6	0,0	19,5
Sulphuric acid	Sulphuric acid	Non-active substance	7664-93-9	231-639-5	0,0	10,5
Butyldiglycol	2-(2-butoxyethoxy) ethanol	Non-active substance	112-34-5	203-961-6	0,0	10,0

2.2. **Type(s) of formulation**

Formulation(s)	AL – Any other liquid SL – Soluble concentrate I – Wipes
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PART II

SECOND INFORMATION LEVEL – META SPC(S)

META SPC 1

1. META SPC 1 ADMINISTRATIVE INFORMATION

1.1. **Meta SPC 1 identifier**

Identifier	Meta SPC 1: Ready to use hygienic handwash (PT1)
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1.2. **Suffix to the authorisation number**

Number	1-1
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1.3. **Product type(s)**

Product type(s)	PT01 – Human hygiene (Disinfectants)
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2. META SPC 1 COMPOSITION

2.1. **Qualitative and quantitative information on the composition of the meta SPC 1**

Common name	IUPAC name	Function	CAS number	EC number	Content (%)	
					Min	Max
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	3,6	3,6
Sodium Lauryl sulphate	Sulfuric acid, mono-C12-14-alkyl esters, sodium salts	Non-active substance	85586-07-8	287-809-4	5,0	5,0
Isopropanol	Propan-2-ol	Non-active substance	67-63-0	200-661-7	4,0	4,0

2.2. **Type(s) of formulation of the meta SPC 1**

Formulation(s)	AL – Any other liquid
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3. HAZARD AND PRECAUTIONARY STATEMENTS OF THE META SPC 1

Hazard statements	Causes serious eye damage.
Precautionary statements	Wear eyes/face protection. IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing. Immediately call a doctor.

4. AUTHORISED USE(S) OF THE META SPC 1

4.1. Use description

Table 1

Use # 1 – Hygienic handwash for professional use

Product type	PT01 – Human hygiene (Disinfectants)
Where relevant, an exact description of the authorised use	Not relevant
Target organism(s) (including development stage)	Scientific name: Other: Bacteria Common name: Bacteria Development stage: Scientific name: Other: Yeast Common name: Yeasts Development stage:
Field(s) of use	Indoor Food and feed industry, Public field and Kitchens: Hygienic handwash
Application method(s)	Method: - Detailed description: -
Application rate(s) and frequency	Application Rate: 10 mL of undiluted product (that is four pushes for both hands together) Dilution (%): - Number and timing of application: Apply 10 mL of undiluted product (that is four pushes for both hands together) and wash your hands for at least one minute according to the recommended hand washing procedure, before rinse and dry.
Category(ies) of users	Professional
Pack sizes and packaging material	50 mL, 75 mL, 100 mL, 150 mL, 500 mL, 1L, 5L, 10L, 20 L, 25 L, 30 L, 60 L, 200 L, 220 L, 600 L, 1 000 L, 1 100 L HDPE (High Density Polyethylene)

4.1.1. Use-specific instructions for use

See general directions for use for Meta SPC 1

4.1.2. *Use-specific risk mitigation measures*

/

4.1.3. *Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment*

See general directions for Meta SPC 1

4.1.4. *Where specific to the use, the instructions for safe disposal of the product and its packaging*

See general directions for Meta SPC 1

4.1.5. *Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage*

See general directions for Meta SPC 1

5. GENERAL DIRECTIONS FOR USE ⁽¹⁾ OF THE META SPC 1

5.1. **Instructions for use**

Wet your hands with clean, running water at room temperature

Turn off the tap

Apply 10 mL of undiluted product and rub your hands for at least one minute according to the recommended hand washing procedure, before rinse and dry.

For professional use only

5.2. **Risk mitigation measures**

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5.3. **Particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment**

IF ON SKIN: Immediately wash skin with plenty of water. Thereafter take off all contaminated clothing and wash it before reuse. Continue to wash the skin with water for 15 minutes. Call a POISON CENTRE or a doctor.

IF INHALED: If symptoms occur call a POISON CENTRE or a doctor.

IF IN EYES: Immediately rinse with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing for at least 15 minutes. Immediately call 112/ambulance for medical assistance.

IF SWALLOWED: Immediately rinse mouth. Give something to drink, if exposed person is able to swallow. Do NOT induce vomiting. Call 112/ambulance for medical assistance.

5.4. **Instructions for safe disposal of the product and its packaging**

The packing and content must be eliminated as dangerous waste product under the full responsibility of the possessor of this waste product. Do not throw wastes into sewers and watercourses. Dispose in a safe manner in accordance with local/national regulations.

5.5. **Conditions of storage and shelf-life of the product under normal conditions of storage**

Keep only in the original container in a cool, well ventilated place. Keep container closed when not in use.

The shelf-life of the products is two years.

6. OTHER INFORMATION

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⁽¹⁾ Instructions for use, risk mitigation measures and other directions for use under this section are valid for any authorised uses within the meta SPC 1.

7. THIRD INFORMATION LEVEL: INDIVIDUAL PRODUCTS IN THE META SPC 1

7.1. Trade name(s), authorisation number and specific composition of each individual product

Trade name(s)	Kenosan Hand Scrub		Market area: EU		
Authorisation number	EU-0027740-0001 1-1				
Common name	IUPAC name	Function	CAS number	EC number	Content (%)
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	3,6
Sodium Lauryl sulphate	Sulfuric acid, mono-C12-14-alkyl esters, sodium salts	Non-active substance	85586-07-8	287-809-4	5,0
Isopropanol	Propan-2-ol	Non-active substance	67-63-0	200-661-7	4,0

META SPC 2

1. META SPC 2 ADMINISTRATIVE INFORMATION

1.1. Meta SPC 2 identifier

Identifier	Meta SPC 2: Ready to use Algaecide
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1.2. Suffix to the authorisation number

Number	1-2
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1.3. Product type(s)

Product type(s)	PT02 – Disinfectants and algaecides not intended for direct application to humans or animals (Disinfectants)
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2. META SPC 2 COMPOSITION

2.1. Qualitative and quantitative information on the composition of the meta SPC 2

Common name	IUPAC name	Function	CAS number	EC number	Content (%)	
					Min	Max
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	2,0	2,0
Sodium Lauryl sulphate	Sulfuric acid, mono-C12-14-alkyl esters, sodium salts	Non-active substance	85586-07-8	287-809-4	0,6	0,9

2.2. Type(s) of formulation of the meta SPC 2

Formulation(s)	AL – Any other liquid
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3. HAZARD AND PRECAUTIONARY STATEMENTS OF THE META SPC 2

Hazard statements	Causes serious eye irritation.
Precautionary statements	If medical advice is needed, have product container or label at hand. Keep out of reach of children. Read carefully and follow all instructions. Wash hands thoroughly after handling. Wear eyes/face protection. IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing. If skin irritation occurs: Get medical advice. If eye irritation persists: Get medical advice. Take off contaminated clothing. And wash it before reuse.

4. AUTHORISED USE(S) OF THE META SPC 2

4.1. Use description

Table 2

Use # 1 – Ready to use algacide for professional use

Product type	PT02 – Disinfectants and algacides not intended for direct application to humans or animals (Disinfectants)
Where relevant, an exact description of the authorised use	Not relevant
Target organism(s) (including development stage)	Scientific name: other: bacteria Common name: Bacteria Development stage: Scientific name: other: yeast Common name: Yeasts Development stage: Scientific name: unicellular green algae and blue-green algae Common name: cyanobacteria Development stage:
Field(s) of use	Indoor Outdoor Public field: Ready-to-use algacide, on hard/non-porous surfaces without prior cleaning.
Application method(s)	Method: By brushing, by spraying (low pressure) or pouring Detailed description: /

Application rate(s) and frequency	Application Rate: 100 mL/m ² Dilution (%): - Number and timing of application: Active against bacteria, yeasts and unicellular green algae and blue-green algae (cyanobacteria): With undiluted product at 20 – 25 °C In 3h contact time 100 mL/m ² The biocidal product is not intended to be used on surfaces that come into contact with food and feed.
Category(ies) of users	Professional
Pack sizes and packaging material	1 L, 5 L, 10 L, 20 L, 25 L, 30 L, 60 L, 200 L, 220 L, 600 L, 1 000 L, 1 100 L 1 kg, 5 kg, 10 kg, 20 kg, 25 kg, 30 kg, 60 kg, 200 kg, 220 kg, 600 kg, 1 000 kg, 1 100 kg HDPE (High Density Polyethylene)

4.1.1. Use-specific instructions for use

See general directions for use for Meta SPC 2

4.1.2. Use-specific risk mitigation measures

/

4.1.3. Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment

See general directions for use for Meta SPC 2

4.1.4. Where specific to the use, the instructions for safe disposal of the product and its packaging

See general directions for use for Meta SPC 2

4.1.5. Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage

See general directions for use for Meta SPC 2

4.2. Use description

Table 3

Use # 2 – Ready to use algacide for non-professional use

Product type	PT02 – Disinfectants and algacides not intended for direct application to humans or animals (Disinfectants)
Where relevant, an exact description of the authorised use	Not relevant

Target organism(s) (including development stage)	Scientific name: other: bacteria Common name: Bacteria Development stage: Scientific name: other: yeast Common name: Yeasts Development stage: Scientific name: unicellular green algae and blue-green algae Common name: Cyanobacteria Development stage:
Field(s) of use	Indoor Outdoor Public field: Ready-to-use algaecide, on hard/non-porous surfaces without prior cleaning.
Application method(s)	Method: By brushing, by spraying (low pressure) or pouring Detailed description: /
Application rate(s) and frequency	Application Rate: 100 mL/m ² Dilution (%): - Number and timing of application: Active against bacteria, yeasts and unicellular green algae and blue-green algae (cyanobacteria): With undiluted product at 20 – 25 °C In 3h contact time 100 mL/m ² The biocidal product is not intended to be used on surfaces that come into contact with food and feed.
Category(ies) of users	General public (non-professional)
Pack sizes and packaging material	1 L, 5 L, 10 L 1 kg, 5 kg, 10 kg HDPE (High Density Polyethylene)

4.2.1. Use-specific instructions for use

See general directions for use for Meta SPC 2

4.2.2. Use-specific risk mitigation measures

/

4.2.3. Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment

See general directions for use for Meta SPC 2

4.2.4. Where specific to the use, the instructions for safe disposal of the product and its packaging

See general directions for use for Meta SPC 2

4.2.5. Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage

See general directions for use for Meta SPC 2

5. GENERAL DIRECTIONS FOR USE ⁽²⁾ OF THE META SPC 2

5.1. Instructions for use

Comply with the instructions for use

The surfaces to be disinfected must be wet enough in order to be kept wet during the approved contact time for optimal disinfection. The following precautionary sentence shall be added on the product label: 'Make sure to wet surfaces completely'.

The required contact time has to be respected until further treatments (for example brushing the surfaces).

Use 100 mL solution/m²

5.2. Risk mitigation measures

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5.3. Particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment

IF INHALED: If symptoms occur call a POISON CENTRE or a doctor.

IF ON SKIN: Wash skin with water. If symptoms occur call a POISON CENTRE or a doctor.

IF IN EYES: Rinse with water. Remove contact lenses, if present and easy to do. Continue rinsing for five minutes. Call a POISON CENTRE or a doctor.

IF SWALLOWED: Immediately rinse mouth. Give something to drink, if exposed person is able to swallow. Do NOT induce vomiting. Call 112/ambulance for medical assistance.

If medical advice is needed, have product container or label at hand

5.4. Instructions for safe disposal of the product and its packaging

The packing and content must be eliminated as dangerous waste product under the full responsibility of the possessor of this waste product. Do not throw wastes into sewers and watercourses. Dispose in a safe manner in accordance with local/national regulations.

5.5. Conditions of storage and shelf-life of the product under normal conditions of storage

Keep only in the original container in a cool, well ventilated place. Keep container closed when not in use.

The shelf-life of the products is two years.

Keep out of reach of children and non-target animals/pets.

6. OTHER INFORMATION

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⁽²⁾ Instructions for use, risk mitigation measures and other directions for use under this section are valid for any authorised uses within the meta SPC 2.

7. THIRD INFORMATION LEVEL: INDIVIDUAL PRODUCTS IN THE META SPC 2

7.1. Trade name(s), authorisation number and specific composition of each individual product

Trade name(s)	RTU Algaecide		Market area: EU		
Authorisation number	EU-0027740-0002 1-2				
Common name	IUPAC name	Function	CAS number	EC number	Content (%)
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	2,0
Sodium Lauryl sulphate	Sulfuric acid, mono-C12-14-alkyl esters, sodium salts	Non-active substance	85586-07-8	287-809-4	0,6

META SPC 3

1. META SPC 3 ADMINISTRATIVE INFORMATION

1.1. Meta SPC 3 identifier

Identifier	Meta SPC 3: concentrated algaecide and hard surface disinfection in food industry
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1.2. **Suffix to the authorisation number**

Number	1-3
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1.3. **Product type(s)**

Product type(s)	PT02 – Disinfectants and algaecides not intended for direct application to humans or animals (Disinfectants) PT04 – Food and feed area (Disinfectants)
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2. META SPC 3 COMPOSITION

2.1. **Qualitative and quantitative information on the composition of the meta SPC 3**

Common name	IUPAC name	Function	CAS number	EC number	Content (%)	
					Min	Max
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	70,0	70,0
Sodium Lauryl sulphate	Sulfuric acid, mono-C12-14-alkyl esters, sodium salts	Non-active substance	85586-07-8	287-809-4	6,0	6,0

2.2. Type(s) of formulation of the meta SPC 3

Formulation(s)	SL – Soluble concentrate
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3. HAZARD AND PRECAUTIONARY STATEMENTS OF THE META SPC 3

Hazard statements	Causes severe skin burns and eye damage. Causes serious eye damage.
Precautionary statements	Do not breathe vapours. Wash hands thoroughly after handling. Wear protective gloves. Wear protective clothing. Wear eyes/face protection. IF SWALLOWED: Rinse mouth. Do NOT induce vomiting. IF ON SKIN (or hair): Take off immediately all contaminated clothing. Rinse skin with water. IF INHALED: Remove person to fresh air and keep comfortable for breathing. IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing. Immediately call a doctor. Wash contaminated clothing before reuse. Store locked up. Dispose of contents to hazardous or special waste collection point, in accordance with local, regional, national and/or international regulation. Dispose of container to hazardous or special waste collection point, in accordance with local, regional, national and/or international regulation.

4. AUTHORISED USE(S) OF THE META SPC 3

4.1. Use description

Table 4

Use # 1 – concentrated algaecide

Product type	PT02 – Disinfectants and algaecides not intended for direct application to humans or animals (Disinfectants)
Where relevant, an exact description of the authorised use	Not relevant
Target organism(s) (including development stage)	Scientific name: unicellular green algae and blue-green algae Common name: Cyanobacteria Development stage:
Field(s) of use	Indoor Outdoor Food and feed industry; Public field: Concentrated algaecide, on hard/non-porous surfaces without prior cleaning.

Application method(s)	Method: By spraying (low pressure) or pouring Detailed description: /
Application rate(s) and frequency	Application Rate: 100 mL/m ² Dilution (%): 0,5 % Number and timing of application: Active against unicellular green algae and blue-green algae (cyanobacteria): 100 mL/m ² Dilute the product to 0,5 % in water, to reach an in use concentration of 0,35 % Lactic acid. at 20– 25 °C In 3h contact time
Category(ies) of users	Professional
Pack sizes and packaging material	1 L, 5 L, 10 L, 20 L, 25 L, 30 L, 60 L, 200 L, 220 L, 600 L, 1 000 L, 1 100 L 1 kg, 5 kg, 10 kg, 20 kg, 25 kg, 30 kg, 60 kg, 200 kg, 220 kg, 600 kg, 1 000 kg, 1 100 kg HDPE (High Density Polyethylene)

4.1.1. *Use-specific instructions for use*

See general directions for use for Meta SPC 3

4.1.2. *Use-specific risk mitigation measures*

See general directions for use for Meta SPC 3

4.1.3. *Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment*

See general directions for use for Meta SPC 3

4.1.4. *Where specific to the use, the instructions for safe disposal of the product and its packaging*

See general directions for use for Meta SPC 3

4.1.5. *Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage*

See general directions for use for Meta SPC 3

4.2. **Use description**

Table 5

Use # 2 – Disinfection of hard/non-porous surfaces in the food industry (for example processing machines)

Product type	PT04 – Food and feed area (Disinfectants)
Where relevant, an exact description of the authorised use	Not relevant

Target organism(s) (including development stage)	Common name: Bacteria Development stage: Common name: Yeasts Development stage:
Field(s) of use	Indoor in Food/feed industry: Disinfection of hard/non-porous surfaces (for example processing machines) without prior cleaning
Application method(s)	Method: Spraying or soaking Detailed description: Spraying Soaking (the bath is intended to be used only once)
Application rate(s) and frequency	Application Rate: 100 mL/m ² Dilution (%): 4 % Number and timing of application: Active against bacteria and yeasts at +40 °C: Dilute the product to 4 % in water, to reach an in use concentration of 2,8 % Lactic acid. In five seconds contact time 100 mL/m ²
Category(ies) of users	Professional
Pack sizes and packaging material	1 L, 5 L, 10 L, 20 L, 25 L, 30 L, 60 L, 200 L, 220 L, 600 L, 1 000 L, 1 100 L 1 kg, 5 kg, 10 kg, 20 kg, 25 kg, 30 kg, 60 kg, 200 kg, 220 kg, 600 kg, 1 000 kg, 1 100 kg HDPE (High Density Polyethylene)

4.2.1. Use-specific instructions for use

See general directions for use for Meta SPC 3

4.2.2. Use-specific risk mitigation measures

See general directions for use for Meta SPC 3

4.2.3. Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment

See general directions for use for Meta SPC 3

4.2.4. Where specific to the use, the instructions for safe disposal of the product and its packaging

See general directions for use for Meta SPC 3

4.2.5. Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage

See general directions for use for Meta SPC 3

5. GENERAL DIRECTIONS FOR USE ^(*) OF THE META SPC 3

5.1. **Instructions for use**

Disinfection cycle:

- Products must be diluted in potable water before use.
- Final rinsing (with potable water): if required.

The surfaces to be disinfected must be wet enough in order to be kept wet during the approved contact time for optimal disinfection. The following precautionary sentence shall be added on the product label: 'Make sure to wet surfaces completely'.

5.2. **Risk mitigation measures**

Gloves and goggles are needed during mixing and loading of the concentrated products.

Wear protective coverall (to be specified by the authorisation holder within the product information).

5.3. **Particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment**

IF INHALED: Move to fresh air and keep at rest in a position comfortable for breathing. If symptoms: Call 112/ambulance for medical assistance. If no symptoms: Call a POISON CENTRE or a doctor.

IF ON SKIN: Immediately wash skin with plenty of water. Thereafter take off all contaminated clothing and wash it before reuse. Continue to wash the skin with water for 15 minutes. Call a POISON CENTRE or a doctor.

IF IN EYES: Immediately rinse with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing for at least 15 minutes. Immediately call 112/ambulance for medical assistance.

IF SWALLOWED: Immediately rinse mouth. Give something to drink, if exposed person is able to swallow. Do NOT induce vomiting. Call 112/ambulance for medical assistance.

5.4. **Instructions for safe disposal of the product and its packaging**

The packing and content must be eliminated as dangerous waste product under the full responsibility of the possessor of this waste product. Do not throw wastes into sewers and watercourses. Dispose in a safe manner in accordance with local/national regulations.

5.5. **Conditions of storage and shelf-life of the product under normal conditions of storage**

Keep only in the original container in a cool, well ventilated place. Keep container closed when not in use.

The shelf-life of the products is two years.

6. OTHER INFORMATION

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^(*) Instructions for use, risk mitigation measures and other directions for use under this section are valid for any authorised uses within the meta SPC 3.

7. THIRD INFORMATION LEVEL: INDIVIDUAL PRODUCTS IN THE META SPC 3

7.1. Trade name(s), authorisation number and specific composition of each individual product

Trade name(s)	Concentrated Algaecide		Market area: EU		
	Kenosan Lactic CONC		Market area: EU		
Authorisation number	EU-0027740-0003 1-3				
Common name	IUPAC name	Function	CAS number	EC number	Content (%)
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	70,0
Sodium Lauryl sulphate	Sulfuric acid, mono-C12-14-alkyl esters, sodium salts	Non-active substance	85586-07-8	287-809-4	6,0

META SPC 4

1. META SPC 4 ADMINISTRATIVE INFORMATION

1.1. Meta SPC 4 identifier

Identifier	Meta SPC 4: Concentrated surface disinfectants for sanitary hygiene and kitchens (PT2-PT4)
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1.2. Suffix to the authorisation number

Number	1-4
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1.3. Product type(s)

Product type(s)	PT02 – Disinfectants and algaecides not intended for direct application to humans or animals (Disinfectants) PT04 – Food and feed area (Disinfectants)
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2. META SPC 4 COMPOSITION

2.1. Qualitative and quantitative information on the composition of the meta SPC 4

Common name	IUPAC name	Function	CAS number	EC number	Content (%)	
					Min	Max
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	16,0	16,0
Sodium Lauryl sulphate	Sulfuric acid, mono-C12-14-alkyl esters, sodium salts	Non-active substance	85586-07-8	287-809-4	5,0	5,0

2.2. Type(s) of formulation of the meta SPC 4

Formulation(s)	SL – Soluble concentrate
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3. HAZARD AND PRECAUTIONARY STATEMENTS OF THE META SPC 4

Hazard statements	Causes skin irritation. Causes serious eye damage. Contains eucalyptus globulus oil (CAS-No 8000-48-4). May produce an allergic reaction.
Precautionary statements	If medical advice is needed, have product container or label at hand. Keep out of reach of children. Read carefully and follow all instructions. Wash hands thoroughly after handling. Wear protective gloves. Wear eyes/face protection. IF ON SKIN:Wash with plenty of water. IF IN EYES:Rinse cautiously with water for several minutes.Remove contact lenses, if present and easy to do. Continue rinsing. Immediately call a doctor. If skin irritation occurs:Get medical advice. Take off contaminated clothing.And wash it before reuse.

4. AUTHORISED USE(S) OF THE META SPC 4

4.1. Use description

Table 6

Use # 1 – Hard surface disinfection for sanitary hygiene, other than in healthcare, for professional use (PT2)

Product type	PT02 – Disinfectants and algacides not intended for direct application to humans or animals (Disinfectants)
Where relevant, an exact description of the authorised use	Not relevant
Target organism(s) (including development stage)	Scientific name: other: bacteria Common name: Bacteria Development stage: Scientific name: other: yeast Common name: Yeasts Development stage:
Field(s) of use	Indoor Public field (NOT in HEALTHCARE) Disinfection of hard/non-porous surfaces (for sanitary hygiene) by spraying without prior cleaning

Application method(s)	Method: By spraying (with wiping if needed, only after the end of the preconised contact time) Detailed description: /
Application rate(s) and frequency	Application Rate: 250 mL/m ² diluted product Dilution (%): 20 % Number and timing of application: Active against bacteria and yeasts at room temperature Dilute the product 20 % in water, to reach an in use concentration of 3,2 % Lactic acid. In 15 minutes contact time 250 mL/m ² diluted product
Category(ies) of users	Professional
Pack sizes and packaging material	1 L, 5 L, 10 L, 20 L, 25 L, 30 L, 60 L, 200 L, 220 L, 600 L, 1 000 L, 1 100 L 1 kg, 5 kg, 10 kg, 20 kg, 25 kg, 30 kg, 60 kg, 200 kg, 220 kg, 600 kg, 1 000 kg, 1 100 kg HDPE (High Density Polyethylene)

4.1.1. Use-specific instructions for use

Comply with the instructions for use

4.1.2. Use-specific risk mitigation measures

Gloves and goggles are needed during handling of the products

4.1.3. Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment

See general directions for use for Meta SPC 4

4.1.4. Where specific to the use, the instructions for safe disposal of the product and its packaging

See general directions for use for Meta SPC 4

4.1.5. Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage

See general directions for use for Meta SPC 4

4.2. Use description

Table 7

Use # 2 – Hard surface disinfection for hygiene in kitchens, for professional use (PT4)

Product type	PT04 – Food and feed area (Disinfectants)
Where relevant, an exact description of the authorised use	Not relevant

Target organism(s) (including development stage)	Scientific name: other: bacteria Common name: Bacteria Development stage: Scientific name: other: yeast Common name: Yeasts Development stage:
Field(s) of use	Indoor in food/feed areas: Disinfection of hard/non-porous surfaces (for general hygiene) by spraying without prior cleaning
Application method(s)	Method: By spraying (with wiping if needed, only after the end of the preconised contact time) Detailed description: /
Application rate(s) and frequency	Application Rate: 100 mL/m ² Dilution (%): 20 % Number and timing of application: Active against bacteria and yeasts at room temperature Dilute the product 20 % in water, to reach an in use concentration of 3,2 % Lactic acid. In 15 minutes contact time 100 mL/m ²
Category(ies) of users	Professional
Pack sizes and packaging material	1 L, 5 L, 10 L, 20 L, 25 L, 30 L, 60 L, 200 L, 220 L, 600 L, 1 000 L, 1 100 L 1 kg, 5 kg, 10 kg, 20 kg, 25 kg, 30 kg, 60 kg, 200 kg, 220 kg, 600 kg, 1 000 kg, 1 100 kg HDPE (High Density Polyethylene)

4.2.1. Use-specific instructions for use

Comply with the instructions for use

4.2.2. Use-specific risk mitigation measures

Gloves and goggles are needed during handling of the products.

4.2.3. Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment

See general directions for use for Meta SPC 4

4.2.4. Where specific to the use, the instructions for safe disposal of the product and its packaging

See general directions for use for Meta SPC 4

4.2.5. Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage

See general directions for use for Meta SPC 4

4.3. Use description

Table 8

Use # 3 – Disinfection of toilet bowls, for professional use (PT2)

Product type	PT02 – Disinfectants and algaecides not intended for direct application to humans or animals (Disinfectants)
Where relevant, an exact description of the authorised use	Not relevant
Target organism(s) (including development stage)	Scientific name: other: bacteria Common name: Bacteria Development stage: Scientific name: other: yeast Common name: Yeasts Development stage:
Field(s) of use	Indoor Public field Disinfection of hard/non-porous inside surfaces of toilets, without prior cleaning
Application method(s)	Method: By pouring (with brushing – only after the end of the preconised contact time) Detailed description: /
Application rate(s) and frequency	Application Rate: 250 mL/m ² Dilution (%): - Number and timing of application: Active against bacteria and yeasts at room temperature: With the undiluted product (with 16 % Lactic acid) In five minutes contact time
Category(ies) of users	Professional
Pack sizes and packaging material	500 mL, 700 mL, 750 mL, 1L, 1,5 L, 2 L HDPE (High Density Polyethylene) Toilet Duck

4.3.1. Use-specific instructions for use

Comply with the instructions for use

4.3.2. Use-specific risk mitigation measures

Gloves and goggles are needed during handling of the products.

4.3.3. Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment

See general directions for use for Meta SPC 4

4.3.4. Where specific to the use, the instructions for safe disposal of the product and its packaging

See general directions for use for Meta SPC 4

4.3.5. Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage

See general directions for use for Meta SPC 4

4.4. Use description

Table 9

Use # 4 – Disinfection of toilet bowls, for non-professional use (PT2)

Product type	PT02 – Disinfectants and algaecides not intended for direct application to humans or animals (Disinfectants)
Where relevant, an exact description of the authorised use	Not relevant
Target organism(s) (including development stage)	Scientific name: other: bacteria Common name: Bacteria Development stage: Scientific name: other: yeast Common name: Yeasts Development stage:
Field(s) of use	Indoor Public field Disinfection of hard/non-porous inside surfaces of toilets, without prior cleaning
Application method(s)	Method: By pouring (with brushing – only after the end of the preconised contact time) Detailed description: /
Application rate(s) and frequency	Application Rate: 250 mL/m ² Dilution (%): - Number and timing of application: Active against bacteria and yeasts at room temperature: With the undiluted product (with 16 % Lactic acid) In five minutes contact time
Category(ies) of users	General public (non-professional)
Pack sizes and packaging material	500 mL, 700 mL, 750 mL, 1L, 1,5 L, 2 L HDPE (High Density Polyethylene) Toilet Duck

4.4.1. Use-specific instructions for use

Comply with the instructions for use

4.4.2. Use-specific risk mitigation measures

Avoid contact with eyes

A child proof closure is required

The product must be fitted with a pouring spout, the product must be poured gently on the wall of the toilet bowl to avoid the formation of splashes.

Wash hands after application

4.4.3. Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment

If medical advice is needed, have product container or label at hand

4.4.4. *Where specific to the use, the instructions for safe disposal of the product and its packaging*

See general directions for use for Meta SPC 4

4.4.5. *Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage*

Keep out of reach of children and non-target animals/pets.

5. GENERAL DIRECTIONS FOR USE ⁽⁴⁾ OF THE META SPC 4

5.1. **Instructions for use**

The surfaces to be disinfected must be wet enough in order to be kept wet during the preconised contact time for optimal disinfection. The following precautionary sentence shall be added on the product label: 'Make sure to wet surfaces completely'.

5.2. **Risk mitigation measures**

/

5.3. **Particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment**

IF ON SKIN: Immediately wash skin with plenty of water. Thereafter take off all contaminated clothing and wash it before reuse. Continue to wash the skin with water for 15 minutes. Call a POISON CENTRE or a doctor. If skin irritation occurs: Get medical advice.

IF IN EYES: Immediately rinse with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing for at least 15 minutes. Immediately call 112/ambulance for medical assistance.

IF SWALLOWED: Immediately rinse mouth. Give something to drink, if exposed person is able to swallow. Do NOT induce vomiting. Call 112/ambulance for medical assistance

IF INHALED: If symptoms occur call a POISON CENTRE or a doctor.

5.4. **Instructions for safe disposal of the product and its packaging**

The packing and content must be eliminated as dangerous waste product under the full responsibility of the possessor of this waste product. Do not throw wastes into sewers and watercourses. Dispose in a safe manner in accordance with local/national regulations.

5.5. **Conditions of storage and shelf-life of the product under normal conditions of storage**

Keep only in the original container in a cool, well ventilated place. Keep container closed when not in use.

The shelf-life of the products is two years.

6. OTHER INFORMATION

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⁽⁴⁾ Instructions for use, risk mitigation measures and other directions for use under this section are valid for any authorised uses within the meta SPC 4.

7. THIRD INFORMATION LEVEL: INDIVIDUAL PRODUCTS IN THE META SPC 4

7.1. Trade name(s), authorisation number and specific composition of each individual product

Trade name(s)	Sanifresh	Market area: EU			
	Milcho Des	Market area: EU			
	Kenolens	Market area: EU			
	Kenolux S100	Market area: EU			
	SANI-CAL	Market area: EU			
	Sani Super	Market area: EU			
	Scrub	Market area: EU			
	MiQro Sani Des	Market area: EU			
Authorisation number	EU-0027740-0004 1-4				
Common name	IUPAC name	Function	CAS number	EC number	Content (%)
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	16,0
Sodium Lauryl sulphate	Sulfuric acid, mono-C12-14-alkyl esters, sodium salts	Non-active substance	85586-07-8	287-809-4	5,0

META SPC 5

1. META SPC 5 ADMINISTRATIVE INFORMATION

1.1. Meta SPC 5 identifier

Identifier	Meta SPC 5: Concentrated pre-dips (PT3)
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1.2. Suffix to the authorisation number

Number	1-5
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1.3. Product type(s)

Product type(s)	PT03 – Veterinary hygiene (Disinfectants)
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2. META SPC 5 COMPOSITION

2.1. Qualitative and quantitative information on the composition of the meta SPC 5

Common name	IUPAC name	Function	CAS number	EC number	Content (%)	
					Min	Max
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	8,0	8,0
Sodium lauryl ether sulfate	Alcohols, C12-14, ethoxylated, sulfates, sodium salts	Non-active substance	68891-38-3	500-234-8	8,4	8,4
Sulfonic acids, C14-17-sec-alkane, sodium salts	Sulfonic acids, C14-17-sec-alkane, sodium salts	Non-active substance	97489-15-1	307-055-2	2,25	2,25

2.2. Type(s) of formulation of the meta SPC 5

Formulation(s)	SL – Soluble concentrate
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3. HAZARD AND PRECAUTIONARY STATEMENTS OF THE META SPC 5

Hazard statements	Causes serious eye damage.
Precautionary statements	Wear eyes/face protection. IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing. Immediately call a doctor.

4. AUTHORISED USE(S) OF THE META SPC 5

4.1. Use description

Table 10

Use # 1 – Teat disinfection, before milking

Product type	PT03 – Veterinary hygiene (Disinfectants)
Where relevant, an exact description of the authorised use	Not relevant
Target organism(s) (including development stage)	Scientific name: other: bacteria Common name: Bacteria Development stage: Scientific name: other: yeast Common name: Yeasts Development stage:

Field(s) of use	Indoor Veterinary field Teat disinfection before milking with concentrated product (to be diluted before disinfection procedure), without prior cleaning
Application method(s)	Method: By dipping, by spraying with spray flacon or spray installation and by wiping with a towel Detailed description: By dipping By spraying with spray flacon or spray installation By wiping with a towel soaking with the diluted product
Application rate(s) and frequency	Application Rate: 5 – 15 mL Dilution (%): 40 % Number and timing of application: Active against bacteria and yeasts: Dilution: 40 % The product must be diluted with RT potable water. In one minute contact time
Category(ies) of users	Professional
Pack sizes and packaging material	1 L, 5 L, 10 L, 20 L, 25 L, 30 L, 60 L, 200 L, 220 L, 600 L, 1 000 L, 1 100 L 1 kg, 5 kg, 10 kg, 20 kg, 25 kg, 30 kg, 60 kg, 200 kg, 220 kg, 600 kg, 1 000 kg, 1 100 kg HDPE (High Density Polyethylene)

4.1.1. *Use-specific instructions for use*

Application rates:

Dilution: 40 % (with 3,2 % LA) – The product must be diluted with RT potable water.

- 5 mL per cow per application for use by dipping
- 7,5 mL per cow per application for use by spray flacon
- 15 mL per cow per application for use by spray installation
- For use by wiping with a towel: prepare 10 L working solution for 25 towels.

Use one towel per cow.

4.1.2. *Use-specific risk mitigation measures*

See general directions for use for Meta SPC 5

4.1.3. *Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment*

See general directions for use for Meta SPC 5

4.1.4. *Where specific to the use, the instructions for safe disposal of the product and its packaging*

See general directions for use for Meta SPC 5

4.1.5. *Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage*

See general directions for use for Meta SPC 5

4.2. **Use description**

Table 11

Use # 2 – Intact skin wash/disinfection (of the udder of dairy and beef cattle before calving and of the udder of sows before farrowing)

Product type	PT03 – Veterinary hygiene (Disinfectants)
Where relevant, an exact description of the authorised use	Not relevant
Target organism(s) (including development stage)	Scientific name: other: bacteria Common name: Bacteria Development stage: Scientific name: other: yeast Common name: Yeasts Development stage:
Field(s) of use	Indoor Veterinary field
Application method(s)	Method: Spraying Detailed description: /
Application rate(s) and frequency	Application Rate: 5 – 20 mL Dilution (%): 40 % Number and timing of application: Active against bacteria and yeasts: Dilution: 40 % The product must be diluted with Room Temperature potable water. In one minute contact time 1) dairy and beef cattle on the udder before calving: 5 mL (1 spray) on each teat 2) sows on the udder before farrowing: 20 mL The animals should be kept standing on a clean floor for at least five minutes.
Category(ies) of users	Professional
Pack sizes and packaging material	1 L, 5 L, 10 L, 20 L, 25 L, 30 L, 60 L, 200 L, 220 L, 600 L, 1 000 L, 1 100 L 1 kg, 5 kg, 10 kg, 20 kg, 25 kg, 30 kg, 60 kg, 200 kg, 220 kg, 600 kg, 1 000 kg, 1 100 kg HDPE (High Density Polyethylene)

4.2.1. *Use-specific instructions for use*

See general directions for use for Meta SPC 5

4.2.2. *Use-specific risk mitigation measures*

See general directions for use for Meta SPC 5

- 4.2.3. *Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment*

See general directions for use for Meta SPC 5

- 4.2.4. *Where specific to the use, the instructions for safe disposal of the product and its packaging*

See general directions for use for Meta SPC 5

- 4.2.5. *Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage*

See general directions for use for Meta SPC 5

5. GENERAL DIRECTIONS FOR USE ^(*) OF THE META SPC 5

5.1. **Instructions for use**

See use specific instructions for use

5.2. **Risk mitigation measures**

Chemical goggles need to be worn.

5.3. **Particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment**

IF IN EYES: Immediately rinse with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing for at least 15 minutes. Immediately call 112/ambulance for medical assistance.

IF SWALLOWED: Immediately rinse mouth. Give something to drink, if exposed person is able to swallow. Do NOT induce vomiting. Call 112/ambulance for medical assistance.

IF ON SKIN: Immediately wash skin with plenty of water. Thereafter take off all contaminated clothing and wash it before reuse. Continue to wash the skin with water for 15 minutes. Call a POISON CENTRE or a doctor.

IF INHALED: If symptoms occur call a POISON CENTRE or a doctor.

5.4. **Instructions for safe disposal of the product and its packaging**

The packing and content must be eliminated as dangerous waste product under the full responsibility of the possessor of this waste product. Do not throw wastes into sewers and watercourses. Dispose in a safe manner in accordance with local/national regulations.

5.5. **Conditions of storage and shelf-life of the product under normal conditions of storage**

Keep only in the original container in a cool, well ventilated place. Keep container closed when not in use.

The shelf-life of the products is two years.

6. OTHER INFORMATION

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^(*) Instructions for use, risk mitigation measures and other directions for use under this section are valid for any authorised uses within the meta SPC 5.

7. THIRD INFORMATION LEVEL: INDIVIDUAL PRODUCTS IN THE META SPC 5

7.1. Trade name(s), authorisation number and specific composition of each individual product

Trade name(s)	Kenopro Lactic	Market area: EU			
	HCP Foam Concentrate	Market area: EU			
	Kenopro Lactic	Market area: EU			
	Reconet+	Market area: EU			
	Kenopure	Market area: EU			
	MIROX Pre Lac	Market area: EU			
	Milchsäure Pre	Market area: EU			
	Milchsäure Pref	Market area: EU			
	Lactocid Pre	Market area: EU			
	Milcho Pre	Market area: EU			
	Preactive	Market area: EU			
	Precoop	Market area: EU			
	Lactipré	Market area: EU			
	Prelacti	Market area: EU			
	Prelak	Market area: EU			
	Power Prep	Market area: EU			
	Multicleaner	Market area: EU			
	Kenopure Strong	Market area: EU			
	Semex Pre	Market area: EU			
	MEPA Pure	Market area: EU			
	MEPA Foam	Market area: EU			
	Eco Lac Foam	Market area: EU			
Authorisation number	EU-0027740-0005 1-5				
Common name	IUPAC name	Function	CAS number	EC number	Content (%)
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	8,0
Sodium lauryl ether sulfate	Alcohols, C12-14, ethoxylated, sulfates, sodium salts	Non-active substance	68891-38-3	500-234-8	8,4
Sulfonic acids, C14-17-sec-alkane, sodium salts	Sulfonic acids, C14-17-sec-alkane, sodium salts	Non-active substance	97489-15-1	307-055-2	2,25

META SPC 6

1. META SPC 6 ADMINISTRATIVE INFORMATION

1.1. **Meta SPC 6 identifier**

Identifier	Meta SPC 6: Ready to use Pre-dips (PT3)
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1.2. **Suffix to the authorisation number**

Number	1-6
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1.3. **Product type(s)**

Product type(s)	PT03 – Veterinary hygiene (Disinfectants)
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2. META SPC 6 COMPOSITION

2.1. **Qualitative and quantitative information on the composition of the meta SPC 6**

Common name	IUPAC name	Function	CAS number	EC number	Content (%)	
					Min	Max
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	3,6	3,6
Sodium Lauryl sulphate	Sulfuric acid, mono-C12-14-alkyl esters, sodium salts	Non-active substance	85586-07-8	287-809-4	5,25	5,25

2.2. **Type(s) of formulation of the meta SPC 6**

Formulation(s)	AL – Any other liquid
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3. HAZARD AND PRECAUTIONARY STATEMENTS OF THE META SPC 6

Hazard statements	Causes serious eye damage.
Precautionary statements	Wear eye/face protection. IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing. Immediately call a doctor.

4. AUTHORISED USE(S) OF THE META SPC 6

4.1. Use description

Table 12

Use # 1 – Teat disinfection, before milking

Product type	PT03 – Veterinary hygiene (Disinfectants)
Where relevant, an exact description of the authorised use	Not relevant
Target organism(s) (including development stage)	Scientific name: other: bacteria Common name: Bacteria Development stage: Scientific name: other: yeast Common name: Yeasts Development stage:
Field(s) of use	Indoor Veterinary field
Application method(s)	Method: By dipping, by spraying with spray flacon or spray installation, by wiping with a towel Detailed description: By dipping By spraying with spray flacon or spray installation By wiping with a towel soaking with the diluted product
Application rate(s) and frequency	Application Rate: Active against bacteria and yeasts: (Ready-To-Use) RTU In one minute contact time. The product must 'return' to room temperature before use. Dilution (%): - Number and timing of application: Active against bacteria and yeasts: RTU (with 3,6 % Lactic acid) In one minute contact time <i>The product must 'return' to RT before use</i>
Category(ies) of users	Professional
Pack sizes and packaging material	1 L, 5 L, 10 L, 20 L, 25 L, 30 L, 60 L, 200 L, 220 L, 600 L, 1 000 L, 1 100 L 1 kg, 5 kg, 10 kg, 20 kg, 25 kg, 30 kg, 60 kg, 200 kg, 220 kg, 600 kg, 1 000 kg, 1 100 kg HDPE (High Density Polyethylene)

4.1.1. Use-specific instructions for use

Application rates:

- 5 mL per cow per application for use by dipping
- 7,5 mL per cow per application for use by spray flacon

— 15 mL per cow per application for use by spray installation

— One towel per cow for use by wiping

4.1.2. *Use-specific risk mitigation measures*

See general directions for use for Meta SPC 6

4.1.3. *Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment*

See general directions for use for Meta SPC 6

4.1.4. *Where specific to the use, the instructions for safe disposal of the product and its packaging*

See general directions for use for Meta SPC 6

4.1.5. *Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage*

See general directions for use for Meta SPC 6

5. GENERAL DIRECTIONS FOR USE ⁽⁹⁾ OF THE META SPC 6

5.1. **Instructions for use**

/

5.2. **Risk mitigation measures**

Chemical goggles need to be worn.

5.3. **Particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment**

IF IN EYES: Immediately rinse with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing for at least 15 minutes. Immediately call 112/ambulance for medical assistance.

IF SWALLOWED: Immediately rinse mouth. Give something to drink, if exposed person is able to swallow. Do NOT induce vomiting. Call 112/ambulance for medical assistance.

IF ON SKIN: Immediately wash skin with plenty of water. Thereafter take off all contaminated clothing and wash it before reuse. Continue to wash the skin with water for 15 minutes. Call a POISON CENTRE or a doctor.

IF INHALED: If symptoms occur call a POISON CENTRE or a doctor.

5.4. **Instructions for safe disposal of the product and its packaging**

The packing and content must be eliminated as dangerous waste product under the full responsibility of the possessor of this waste product. Do not throw wastes into sewers and watercourses. Dispose in a safe manner in accordance with local/national regulations.

5.5. **Conditions of storage and shelf-life of the product under normal conditions of storage**

Keep only in the original container in a cool, well ventilated place. Keep container closed when not in use.

The shelf-life of the products is two years.

6. OTHER INFORMATION

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⁽⁹⁾ Instructions for use, risk mitigation measures and other directions for use under this section are valid for any authorised uses within the meta SPC 6.

7. THIRD INFORMATION LEVEL: INDIVIDUAL PRODUCTS IN THE META SPC 6

7.1. Trade name(s), authorisation number and specific composition of each individual product

Trade name(s)	Kenopure R	Market area: EU			
	Kenopure RTU	Market area: EU			
	HCP Foam RTU	Market area: EU			
	Kenoxypure RTU	Market area: EU			
	Kenopurox RTU	Market area: EU			
	Kenopure Ox RTU	Market area: EU			
	Kenopure Plus RTU	Market area: EU			
	Kenopure Extra RTU	Market area: EU			
	Kenopure oxylac RTU	Market area: EU			
	Kenoxylac predip RTU	Market area: EU			
	Kenoxilac predip RTU	Market area: EU			
	Kenopure H ₂ O ₂ RTU	Market area: EU			
	Oxy Kenopure RTU	Market area: EU			
	Preactive RTU	Market area: EU			
	Precoop RTU	Market area: EU			
	Lactipré RTU	Market area: EU			
	Prelacti RTU	Market area: EU			
	Prelak RTU	Market area: EU			
	Power Prep RTU	Market area: EU			
	Prelacta Foam	Market area: EU			
	Authorisation number	EU-0027740-0006 1-6			
Common name	IUPAC name	Function	CAS number	EC number	Content (%)
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	3,6
Sodium Lauryl sulphate	Sulfuric acid, mono-C12-14-alkyl esters, sodium salts	Non-active substance	85586-07-8	287-809-4	5,25

META SPC 7

1. META SPC 7 ADMINISTRATIVE INFORMATION

1.1. Meta SPC 7 identifier

Identifier	Meta SPC 7: Ready to use wipes (PT2, PT4)
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1.2. Suffix to the authorisation number

Number	1-7
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1.3. Product type(s)

Product type(s)	PT02 – Disinfectants and algaecides not intended for direct application to humans or animals (Disinfectants) PT04 – Food and feed area (Disinfectants)
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2. META SPC 7 COMPOSITION

2.1. Qualitative and quantitative information on the composition of the meta SPC 7

Common name	IUPAC name	Function	CAS number	EC number	Content (%)	
					Min	Max
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	2,0	2,0
Sodium Lauryl sulphate	Sulfuric acid, mono-C12-14-alkyl esters, sodium salts	Non-active substance	85586-07-8	287-809-4	0,6	0,9

2.2. Type(s) of formulation of the meta SPC 7

Formulation(s)	WI – Wipes
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3. HAZARD AND PRECAUTIONARY STATEMENTS OF THE META SPC 7

Hazard statements	Causes serious eye irritation.
Precautionary statements	If medical advice is needed, have product container or label at hand. Keep out of reach of children. Read carefully and follow all instructions. Wash hands thoroughly after handling. Wear eyes/face protection. IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing. If skin irritation occurs: Get medical advice. If eye irritation persists: Get medical advice. Take off contaminated clothing. And wash it before reuse.

4. AUTHORISED USE(S) OF THE META SPC 7

4.1. Use description

Table 13

Use # 1 – Hard surface disinfection in Food and Feed industry, for professional use (PT4)

Product type	PT04 – Food and feed area (Disinfectants)
Where relevant, an exact description of the authorised use	Not relevant
Target organism(s) (including development stage)	Scientific name: other: bacteria Common name: Bacteria Development stage: Scientific name: other: yeasts Common name: Yeasts Development stage: Scientific name: other: viruses Common name: Viruses Development stage:
Field(s) of use	Indoor Food/feed areas Disinfection of hard/non-porous surfaces and objects, with prior cleaning
Application method(s)	Method: With pre-impregnated wipes Detailed description: /
Application rate(s) and frequency	Application Rate: Active against bacteria, yeasts and viruses: With pre-impregnated wipes at room temperature in two minutes contact time Dilution (%): - Number and timing of application: Active against bacteria, yeasts and viruses: With pre-impregnated wipes at room temperature in two minutes contact time
Category(ies) of users	Professional
Pack sizes and packaging material	Box in HDPE with lid in HDPE with 105 wipes, 200 wipes, 280 wipes, 500 wipes

4.1.1. Use-specific instructions for use

See general directions for use for Meta SPC 7

4.1.2. Use-specific risk mitigation measures

/

4.1.3. Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment

See general directions for use for Meta SPC 7

4.1.4. *Where specific to the use, the instructions for safe disposal of the product and its packaging*

See general directions for use for Meta SPC 7

4.1.5. *Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage*

See general directions for use for Meta SPC 7

4.2. **Use description**

Table 14

Use # 2 – Hard surface disinfection in food and feed area, for non-professional use (PT4)

Product type	PT04 – Food and feed area (Disinfectants)
Where relevant, an exact description of the authorised use	Not relevant
Target organism(s) (including development stage)	Scientific name: other: bacteria Common name: Bacteria Development stage: Scientific name: other: yeasts Common name: Yeasts Development stage: Scientific name: other: viruses Common name: Viruses Development stage:
Field(s) of use	Indoor Food/feed areas Disinfection of hard/non-porous surfaces and objects, with prior cleaning
Application method(s)	Method: With pre-impregnated wipes Detailed description: Wipes
Application rate(s) and frequency	Application Rate: One wipe/m ² Dilution (%): - Number and timing of application: Active against bacteria, yeasts and viruses: With pre-impregnated wipes at room temperature in two minutes contact time
Category(ies) of users	General public (non-professional)
Pack sizes and packaging material	Box in HDPE with lid in HDPE with 105 wipes, 200 wipes, 280 wipes, 500 wipes

4.2.1. *Use-specific instructions for use*

Comply with the instructions for use

4.2.2. *Use-specific risk mitigation measures*

/

4.2.3. *Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment*

If medical advice is needed, have product container or label at hand

4.2.4. *Where specific to the use, the instructions for safe disposal of the product and its packaging*

See general directions for use for Meta SPC 7

4.2.5. *Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage*

Keep out of reach of children and non-target animals/pets.

4.3. Use description

Table 15

Use # 3 – Hard surface disinfection, use in healthcare, for professional use (PT2)

Product type	PT02 – Disinfectants and algaecides not intended for direct application to humans or animals (Disinfectants)
Where relevant, an exact description of the authorised use	Not relevant
Target organism(s) (including development stage)	Scientific name: other: bacteria Common name: Bacteria Development stage: Scientific name: other: yeasts Common name: Yeasts Development stage: Scientific name: other: viruses Common name: Viruses Development stage:
Field(s) of use	Indoor Public field: Disinfection of hard/non-porous surfaces (walls, floors and other surfaces in indoor spaces, including bathrooms and toilets) with prior cleaning
Application method(s)	Method: With pre-impregnated wipes Detailed description: /
Application rate(s) and frequency	Application Rate: Active against bacteria, yeasts and viruses: With pre-impregnated wipes at room temperature in two minutes contact time Dilution (%): - Number and timing of application: Active against bacteria, yeasts and viruses: With pre-impregnated wipes at room temperature in two minutes contact time
Category(ies) of users	Professional
Pack sizes and packaging material	Box in HDPE with lid in HDPE with 105 wipes, 200 wipes, 280 wipes, 500 wipes

4.3.1. Use-specific instructions for use

See general directions for use for Meta SPC 7

4.3.2. Use-specific risk mitigation measures

/

4.3.3. Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment

See general directions for use for Meta SPC 7

4.3.4. Where specific to the use, the instructions for safe disposal of the product and its packaging

See general directions for use for Meta SPC 7

4.3.5. Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage

See general directions for use for Meta SPC 7

4.4. Use description

Table 16

Use # 4 – Hard surface disinfection, use in healthcare, for non-professional use (PT2)

Product type	PT02 – Disinfectants and algacides not intended for direct application to humans or animals (Disinfectants)
Where relevant, an exact description of the authorised use	Not relevant
Target organism(s) (including development stage)	Scientific name: other: bacteria Common name: Bacteria Development stage: Scientific name: other: yeasts Common name: Yeasts Development stage: Scientific name: other: viruses Common name: Viruses Development stage:
Field(s) of use	Indoor Public field: Disinfection of hard/non-porous surfaces (walls, floors and other surfaces in indoor spaces, including bathrooms and toilets) in healthcare area with prior cleaning
Application method(s)	Method: With pre-impregnated wipes Detailed description: /

Application rate(s) and frequency	Application Rate: Active against bacteria, yeasts and viruses: With pre-impregnated wipes at room temperature in two minutes contact time Dilution (%): - Number and timing of application: Active against bacteria, yeasts and viruses: With pre-impregnated wipes at room temperature in two minutes contact time
Category(ies) of users	General public (non-professional)
Pack sizes and packaging material	Box in HDPE with lid in HDPE with 105 wipes, 200 wipes, 280 wipes, 500 wipes

4.4.1. *Use-specific instructions for use*

Comply with the instructions for use

4.4.2. *Use-specific risk mitigation measures*

/

4.4.3. *Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment*

If medical advice is needed, have product container or label at hand

4.4.4. *Where specific to the use, the instructions for safe disposal of the product and its packaging*

See general directions for use for Meta SPC 7

4.4.5. *Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage*

Keep out of reach of children and non-target animals/pets.

4.5. **Use description**

Table 17

Use # 5 – Hard surface disinfection, use other than in healthcare, for professional use (PT2)

Product type	PT02 – Disinfectants and algaecides not intended for direct application to humans or animals (Disinfectants)
Where relevant, an exact description of the authorised use	Not relevant
Target organism(s) (including development stage)	Scientific name: other: bacteria Common name: Bacteria Development stage: Scientific name: other: yeasts Common name: Yeasts Development stage: Scientific name: other: viruses Common name: Viruses Development stage:

Field(s) of use	Indoor Public field: Disinfection of hard/non-porous surfaces (walls, floors and other surfaces in indoor spaces, including bathrooms and toilets) with prior cleaning
Application method(s)	Method: With pre-impregnated wipes Detailed description: /
Application rate(s) and frequency	Application Rate: Active against bacteria, yeasts and viruses: With pre-impregnated wipes at room temperature in two minutes contact time Dilution (%): - Number and timing of application: Active against bacteria, yeasts and viruses: With pre-impregnated wipes at room temperature in two minutes contact time
Category(ies) of users	Professional
Pack sizes and packaging material	Box in HDPE with lid in HDPE with 105 wipes, 200 wipes, 280 wipes, 500 wipes

4.5.1. *Use-specific instructions for use*

See general directions for use for Meta SPC 7

4.5.2. *Use-specific risk mitigation measures*

/

4.5.3. *Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment*

See general directions for use for Meta SPC 7

4.5.4. *Where specific to the use, the instructions for safe disposal of the product and its packaging*

See general directions for use for Meta SPC 7

4.5.5. *Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage*

See general directions for use for Meta SPC 7

4.6. **Use description**

Table 18

Use # 6 – Hard surface disinfection, use other than in healthcare, for non-professional use (PT2)

Product type	PT02 – Disinfectants and algaecides not intended for direct application to humans or animals (Disinfectants)
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Where relevant, an exact description of the authorised use	Not relevant
Target organism(s) (including development stage)	Scientific name: other: bacteria Common name: Bacteria Development stage: Scientific name: other: yeasts Common name: Yeasts Development stage: Scientific name: other: viruses Common name: Viruses Development stage:
Field(s) of use	Indoor Public field: Disinfection of hard/non-porous surfaces (walls, floors and other surfaces in indoor spaces, including bathrooms and toilets) with prior cleaning
Application method(s)	Method: With pre-impregnated wipes Detailed description: /
Application rate(s) and frequency	Application Rate: Active against bacteria, yeasts and viruses: With pre-impregnated wipes at room temperature in two minutes contact time Dilution (%): - Number and timing of application: Active against bacteria, yeasts and viruses: With pre-impregnated wipes at room temperature in two minutes contact time
Category(ies) of users	General public (non-professional)
Pack sizes and packaging material	Box in HDPE with lid in HDPE with 105 wipes, 200 wipes, 280 wipes, 500 wipes

4.6.1. Use-specific instructions for use

Comply with the instructions for use

4.6.2. Use-specific risk mitigation measures

/

4.6.3. Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment

If medical advice is needed, have product container or label at hand.

4.6.4. Where specific to the use, the instructions for safe disposal of the product and its packaging

See general directions for use for Meta SPC 7

4.6.5. Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage

Keep out of reach of children and non-target animals/pets.

5. GENERAL DIRECTIONS FOR USE ⁽⁷⁾ OF THE META SPC 7

5.1. Instructions for use

Comply with the instructions for use

First clean thoroughly the surfaces and materials to be disinfected and dry the surface or materials.

Disinfect the dry surface with a wipe. Make sure the surface remains completely wetted during the required contact time.

5.2. **Risk mitigation measures**

/

5.3. **Particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment**

IF INHALED: If symptoms occur call a POISON CENTRE or a doctor.

IF ON SKIN: Wash skin with water. If symptoms occur call a POISON CENTRE or a doctor.

IF IN EYES: Rinse with water. Remove contact lenses, if present and easy to do. Continue rinsing for five minutes. Call a POISON CENTRE or a doctor.

IF SWALLOWED: Immediately rinse mouth. Give something to drink, if exposed person is able to swallow. Do NOT induce vomiting. Call 112/ambulance for medical assistance.

If medical advice is needed, have product container or label at hand

5.4. **Instructions for safe disposal of the product and its packaging**

The packing and content must be eliminated as dangerous waste product under the full responsibility of the possessor of this waste product. Do not throw wastes into sewers and watercourses. Dispose in a safe manner in accordance with local/national regulations.

5.5. **Conditions of storage and shelf-life of the product under normal conditions of storage**

Keep only in the original container in a cool, well ventilated place. Keep container closed when not in use. Store at ambient temperature. Do not store below 0 °C and above 40 °C.

The shelf-life of the products is two years.

Keep out of reach of children and non-target animals/pets

6. OTHER INFORMATION

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7. THIRD INFORMATION LEVEL: INDIVIDUAL PRODUCTS IN THE META SPC 7

7.1. **Trade name(s), authorisation number and specific composition of each individual product**

Trade name(s)	Kenopure wipes	Market area: EU
	EP-460 Wipes	Market area: EU
	Sani Wipes	Market area: EU

⁽⁷⁾ Instructions for use, risk mitigation measures and other directions for use under this section are valid for any authorised uses within the meta SPC 7.

	Lactides Wipes	Market area: EU			
	Keno Lac Wipes	Market area: EU			
	KL Wipes	Market area: EU			
	Kenolux Wipes	Market area: EU			
	Power Des Wipes	Market area: EU			
	Keno L Wipes	Market area: EU			
	Keno Des Wipes	Market area: EU			
	RĘCZNIKI PAPIEROWE MYJĄCO-DEZYNFEKUJĄCE FARMA	Market area: EU			
	RĘCZNIKI PAPIEROWE MYJĄCO-DEZYNFEKUJĄCE VITTRA	Market area: EU			
	Ręczniki myjąco-dezynfekujące AGROD	Market area: EU			
Authorisation number	EU-0027740-0007 1-7				
Common name	IUPAC name	Function	CAS number	EC number	Content (%)
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	2,0
Sodium Lauryl sulphate	Sulfuric acid, mono-C12-14-alkyl esters, sodium salts	Non-active substance	85586-07-8	287-809-4	0,6

META SPC 8

1. META SPC 8 ADMINISTRATIVE INFORMATION

1.1. **Meta SPC 8 identifier**

Identifier	Meta SPC 8: Ready to use post-dips by dipping (PT3)
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1.2. **Suffix to the authorisation number**

Number	1-8
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1.3. **Product type(s)**

Product type(s)	PT03 – Veterinary hygiene (Disinfectants)
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2. META SPC 8 COMPOSITION

2.1. Qualitative and quantitative information on the composition of the meta SPC 8

Common name	IUPAC name	Function	CAS number	EC number	Content (%)	
					Min	Max
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	3,6	7,5
Sodium Lauryl sulphate	Sulfuric acid, mono-C12-14-alkyl esters, sodium salts	Non-active substance	85586-07-8	287-809-4	1,3	1,3
Isopropanol	Propan-2-ol	Non-active substance	67-63-0	200-661-7	1,0	3,0

2.2. Type(s) of formulation of the meta SPC 8

Formulation(s)	AL – Any other liquid
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3. HAZARD AND PRECAUTIONARY STATEMENTS OF THE META SPC 8

Hazard statements	Causes serious eye damage.
Precautionary statements	Wear eyes/face protection. IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing. Immediately call a doctor.

4. AUTHORISED USE(S) OF THE META SPC 8

4.1. Use description

Table 19

Use # 1 – Teat disinfection after milking by dipping

Product type	PT03 – Veterinary hygiene (Disinfectants)
Where relevant, an exact description of the authorised use	Not relevant
Target organism(s) (including development stage)	Scientific name: other: bacteria Common name: Bacteria Development stage: Scientific name: other: yeast Common name: Yeasts Development stage:

Field(s) of use	Indoor Veterinary field: (Ready-To-Use) RTU post-dip for teat disinfection, after milking, without prior cleaning
Application method(s)	Method: By dipping Detailed description: /
Application rate(s) and frequency	Application Rate: Active against bacteria and yeasts: RTU In five minutes contact time. The product must 'return' to RT before use. Dilution (%): - Number and timing of application: Active against bacteria and yeasts: RTU (with 3,6 – 7,5 % Lactic acid depending on the product considered) In five minutes contact time The product must 'return' to room temperature before use
Category(ies) of users	Professional
Pack sizes and packaging material	1 L, 5 L, 10 L, 20 L, 25 L, 30 L, 60 L, 200 L, 220 L, 600 L, 1 000 L, 1 100 L 1 kg, 5 kg, 10 kg, 20 kg, 25 kg, 30 kg, 60 kg, 200 kg, 220 kg, 600 kg, 1 000 kg, 1 100 kg HDPE (High Density Polyethylene)

4.1.1. *Use-specific instructions for use*

See general directions for use for Meta SPC 8

4.1.2. *Use-specific risk mitigation measures*

See general directions for use for Meta SPC 8

4.1.3. *Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment*

See general directions for use for Meta SPC 8

4.1.4. *Where specific to the use, the instructions for safe disposal of the product and its packaging*

See general directions for use for Meta SPC 8

4.1.5. *Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage*

See general directions for use for Meta SPC 8

5. GENERAL DIRECTIONS FOR USE ⁽⁸⁾ OF THE META SPC 85.1. **Instructions for use**

Apply the product immediately after each milking, two or three times per day. Ensure that the teat is completely covered to three quarter of its length. Fill the dipping cup with the desired amount of product, but do not use more fluid than necessary. Assume 5 mL per cow per treatment. Respect a contact time of five minutes. The product must be brought to a temperature above 20 °C before use. In order to ensure optimal teat disinfection, the animals should be kept standing for at least five minutes.

5.2. **Risk mitigation measures**

Chemical goggles need to be worn.

5.3. **Particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment**

IF IN EYES: Immediately rinse with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing for at least 15 minutes. Immediately call 112/ambulance for medical assistance.

IF SWALLOWED: Immediately rinse mouth. Give something to drink, if exposed person is able to swallow. Do NOT induce vomiting. Call 112/ambulance for medical assistance

IF ON SKIN: Immediately wash skin with plenty of water. Thereafter take off all contaminated clothing and wash it before reuse. Continue to wash the skin with water for 15 minutes. Call a POISON CENTRE or a doctor.

IF INHALED: If symptoms occur call a POISON CENTRE or a doctor.

5.4. **Instructions for safe disposal of the product and its packaging**

The packing and content must be eliminated as dangerous waste product under the full responsibility of the possessor of this waste product. Do not throw wastes into sewers and watercourses. Dispose in a safe manner in accordance with local/national regulations.

5.5. **Conditions of storage and shelf-life of the product under normal conditions of storage**

Keep only in the original container in a cool, well ventilated place. Keep container closed when not in use.

The shelf-life of the products is two years.

6. OTHER INFORMATION

/

7. THIRD INFORMATION LEVEL: INDIVIDUAL PRODUCTS IN THE META SPC 8

7.1. **Trade name(s), authorisation number and specific composition of each individual product**

Trade name(s)	Kenolac	Market area: EU
	Kenolac Red	Market area: EU
	Kenodip 200	Market area: EU
	Stalosan Lac Dip	Market area: EU
	HCP Dip	Market area: EU
	PEZERK LV PLUS	Market area: EU

⁽⁸⁾ Instructions for use, risk mitigation measures and other directions for use under this section are valid for any authorised uses within the meta SPC 8.

	MIROX Dip Lac	Market area: EU			
	Milchsäure Dip	Market area: EU			
	Milchsäure Tauche	Market area: EU			
	Lactocid Dip	Market area: EU			
	GAHERLAC	Market area: EU			
	Lactidip	Market area: EU			
	Lacticoop	Market area: EU			
	Lactactiv	Market area: EU			
	Laktotop	Market area: EU			
	Superlac	Market area: EU			
	MilchsäureFilmdip Super	Market area: EU			
	MEPA Lac	Market area: EU			
	Eco Lac	Market area: EU			
	BluGard Dip	Market area: EU			
	Blu-Gard Dip	Market area: EU			
Authorisation number	EU-0027740-0008 1-8				
Common name	IUPAC name	Function	CAS number	EC number	Content (%)
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	3,6
Sodium Lauryl sulphate	Sulfuric acid, mono-C12-14-alkyl esters, sodium salts	Non-active substance	85586-07-8	287-809-4	1,3
Isopropanol	Propan-2-ol	Non-active substance	67-63-0	200-661-7	1,0

7.2. Trade name(s), authorisation number and specific composition of each individual product

Trade name(s)	Kenolac Forte W		Market area: EU		
Authorisation number	EU-0027740-0009 1-8				
Common name	IUPAC name	Function	CAS number	EC number	Content (%)
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	7,5
Sodium Lauryl sulphate	Sulfuric acid, mono-C12-14-alkyl esters, sodium salts	Non-active substance	85586-07-8	287-809-4	1,3
Isopropanol	Propan-2-ol	Non-active substance	67-63-0	200-661-7	3,0

META SPC 9

1. META SPC 9 ADMINISTRATIVE INFORMATION

1.1. **Meta SPC 9 identifier**

Identifier	Meta SPC 9: Ready to use post-dips by spraying (PT3)
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1.2. **Suffix to the authorisation number**

Number	1-9
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1.3. **Product type(s)**

Product type(s)	PT03 – Veterinary hygiene (Disinfectants)
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2. META SPC 9 COMPOSITION

2.1. **Qualitative and quantitative information on the composition of the meta SPC 9**

Common name	IUPAC name	Function	CAS number	EC number	Content (%)	
					Min	Max
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	3,6	7,5
Sodium Lauryl sulphate	Sulfuric acid, mono-C12-14-alkyl esters, sodium salts	Non-active substance	85586-07-8	287-809-4	0,5	1,3
Isopropanol	Propan-2-ol	Non-active substance	67-63-0	200-661-7	3,0	3,0

2.2. **Type(s) of formulation of the meta SPC 9**

Formulation(s)	AL – Any other liquid
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3. HAZARD AND PRECAUTIONARY STATEMENTS OF THE META SPC 9

Hazard statements	Causes serious eye damage.
Precautionary statements	Wear eye/face protection. IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing. Immediately call a doctor.

4. AUTHORISED USE(S) OF THE META SPC 9

4.1. Use description

Table 20

Use # 1 – Teat disinfection after milking by spraying or dipping

Product type	PT03 – Veterinary hygiene (Disinfectants)
Where relevant, an exact description of the authorised use	Not relevant
Target organism(s) (including development stage)	Scientific name: other: bacteria Common name: Bacteria Development stage: Scientific name: other: yeast Common name: Yeasts Development stage:
Field(s) of use	Indoor Veterinary field: RTU spray or dip for teat disinfection, after milking, without prior cleaning
Application method(s)	Method: by spraying or dipping Detailed description: By spraying or dipping
Application rate(s) and frequency	Application Rate: Active against bacteria and yeasts: RTU In five minutes contact time. The product must 'return' to RT before use. Dilution (%): - Number and timing of application: Active against bacteria and yeasts: RTU (with 3,6 – 7,5 % Lactic acid depending on the product considered) In five minutes contact time The product must return to Room temperature before use
Category(ies) of users	Professional
Pack sizes and packaging material	1 L, 5 L, 10 L, 20 L, 25 L, 30 L, 60 L, 200 L, 220 L, 600 L, 1 000 L, 1 100 L 1 kg, 5 kg, 10 kg, 20 kg, 25 kg, 30 kg, 60 kg, 200 kg, 220 kg, 600 kg, 1 000 kg, 1 100 kg HDPE (High Density Polyethylene)

4.1.1. Use-specific instructions for use

See general directions for use for Meta SPC 9

4.1.2. Use-specific risk mitigation measures

See general directions for use for Meta SPC 9

4.1.3. Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment

See general directions for use for Meta SPC 9

4.1.4. *Where specific to the use, the instructions for safe disposal of the product and its packaging*

See general directions for use for Meta SPC 9

4.1.5. *Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage*

See general directions for use for Meta SPC 9

5. GENERAL DIRECTIONS FOR USE (*) OF THE META SPC 9

5.1. **Instructions for use**

Apply the product immediately after each milking, two or three times per day. Ensure that the teat is completely covered to three quarter of its length. Fill the dipping cup or spraying flacon with the desired amount of the product, but do not use more fluid than necessary. Assume 5 mL per cow per treatment. Respect a contact time of five minutes.

The product must be brought to a temperature above 20 °C before use.

In order to ensure optimal teat disinfection, the animals should be kept standing for at least five minutes.

5.2. **Risk mitigation measures**

Chemical goggles need to be worn.

5.3. **Particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment**

IF IN EYES: Immediately rinse with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing for at least 15 minutes. Immediately call 112/ambulance for medical assistance.

IF SWALLOWED: Immediately rinse mouth. Give something to drink, if exposed person is able to swallow. Do NOT induce vomiting. Call 112/ambulance for medical assistance

IF ON SKIN: Immediately wash skin with plenty of water. Thereafter take off all contaminated clothing and wash it before reuse. Continue to wash the skin with water for 15 minutes. Call a POISON CENTRE or a doctor.

IF INHALED: If symptoms occur call a POISON CENTRE or a doctor.

5.4. **Instructions for safe disposal of the product and its packaging**

The packing and content must be eliminated as dangerous waste product under the full responsibility of the possessor of this waste product. Do not throw wastes into sewers and watercourses. Dispose in a safe manner in accordance with local/national regulations.

5.5. **Conditions of storage and shelf-life of the product under normal conditions of storage**

Keep only in the original container in a cool, well ventilated place. Keep container closed when not in use.

The shelf-life of the products is two years.

6. OTHER INFORMATION

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(*) Instructions for use, risk mitigation measures and other directions for use under this section are valid for any authorised uses within the meta SPC 9.

7. THIRD INFORMATION LEVEL: INDIVIDUAL PRODUCTS IN THE META SPC 9

7.1. Trade name(s), authorisation number and specific composition of each individual product

Trade name(s)	Kenolac SD	Market area: EU			
	HCP Spray	Market area: EU			
	Lactospray	Market area: EU			
	Zitzentop	Market area: EU			
	Lactosilk	Market area: EU			
	Milchsäure Spray Bühning	Market area: EU			
	Lacto SP	Market area: EU			
	Stalosan Lac Spray	Market area: EU			
	MIROX Spray Lac	Market area: EU			
	Milchsäure Sprühe	Market area: EU			
	Lactacid Spray	Market area: EU			
	Milcho Spray	Market area: EU			
	GAHERLAC SPRAY	Market area: EU			
	Lactispray	Market area: EU			
	Lacticoop Spray	Market area: EU			
	Lactactiv Spray	Market area: EU			
	Laktotop Spray	Market area: EU			
	Superlac Spray	Market area: EU			
	Robolac	Market area: EU			
	MEPA Lac SD	Market area: EU			
	Eco Lac SD	Market area: EU			
	Lely Quaress Circum	Market area: EU			
	BluGard Spray	Market area: EU			
	Blu-Gard Spray	Market area: EU			
Authorisation number	EU-0027740-0010 1-9				
Common name	IUPAC name	Function	CAS number	EC number	Content (%)
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	3,6
Sodium Lauryl sulphate	Sulfuric acid, mono-C12-14-alkyl esters, sodium salts	Non-active substance	85586-07-8	287-809-4	1,3
Isopropanol	Propan-2-ol	Non-active substance	67-63-0	200-661-7	3,0

7.2. Trade name(s), authorisation number and specific composition of each individual product

Trade name(s)	Kenolac Forte SD		Market area: EU		
Authorisation number	EU-0027740-0011 1-9				
Common name	IUPAC name	Function	CAS number	EC number	Content (%)
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	7,5
Sodium Lauryl sulphate	Sulfuric acid, mono-C12-14-alkyl esters, sodium salts	Non-active substance	85586-07-8	287-809-4	1,3
Isopropanol	Propan-2-ol	Non-active substance	67-63-0	200-661-7	3,0

META SPC 10

1. META SPC 10 ADMINISTRATIVE INFORMATION

1.1. Meta SPC 10 identifier

Identifier	Meta SPC 10: Ready to use post-dips by spraying and dipping (PT3)
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1.2. Suffix to the authorisation number

Number	1-10
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1.3. Product type(s)

Product type(s)	PT03 – Veterinary hygiene (Disinfectants)
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2. META SPC 10 COMPOSITION

2.1. Qualitative and quantitative information on the composition of the meta SPC 10

Common name	IUPAC name	Function	CAS number	EC number	Content (%)	
					Min	Max
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	3,6	3,6
Sodium Lauryl sulphate	Sulfuric acid, mono-C12-14-alkyl esters, sodium salts	Non-active substance	85586-07-8	287-809-4	0,05	0,05

2.2. Type(s) of formulation of the meta SPC 10

Formulation(s)	AL – Any other liquid
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3. HAZARD AND PRECAUTIONARY STATEMENTS OF THE META SPC 10

Hazard statements	Flammable liquid and vapour. Causes serious eye damage. Contains menthan-3-one (CAS-No 14073-97-3). May produce an allergic reaction.
Precautionary statements	Keep away from heat, hot surfaces, sparks, open flames and other ignition sources. – No smoking. Wear eyes/face protection. IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing. Immediately call a doctor. In case of fire: Use water spray, alcohol-resistant foam, dry chemical or carbon dioxide to extinguish. Store in a well-ventilated place. Keep cool. Dispose of contents to hazardous or special waste collection point, in accordance with local, regional, national and/or international regulation. Dispose of container to hazardous or special waste collection point, in accordance with local, regional, national and/or international regulation.

4. AUTHORISED USE(S) OF THE META SPC 10

4.1. Use description

Table 21

Use # 1 – Teat disinfection after milking by spraying or dipping

Product type	PT03 – Veterinary hygiene (Disinfectants)
Where relevant, an exact description of the authorised use	Not relevant
Target organism(s) (including development stage)	Scientific name: other: bacteria Common name: Bacteria Development stage: Scientific name: other: yeast Common name: Yeasts Development stage:
Field(s) of use	Indoor Veterinary field: RTU spray/dip for teat disinfection, after milking, without prior cleaning
Application method(s)	Method: By spraying or dipping Detailed description: /

Application rate(s) and frequency	Application Rate: Active against bacteria and yeasts: RTU In five minutes contact time. The product must 'return' to RT before use Dilution (%): - Number and timing of application: Active against bacteria and yeasts: RTU (with 3,6 % Lactic acid) In five minutes contact time
Category(ies) of users	Professional
Pack sizes and packaging material	1 L, 5 L, 10 L, 20 L, 25 L, 30 L, 60 L, 200 L, 220 L, 600 L, 1 000 L, 1 100 L 1 kg, 5 kg, 10 kg, 20 kg, 25 kg, 30 kg, 60 kg, 200 kg, 220 kg, 600 kg, 1 000 kg, 1 100 kg HDPE (High Density Polyethylene)

4.1.1. Use-specific instructions for use

Application rates:

- 7,5 mL per cow working solution for use by spraying with flacon
- 15 mL per cow working solution for use by spraying in installation
- 15 mL per cow by for use by spraying with robot
- 2,5-5 mL per cow for use by dipping/foaming

4.1.2. Use-specific risk mitigation measures

See general directions for use for Meta SPC 10

4.1.3. Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment

See general directions for use for Meta SPC 10

4.1.4. Where specific to the use, the instructions for safe disposal of the product and its packaging

See general directions for use for Meta SPC 10

4.1.5. Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage

See general directions for use for Meta SPC 10

5. GENERAL DIRECTIONS FOR USE ⁽¹⁰⁾ OF THE META SPC 10

5.1. Instructions for use

Apply the product immediately after each milking, two or three times per day. Ensure that the teat is completely covered to three quarter of its length. Fill the dipping cup or spraying flacon with the desired amount of product, but do not use more fluid than necessary. The product must be brought to a temperature above 20 °C before use.

In order to ensure optimal teat disinfection, the animals should be kept standing for at least five minutes.

⁽¹⁰⁾ Instructions for use, risk mitigation measures and other directions for use under this section are valid for any authorised uses within the meta SPC 10.

5.2. Risk mitigation measures

Chemical goggles need to be worn.

5.3. Particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment

IF INHALED: If symptoms occur call a POISON CENTRE or a doctor.

IF ON SKIN: Immediately wash skin with plenty of water. Thereafter take off all contaminated clothing and wash it before reuse. Continue to wash the skin with water for 15 minutes. Call a POISON CENTRE or a doctor. If skin irritation occurs: Get medical advice.

IF IN EYES: Immediately rinse with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing for at least 15 minutes. Immediately call 112/ambulance for medical assistance.

IF SWALLOWED: Immediately rinse mouth. Give something to drink, if exposed person is able to swallow. Do NOT induce vomiting. Call 112/ambulance for medical assistance

5.4. Instructions for safe disposal of the product and its packaging

The packing and content must be eliminated as dangerous waste product under the full responsibility of the possessor of this waste product. Do not throw wastes into sewers and watercourses. Dispose in a safe manner in accordance with local/national regulations.

5.5. Conditions of storage and shelf-life of the product under normal conditions of storage

Keep only in the original container in a cool, well ventilated place. Keep container closed when not in use.

The shelf-life of the products is two years.

6. OTHER INFORMATION

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7. THIRD INFORMATION LEVEL: INDIVIDUAL PRODUCTS IN THE META SPC 10

7.1. Trade name(s), authorisation number and specific composition of each individual product

Trade name(s)	Kenocool		Market area: EU		
	PEZERK LI PLUS		Market area: EU		
	Milcho Dip		Market area: EU		
Authorisation number	EU-0027740-0012 1-10				
Common name	IUPAC name	Function	CAS number	EC number	Content (%)
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	3,6
Sodium Lauryl sulphate	Sulfuric acid, mono-C12-14-alkyl esters, sodium salts	Non-active substance	85586-07-8	287-809-4	0,05

META SPC 11

1. META SPC 11 ADMINISTRATIVE INFORMATION

1.1. Meta SPC 11 identifier

Identifier	Meta SPC 11: Concentrated Surface and equipment disinfectants (PT3 and PT4)
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1.2. Suffix to the authorisation number

Number	1-11
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1.3. Product type(s)

Product type(s)	PT04 – Food and feed area (Disinfectants) PT03 – Veterinary hygiene (Disinfectants)
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2. META SPC 11 COMPOSITION

2.1. Qualitative and quantitative information on the composition of the meta SPC 11

Common name	IUPAC name	Function	CAS number	EC number	Content (%)	
					Min	Max
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	24,0	24,0
Sodium Lauryl sulphate	Sulfuric acid, mono-C12-14-alkyl esters, sodium salts	Non-active substance	85586-07-8	287-809-4	12,0	12,0
Isopropanol	Propan-2-ol	Non-active substance	67-63-0	200-661-7	5,0	5,0

2.2. Type(s) of formulation of the meta SPC 11

Formulation(s)	SL – Soluble concentrate
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3. HAZARD AND PRECAUTIONARY STATEMENTS OF THE META SPC 11

Hazard statements	Causes skin irritation. Causes serious eye damage.
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Precautionary statements	Wash hands thoroughly after handling. Wear protective gloves. Wear eyes/face protection. IF ON SKIN: Wash with plenty of water. IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing. Immediately call a doctor. Dispose of contents to hazardous or special waste collection point, in accordance with local, regional, national and/or international regulation. Dispose of container to hazardous or special waste collection point, in accordance with local, regional, national and/or international regulation.
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4. AUTHORISED USE(S) OF THE META SPC 11

4.1. Use description

Table 22

Use # 1 – Hard surface disinfection in food and feed industry

Product type	PT04 – Food and feed area (Disinfectants)
Where relevant, an exact description of the authorised use	Not relevant
Target organism(s) (including development stage)	Scientific name: other: bacteria Common name: Bacteria Development stage: Scientific name: other: yeast Common name: Yeasts Development stage:
Field(s) of use	Indoor in Food/feed industry + Public field: Disinfection of hard/non-porous surfaces by spraying or soaking with prior cleaning
Application method(s)	Method: By spraying or by immersion Detailed description: Spraying Immersion (the bath is intended to be used only once)
Application rate(s) and frequency	Application Rate: 100 mL/m² Dilution (%): 1 % or 3 % Number and timing of application: Active against bacteria and yeasts at room temperature: — 3 % (with 0,72 % Lactic acid) in two minutes contact time — 1 % (with 0,24 % Lactic acid) in 15 minutes contact time
Category(ies) of users	Professional

Pack sizes and packaging material	1 L, 5 L, 10 L, 20 L, 25 L, 30 L, 60 L, 200 L, 220 L, 600 L, 1 000 L, 1 100 L 1 kg, 5 kg, 10 kg, 20 kg, 25 kg, 30 kg, 60 kg, 200 kg, 220 kg, 600 kg, 1 000 kg, 1 100 kg HDPE (High Density Polyethylene)
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4.1.1. *Use-specific instructions for use*

See general directions for use for Meta SPC 11

4.1.2. *Use-specific risk mitigation measures*

See general directions for use for Meta SPC 11

4.1.3. *Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment*

See general directions for use for Meta SPC 11

4.1.4. *Where specific to the use, the instructions for safe disposal of the product and its packaging*

See general directions for use for Meta SPC 11

4.1.5. *Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage*

See general directions for use for Meta SPC 11

4.2. **Use description**

Table 23

Use # 2 – Equipment disinfection by soaking in food and feed industry

Product type	PT04 – Food and feed area (Disinfectants)
Where relevant, an exact description of the authorised use	Not relevant
Target organism(s) (including development stage)	Scientific name: other: bacteria Common name: Bacteria Development stage: Scientific name: other: yeast Common name: Yeasts Development stage:
Field(s) of use	Indoor Indoor – in Food/feed industry + Public field: Disinfection of hard/non-porous surfaces (for example processing machines) by spraying or soaking without prior cleaning
Application method(s)	Method: By spraying or immersion Detailed description: /

Application rate(s) and frequency	Application Rate: 100 mL/m ² Dilution (%): 8 % or 15 % Number and timing of application: Active against bacteria and yeasts at +7 °C: — By soaking: 15 % (with 3,6 % Lactic acid) in 30 seconds contact time — By spraying: 8 % (with 1,92 % Lactic acid) in two minutes contact time
Category(ies) of users	Professional
Pack sizes and packaging material	1 L, 5 L, 10 L, 20 L, 25 L, 30 L, 60 L, 200 L, 220 L, 600 L, 1 000 L, 1 100 L 1 kg, 5 kg, 10 kg, 20 kg, 25 kg, 30 kg, 60 kg, 200 kg, 220 kg, 600 kg, 1 000 kg, 1 100 kg HDPE (High Density Polyethylene)

4.2.1. Use-specific instructions for use

See general directions for use for Meta SPC 11

4.2.2. Use-specific risk mitigation measures

See general directions for use for Meta SPC 11

4.2.3. Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment

See general directions for use for Meta SPC 11

4.2.4. Where specific to the use, the instructions for safe disposal of the product and its packaging

See general directions for use for Meta SPC 11

4.2.5. Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage

See general directions for use for Meta SPC 11

4.3. Use description

Table 24

Use # 3 – Hard surface disinfection for veterinary hygiene

Product type	PT03 – Veterinary hygiene (Disinfectants)
Where relevant, an exact description of the authorised use	Not relevant
Target organism(s) (including development stage)	Common name: Bacteria Development stage: Common name: Yeasts Development stage:
Field(s) of use	Indoor Veterinary field: Disinfection of hard/non-porous surfaces by spraying or soaking with prior cleaning

Application method(s)	Method: By spraying or immersion Detailed description: Spraying Immersion (the bath is intended to be used only once)
Application rate(s) and frequency	Application Rate: Active against bacteria and yeasts at +10 °C: 4 % in 30 minutes contact time Dilution (%): 4 % Number and timing of application: Active against bacteria and yeasts at +10 °C: 4 % (with 0,96 % Lactic acid) in 30 minutes contact time
Category(ies) of users	Professional
Pack sizes and packaging material	1 L, 5 L, 10 L, 20 L, 25 L, 30 L, 60 L, 200 L, 220 L, 600 L, 1 000 L, 1 100 L 1 kg, 5 kg, 10 kg, 20 kg, 25 kg, 30 kg, 60 kg, 200 kg, 220 kg, 600 kg, 1 000 kg, 1 100 kg HDPE (High Density Polyethylene)

4.3.1. Use-specific instructions for use

Animal houses must be empty of animals during disinfection. The product is used to disinfect animal housings of pigs, cows, poultry. Clean the surfaces thoroughly with a detergent before disinfection. Rinse with clean water and remove surplus water.

Mixing and loading: container is opened manually and emptied into the reservoir or connected to a pump, which pumps the product into the reservoir of the spraying device which is then filled up with water in order to achieve the correct concentration of use. Apply the product by spraying or immersion. Use as much solution as needed to keep the surfaces wet during the complete contact time. It is not necessary to spray during the complete contact time.

4.3.2. Use-specific risk mitigation measures

See general directions for use for Meta SPC 11

4.3.3. Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment

See general directions for use for Meta SPC 11

4.3.4. Where specific to the use, the instructions for safe disposal of the product and its packaging

See general directions for use for Meta SPC 11

4.3.5. Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage

See general directions for use for Meta SPC 11

5. GENERAL DIRECTIONS FOR USE ⁽¹¹⁾ OF THE META SPC 115.1. **Instructions for use**

Disinfection procedures by spraying: The surfaces to be disinfected must be wet enough in order to be kept wet during the preconised contact time for optimal disinfection. The following precautionary sentence shall be added on the product label: 'Make sure to wet surfaces completely'.

Products must be diluted in potable water before use.

5.2. **Risk mitigation measures**

Gloves and goggles are needed during mixing and loading.

5.3. **Particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment**

IF INHALED: If symptoms occur call a POISON CENTRE or a doctor.

IF ON SKIN: Immediately wash skin with plenty of water. Thereafter take off all contaminated clothing and wash it before reuse. Continue to wash the skin with water for 15 minutes. Call a POISON CENTRE or a doctor. If skin irritation occurs: Get medical advice.

IF IN EYES: Immediately rinse with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing for at least 15 minutes. Immediately call 112/ambulance for medical assistance.

IF SWALLOWED: Immediately rinse mouth. Give something to drink, if exposed person is able to swallow. Do NOT induce vomiting. Call 112/ambulance for medical assistance

5.4. **Instructions for safe disposal of the product and its packaging**

The packing and content must be eliminated as dangerous waste product under the full responsibility of the possessor of this waste product. Do not throw wastes into sewers and watercourses. Dispose in a safe manner in accordance with local/national regulations.

5.5. **Conditions of storage and shelf-life of the product under normal conditions of storage**

Keep only in the original container in a cool, well ventilated place. Keep container closed when not in use.

The shelf-life of the products is two years.

6. OTHER INFORMATION

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7. THIRD INFORMATION LEVEL: INDIVIDUAL PRODUCTS IN THE META SPC 11

7.1. **Trade name(s), authorisation number and specific composition of each individual product**

Trade name(s)	Kenosan Lactic	Market area: EU
	Lacto Des	Market area: EU
	Bio Des 100	Market area: EU
	Bio Lac	Market area: EU
Authorisation number	EU-0027740-0013 1-11	

⁽¹¹⁾ Instructions for use, risk mitigation measures and other directions for use under this section are valid for any authorised uses within the meta SPC 11.

Common name	IUPAC name	Function	CAS number	EC number	Content (%)
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	24,0
Sodium Lauryl sulphate	Sulfuric acid, mono-C12-14-alkyl esters, sodium salts	Non-active substance	85586-07-8	287-809-4	12,0
Isopropanol	Propan-2-ol	Non-active substance	67-63-0	200-661-7	5,0

META SPC 12

1. META SPC 12 ADMINISTRATIVE INFORMATION

1.1. Meta SPC 12 identifier

Identifier	Meta SPC 12: Inner surface disinfectants by CIP with and without circulation and crate wash (PT4)
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1.2. Suffix to the authorisation number

Number	1-12
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1.3. Product type(s)

Product type(s)	PT04 – Food and feed area (Disinfectants)
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2. META SPC 12 COMPOSITION

2.1. Qualitative and quantitative information on the composition of the meta SPC 12

Common name	IUPAC name	Function	CAS number	EC number	Content (%)	
					Min	Max
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	22,0	22,0
C6 alkyl glucoside	Hexyl D-Glucoside	Non-active substance	54549-24-5	259-217-6	2,4	2,4
Methanesulfonic acid	Methanesulfonic acid	Non-active substance	75-75-2	200-898-6	0,0	10,5
Sulphuric acid	Sulphuric acid	Non-active substance	7664-93-9	231-639-5	0,0	10,5

2.2. Type(s) of formulation of the meta SPC 12

Formulation(s)	SL – Soluble concentrate
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3. HAZARD AND PRECAUTIONARY STATEMENTS OF THE META SPC 12

Hazard statements	Causes severe skin burns and eye damage. May be corrosive to metals.
Precautionary statements	Keep only in original packaging. Do not breathe vapours. Wash hands thoroughly after handling. Wear protective gloves. Wear protective clothing. Wear eyes/face protection. IF SWALLOWED: Rinse mouth. Do NOT induce vomiting. IF ON SKIN (or hair): Take off immediately all contaminated clothing. Rinse skin with water. IF INHALED: Remove person to fresh air and keep comfortable for breathing. IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing. Immediately call a doctor. Absorb spillage to prevent material damage. Wash contaminated clothing before reuse. Store locked up. Dispose of contents to hazardous or special waste collection point, in accordance with local, regional, national and/or international regulation. Dispose of container to hazardous or special waste collection point, in accordance with local, regional, national and/or international regulation.

4. AUTHORISED USE(S) OF THE META SPC 12

4.1. Use description

Table 25

Use # 1 – Inner surface disinfection by CIP with circulation

Product type	PT04 – Food and feed area (Disinfectants)
Where relevant, an exact description of the authorised use	Not relevant
Target organism(s) (including development stage)	Common name: Bacteria Development stage: Common name: Yeasts Development stage:
Field(s) of use	Indoor in Food and feed industry: Disinfection of hard/non-porous inner surfaces by CIP procedures (with circulation)

Application method(s)	Method: CIP procedures Detailed description: /
Application rate(s) and frequency	Application Rate: at +50 °C Dilution (%): 1 to 4 % Number and timing of application: At +50 °C Active against bacteria and yeasts: — with prior cleaning: 2 % (with 0,44 % Lactic acid) in two minutes contact time/1 % in 30 minutes contact time — without prior cleaning: 4 % (with 0,88 % Lactic acid) in two minutes contact time Or 1 % (0,22 % Lactic acid) in 30 minutes contact time — in milky conditions: 2 % (with 0,44 % Lactic acid) in 15 minutes contact time
Category(ies) of users	Professional
Pack sizes and packaging material	1 L, 5 L, 10 L, 20 L, 25 L, 30 L, 60 L, 200 L, 220 L, 600 L, 1 000 L, 1 100 L 1 kg, 5 kg, 10 kg, 20 kg, 25 kg, 30 kg, 60 kg, 200 kg, 220 kg, 600 kg, 1 000 kg, 1 100 kg HDPE (High Density Polyethylene)

4.1.1. *Use-specific instructions for use*

See general directions for use for Meta SPC 12

4.1.2. *Use-specific risk mitigation measures*

See general directions for use for Meta SPC 12

4.1.3. *Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment*

See general directions for use for Meta SPC 12

4.1.4. *Where specific to the use, the instructions for safe disposal of the product and its packaging*

See general directions for use for Meta SPC 12

4.1.5. *Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage*

See general directions for use for Meta SPC 12

4.2. **Use description**

Table 26

Use # 2 – Inner surface disinfection by CIP without circulation

Product type	PT04 – Food and feed area (Disinfectants)
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Where relevant, an exact description of the authorised use	Not relevant
Target organism(s) (including development stage)	Scientific name: other: bacteria Common name: Bacteria Development stage: Scientific name: other: yeast Common name: Yeasts Development stage:
Field(s) of use	Indoor in Food and feed industry: Disinfection of hard/non-porous inner surfaces by CIP procedures (without circulation)
Application method(s)	Method: CIP procedures Detailed description: /
Application rate(s) and frequency	Application Rate: At +50 °C Dilution (%): 2 % or 4 % Number and timing of application: At +50 °C Active against bacteria and yeasts: — with prior cleaning: 2 % (with 0,44 % Lactic acid) in two minutes contact time — without prior cleaning: 4 % (with 0,88 % Lactic acid) in two minutes contact time Or 2 % (with 0,44 % Lactic acid) in 30 minutes contact time
Category(ies) of users	Professional
Pack sizes and packaging material	1 L, 5 L, 10 L, 20 L, 25 L, 30 L, 60 L, 200 L, 220 L, 600 L, 1 000 L, 1 100 L 1 kg, 5 kg, 10 kg, 20 kg, 25 kg, 30 kg, 60 kg, 200 kg, 220 kg, 600 kg, 1 000 kg, 1 100 kg HDPE (High Density Polyethylene)

4.2.1. Use-specific instructions for use

See general directions for use for Meta SPC 12

4.2.2. Use-specific risk mitigation measures

See general directions for use for Meta SPC 12

4.2.3. Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment

See general directions for use for Meta SPC 12

4.2.4. Where specific to the use, the instructions for safe disposal of the product and its packaging

See general directions for use for Meta SPC 12

4.2.5. Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage

See general directions for use for Meta SPC 12

4.3. Use description

Table 27

Use # 3 – Crate wash

Product type	PT04 – Food and feed area (Disinfectants)
Where relevant, an exact description of the authorised use	Not relevant
Target organism(s) (including development stage)	Common name: Bacteria Development stage: Common name: Yeasts Development stage:
Field(s) of use	Indoor Indoor – in Food and feed industry disinfection of hard/non-porous surfaces in crate washers
Application method(s)	Method: Crate wash Detailed description: /
Application rate(s) and frequency	Application Rate: At +50 °C Dilution (%): 2 % or 4 % Number and timing of application: At +50 °C Active against bacteria and yeasts: — With prior cleaning: 2 % (with 0,44 % Lactic acid) in two minutes contact — without prior cleaning: 4 % (with 0,88 % Lactic acid) in two minutes contact
Category(ies) of users	Professional
Pack sizes and packaging material	1 L, 5 L, 10 L, 20 L, 25 L, 30 L, 60 L, 200 L, 220 L, 600 L, 1 000 L, 1 100 L 1 kg, 5 kg, 10 kg, 20 kg, 25 kg, 30 kg, 60 kg, 200 kg, 220 kg, 600 kg, 1 000 kg, 1 100 kg HDPE (High Density Polyethylene)

4.3.1. Use-specific instructions for use

See general directions for use for Meta SPC 12

4.3.2. Use-specific risk mitigation measures

See general directions for use for Meta SPC 12

4.3.3. Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment

See general directions for use for Meta SPC 12

4.3.4. Where specific to the use, the instructions for safe disposal of the product and its packaging

See general directions for use for Meta SPC 12

4.3.5. *Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage*

See general directions for use for Meta SPC 12

5. GENERAL DIRECTIONS FOR USE ⁽¹²⁾ OF THE META SPC 12

5.1. **Instructions for use**

Products must be diluted in potable water before use.

5.2. **Risk mitigation measures**

Gloves and goggles are needed during mixing and loading.

Wear protective coverall (to be specified by the authorisation holder within the product information).

5.3. **Particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment**

IF INHALED: Move to fresh air and keep at rest in a position comfortable for breathing. If symptoms: Call 112/ambulance for medical assistance. If no symptoms: Call a POISON CENTRE or a doctor.

IF ON SKIN: Immediately wash skin with plenty of water. Thereafter take off all contaminated clothing and wash it before reuse. Continue to wash the skin with water for 15 minutes. Call a POISON CENTRE or a doctor.

IF IN EYES: Immediately rinse with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing for at least 15 minutes. Immediately call a Call 112/ambulance for medical assistance.

IF SWALLOWED: Immediately rinse mouth. Give something to drink, if exposed person is able to swallow. Do NOT induce vomiting. Call 112/ambulance for medical assistance

5.4. **Instructions for safe disposal of the product and its packaging**

The packing and content must be eliminated as dangerous waste product under the whole responsibility of the possessor of this waste product. Do not throw wastes into sewers and watercourses. Dispose in a safe manner in accordance with local/national regulations.

5.5. **Conditions of storage and shelf-life of the product under normal conditions of storage**

Keep only in the original container in a cool, well ventilated place. Keep container closed when not in use.

The shelf-life of the products is 2 years.

6. OTHER INFORMATION

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7. THIRD INFORMATION LEVEL: INDIVIDUAL PRODUCTS IN THE META SPC 12

7.1. **Trade name(s), authorisation number and specific composition of each individual product**

Trade name(s)	Pho Cid L	Market area: EU
	Tornax 100	Market area: EU
	Tornax Des	Market area: EU

⁽¹²⁾ Instructions for use, risk mitigation measures and other directions for use under this section are valid for any authorised uses within the meta SPC 12.

	Lacto CIP		Market area: EU		
	Pho Cid Eco		Market area: EU		
Authorisation number	EU-0027740-0014 1-12				
Common name	IUPAC name	Function	CAS number	EC number	Content (%)
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	22,0
C6 alkyl glucoside	Hexyl D-Glucoside	Non-active substance	54549-24-5	259-217-6	2,4
Methanesulfonic acid	Methanesulfonic acid	Non-active substance	75-75-2	200-898-6	10,5

7.2. Trade name(s), authorisation number and specific composition of each individual product

Trade name(s)	Pho Cid LS		Market area: EU		
Authorisation number	EU-0027740-0015 1-12				
Common name	IUPAC name	Function	CAS number	EC number	Content (%)
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	22,0
C6 alkyl glucoside	Hexyl D-Glucoside	Non-active substance	54549-24-5	259-217-6	2,4
Sulphuric acid	Sulphuric acid	Non-active substance	7664-93-9	231-639-5	10,5

META SPC 13

1. META SPC 13 ADMINISTRATIVE INFORMATION

1.1. Meta SPC 13 identifier

Identifier	Meta SPC 13: Hard surface disinfectants (PT4)
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1.2. Suffix to the authorisation number

Number	1-13
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1.3. Product type(s)

Product type(s)	PT04 – Food and feed area (Disinfectants)
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2. META SPC 13 COMPOSITION

2.1. Qualitative and quantitative information on the composition of the meta SPC 13

Common name	IUPAC name	Function	CAS number	EC number	Content (%)	
					Min	Max
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	11,0	11,0
Sodium Lauryl sulphate	Sulfuric acid, mono-C12-14-alkyl esters, sodium salts	Non-active substance	85586-07-8	287-809-4	4,5	4,5
Methanesulfonic acid	Methanesulfonic acid	Non-active substance	75-75-2	200-898-6	10,5	19,5

2.2. Type(s) of formulation of the meta SPC 13

Formulation(s)	SL – Soluble concentrate
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3. HAZARD AND PRECAUTIONARY STATEMENTS OF THE META SPC 13

Hazard statements	May be corrosive to metals. Causes severe skin burns and eye damage.
Precautionary statements	Keep only in original packaging. Do not breathe vapours. Wash hands thoroughly after handling. Wear protective gloves. Wear protective clothing. Wear eyes/face protection. IF SWALLOWED: Rinse mouth. Do NOT induce vomiting. IF ON SKIN (or hair): Take off immediately all contaminated clothing. Rinse skin with water. IF INHALED: Remove person to fresh air and keep comfortable for breathing. IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing. Immediately call a doctor. Absorb spillage to prevent material damage. Wash contaminated clothing before reuse. Store locked up. Dispose of contents to hazardous or special waste collection point, in accordance with local, regional, national and/or international regulation. Dispose of container to hazardous or special waste collection point, in accordance with local, regional, national and/or international regulation.

4. AUTHORISED USE(S) OF THE META SPC 13

4.1. Use description

Table 28

Use # 1 – Hard surface disinfection (PT4)

Product type	PT04 – Food and feed area (Disinfectants)
Where relevant, an exact description of the authorised use	Not relevant
Target organism(s) (including development stage)	Scientific name: other: bacteria Common name: Bacteria Development stage: Scientific name: other: yeast Common name: Yeasts Development stage:
Field(s) of use	Indoor Food/feed areas Disinfection of hard/non-porous surfaces by foaming
Application method(s)	Method: By foaming Detailed description: /
Application rate(s) and frequency	Application Rate: At room temperature in 30 minutes contact time Active against bacteria and yeasts: – with prior cleaning: 1 % – without prior cleaning: 5 % Dilution (%): 1 or 5 % Number and timing of application: At room temperature in 30 minutes contact time Active against bacteria and yeasts: — with prior cleaning: 1 % (with 0,11 % Lactic acid) — without prior cleaning: 5 % (with 0,55 % Lactic acid)
Category(ies) of users	Professional
Pack sizes and packaging material	1 L, 5 L, 10 L, 20 L, 25 L, 30 L, 60 L, 200 L, 220 L, 600 L, 1 000 L, 1 100 L 1 kg, 5 kg, 10 kg, 20 kg, 25 kg, 30 kg, 60 kg, 200 kg, 220 kg, 600 kg, 1 000 kg, 1 100 kg HDPE (High Density Polyethylene)

4.1.1. Use-specific instructions for use

See general directions for use for Meta SPC 13

4.1.2. Use-specific risk mitigation measures

See general directions for use for Meta SPC 13

4.1.3. Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment

See general directions for use for Meta SPC 13

4.1.4. *Where specific to the use, the instructions for safe disposal of the product and its packaging*

See general directions for use for Meta SPC 13

4.1.5. *Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage*

See general directions for use for Meta SPC 13

5. GENERAL DIRECTIONS FOR USE ⁽¹³⁾ OF THE META SPC 13

5.1. **Instructions for use**

The surfaces to be disinfected must be wet enough in order to be kept wet during the preconised contact time for optimal disinfection.

The following precautionary sentence shall be added on the product label: 'Make sure to wet surfaces completely'.

Products must be diluted in potable water before use.

5.2. **Risk mitigation measures**

Gloves and goggles are needed during mixing and loading.

Wear protective coverall (to be specified by the authorisation holder within the product information).

5.3. **Particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment**

IF INHALED: Move to fresh air and keep at rest in a position comfortable for breathing. If symptoms: Call 112/ambulance for medical assistance. If no symptoms: Call a POISON CENTRE or a doctor.

IF ON SKIN: Immediately wash skin with plenty of water. Thereafter take off all contaminated clothing and wash it before reuse. Continue to wash the skin with water for 15 minutes. Call a POISON CENTRE or a doctor

IF IN EYES: Immediately rinse with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing for at least 15 minutes. Immediately call 112/ambulance for medical assistance.

IF SWALLOWED: Immediately rinse mouth. Give something to drink, if exposed person is able to swallow. Do NOT induce vomiting. Call 112/ambulance for medical assistance

5.4. **Instructions for safe disposal of the product and its packaging**

The packing and content must be eliminated as dangerous waste product under the full responsibility of the possessor of this waste product. Do not throw wastes into sewers and watercourses. Dispose in a safe manner in accordance with local/national regulations.

5.5. **Conditions of storage and shelf-life of the product under normal conditions of storage**

Keep only in the original container in a cool, well ventilated place. Keep container closed when not in use.

The shelf-life of the products is two years.

6. OTHER INFORMATION

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⁽¹³⁾ Instructions for use, risk mitigation measures and other directions for use under this section are valid for any authorised uses within the meta SPC 13.

7. THIRD INFORMATION LEVEL: INDIVIDUAL PRODUCTS IN THE META SPC 13

7.1. Trade name(s), authorisation number and specific composition of each individual product

Trade name(s)	Tornax L		Market area: EU		
	Lacto Cid		Market area: EU		
Authorisation number	EU-0027740-0016 1-13				
Common name	IUPAC name	Function	CAS number	EC number	Content (%)
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	11,0
Sodium Lauryl sulphate	Sulfuric acid, mono-C12-14-alkyl esters, sodium salts	Non-active substance	85586-07-8	287-809-4	4,5
Methanesulfonic acid	Methanesulfonic acid	Non-active substance	75-75-2	200-898-6	10,5

META SPC 14

1. META SPC 14 ADMINISTRATIVE INFORMATION

1.1. Meta SPC 14 identifier

Identifier	Meta SPC 14: Ready to use hygienic handrub (PT1)
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1.2. Suffix to the authorisation number

Number	1-14
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1.3. Product type(s)

Product type(s)	PT01 – Human hygiene (Disinfectants)
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2. META SPC 14 COMPOSITION

2.1. Qualitative and quantitative information on the composition of the meta SPC 14

Common name	IUPAC name	Function	CAS number	EC number	Content (%)	
					Min	Max
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	3,6	3,6

Sodium Lauryl sulphate	Sulfuric acid, mono-C12-14-alkyl esters, sodium salts	Non-active substance	85586-07-8	287-809-4	2,0	2,0
Isopropanol	Propan-2-ol	Non-active substance	67-63-0	200-661-7	4,0	4,0
Butyldiglycol	2-(2-butoxyethoxy) ethanol	Non-active substance	112-34-5	203-961-6	10,0	10,0

2.2. Type(s) of formulation of the meta SPC 14

Formulation(s)	AL – Any other liquid
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3. HAZARD AND PRECAUTIONARY STATEMENTS OF THE META SPC 14

Hazard statements	Causes serious eye damage.
Precautionary statements	Wear eye/face protection. IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing. Immediately call a doctor.

4. AUTHORISED USE(S) OF THE META SPC 14

4.1. Use description

Table 29

Use # 1 – Hygienic handrub, for professional use (PT1)

Product type	PT01 – Human hygiene (Disinfectants)
Where relevant, an exact description of the authorised use	Not relevant
Target organism(s) (including development stage)	Scientific name: other: bacteria Common name: Bacteria Development stage: Scientific name: other: yeast Common name: Yeasts Development stage:
Field(s) of use	Indoor in Food/feed industry; Public field; Kitchens Hygienic handrub, on visibly clean hands
Application method(s)	Method: By rubbing the hands Detailed description: /

Application rate(s) and frequency	Application Rate: 6 mL of product Dilution (%): - Number and timing of application: Active against bacteria and yeasts: RTU (with 3,6 % Lactic acid) 6 mL (that is three pushes for both hands together) One minute contact time
Category(ies) of users	Professional
Pack sizes and packaging material	50 mL, 75 mL, 100 mL, 150 mL, 500 mL, 1L, 5L, 10L, 20 L, 25 L, 30 L, 60 L, 200 L, 220 L, 600 L, 1 000L, 1 100 L HDPE (High Density Polyethylene)

4.1.1. *Use-specific instructions for use*

See general directions for use for Meta SPC 14

4.1.2. *Use-specific risk mitigation measures*

/

4.1.3. *Where specific to the use, the particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment*

See general directions for use for Meta SPC 14

4.1.4. *Where specific to the use, the instructions for safe disposal of the product and its packaging*

See general directions for use for Meta SPC 14

4.1.5. *Where specific to the use, the conditions of storage and shelf-life of the product under normal conditions of storage*

See general directions for use for Meta SPC 14

5. GENERAL DIRECTIONS FOR USE ⁽¹⁴⁾ OF THE META SPC 14

5.1. **Instructions for use**

Apply 6 ml of the product undiluted. Respect a contact time of 1 minute. Rinse thoroughly after disinfection.

For professional use only

5.2. **Risk mitigation measures**

/

5.3. **Particulars of likely direct or indirect effects, first aid instructions and emergency measures to protect the environment**

IF ON SKIN: Immediately wash skin with plenty of water. Thereafter take off all contaminated clothing and wash it before reuse. Continue to wash the skin with water for 15 minutes. Call a POISON CENTRE or a doctor.

IF INHALED: If symptoms occur call a POISON CENTRE or a doctor.

⁽¹⁴⁾ Instructions for use, risk mitigation measures and other directions for use under this section are valid for any authorised uses within the meta SPC 14.

IF IN EYES: Immediately rinse with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing for at least 15 minutes. Immediately call 112/ambulance for medical assistance.

IF SWALLOWED: Immediately rinse mouth. Give something to drink, if exposed person is able to swallow. Do NOT induce vomiting. Call 112/ambulance for medical assistance

5.4. Instructions for safe disposal of the product and its packaging

The packing and content must be eliminated as dangerous waste product under the full responsibility of the possessor of this waste product. Do not throw wastes into sewers and watercourses. Dispose in a safe manner in accordance with local/national regulations.

5.5. Conditions of storage and shelf-life of the product under normal conditions of storage

Keep only in the original container in a cool, well ventilated place. Keep container closed when not in use.

The shelf-life of the products is two years.

6. OTHER INFORMATION

/

7. THIRD INFORMATION LEVEL: INDIVIDUAL PRODUCTS IN THE META SPC 14

7.1. Trade name(s), authorisation number and specific composition of each individual product

Trade name(s)	Kenosan Hand Rub		Market area: EU		
Authorisation number	EU-0027740-0017 1-14				
Common name	IUPAC name	Function	CAS number	EC number	Content (%)
L-(+)-lactic acid		Active Substance	79-33-4	201-196-2	3,6
Sodium Lauryl sulphate	Sulfuric acid, mono-C12-14-alkyl esters, sodium salts	Non-active substance	85586-07-8	287-809-4	2,0
Isopropanol	Propan-2-ol	Non-active substance	67-63-0	200-661-7	4,0
Butyldiglycol	2-(2-butoxyethoxy) ethanol	Non-active substance	112-34-5	203-961-6	10,0

COMMISSION REGULATION (EU) 2022/1392
of 11 August 2022
amending Regulation (EC) No 1126/2008 as regards International Accounting Standard 12
(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards ⁽¹⁾, and in particular Article 3(1) thereof,

Whereas:

- (1) By Commission Regulation (EC) No 1126/2008 ⁽²⁾ certain international accounting standards and interpretations that were in existence on 15 October 2008 were adopted.
- (2) On 7 May 2021, the International Accounting Standards Board published amendments to International Accounting Standard (IAS) 12 *Income Taxes*. Those amendments clarify how companies are to account for deferred taxes on transactions such as leases and decommissioning obligations and aim to reduce diversity in the reporting of deferred tax assets and liabilities on leases and decommissioning obligations.
- (3) By way of consequence of the amendments to IAS 12 *Income Taxes*, International Financial Reporting Standard (IFRS) 1 *First-time Adoption of International Financial Reporting Standards* was also amended in order to ensure consistency between those standards.
- (4) Following the consultation with the European Financial Reporting Advisory Group, the Commission concludes that the amendments to IAS 12 *Income Taxes* meet the criteria for adoption set out in Article 3(2) of Regulation (EC) No 1606/2002.
- (5) Regulation (EC) No 1126/2008 should therefore be amended accordingly.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Accounting Regulatory Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 1126/2008 is amended as follows:

- (1) International Accounting Standard (IAS) 12 *Income Taxes* is amended as set out in the Annex to this Regulation;
- (2) International Financial Reporting Standard (IFRS) 1 *First-time Adoption of International Financial Reporting Standards* is amended in accordance with the amendments to IAS 12 *Income Taxes* as set out in the Annex to this Regulation.

Article 2

Each company shall apply the amendments referred to in Article 1, at the latest, as from the commencement date of its first financial year starting on or after 1 January 2023.

⁽¹⁾ OJ L 243, 11.9.2002, p. 1.

⁽²⁾ Commission Regulation (EC) No 1126/2008 of 3 November 2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council (OJ L 320, 29.11.2008, p. 1).

Article 3

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

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

Done at Brussels, 11 August 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Deferred Tax related to Assets and Liabilities arising from a Single Transaction

Amendments to IAS 12

Amendments to IAS 12 *Income Taxes*

Paragraphs 15, 22 and 24 are amended. Paragraphs 22A and 98J–98L are added.

RECOGNITION OF DEFERRED TAX LIABILITIES AND DEFERRED TAX ASSETS

Taxable temporary differences

- 15 **A deferred tax liability shall be recognised for all taxable temporary differences, except to the extent that the deferred tax liability arises from:**
- (a) **the initial recognition of goodwill; or**
 - (b) **the initial recognition of an asset or liability in a transaction which:**
 - (i) **is not a business combination;**
 - (ii) **at the time of the transaction, affects neither accounting profit nor taxable profit (tax loss); and**
 - (iii) **at the time of the transaction, does not give rise to equal taxable and deductible temporary differences.**

...

Initial recognition of an asset or liability

- 22 A temporary difference may arise on initial recognition of an asset or liability, for example if part or all of the cost of an asset will not be deductible for tax purposes. The method of accounting for such a temporary difference depends on the nature of the transaction that led to the initial recognition of the asset or liability:
- (a) in a business combination, an entity recognises any deferred tax liability or asset and this affects the amount of goodwill or bargain purchase gain it recognises (see paragraph 19);
 - (b) if the transaction affects either accounting profit or taxable profit, or gives rise to equal taxable and deductible temporary differences, an entity recognises any deferred tax liability or asset and recognises the resulting deferred tax expense or income in profit or loss (see paragraph 59);
 - (c) if the transaction is not a business combination, affects neither accounting profit nor taxable profit and does not give rise to equal taxable and deductible temporary differences, an entity would, in the absence of the exemption provided by paragraphs 15 and 24, recognise the resulting deferred tax liability or asset and adjust the carrying amount of the asset or liability by the same amount. Such adjustments would make the financial statements less transparent. Therefore, this Standard does not permit an entity to recognise the resulting deferred tax liability or asset, either on initial recognition or subsequently (see example below). Furthermore, an entity does not recognise subsequent changes in the unrecognised deferred tax liability or asset as the asset is depreciated.

...

- 22A A transaction that is not a business combination may lead to the initial recognition of an asset and a liability and, at the time of the transaction, affect neither accounting profit nor taxable profit. For example, at the commencement date of a lease, a lessee typically recognises a lease liability and the corresponding amount as part of the cost of a right-of-use asset. Depending on the applicable tax law, equal taxable and deductible temporary differences may arise on initial recognition of the asset and liability in such a transaction. The exemption provided by paragraphs 15 and 24 does not apply to such temporary differences and an entity recognises any resulting deferred tax liability and asset.

...

Deductible temporary differences

- 24 A deferred tax asset shall be recognised for all deductible temporary differences to the extent that it is probable that taxable profit will be available against which the deductible temporary difference can be utilised, unless the deferred tax asset arises from the initial recognition of an asset or liability in a transaction that:
- (a) is not a business combination;
 - (b) at the time of the transaction, affects neither accounting profit nor taxable profit (tax loss); and
 - (c) at the time of the transaction, does not give rise to equal taxable and deductible temporary differences.

...

EFFECTIVE DATE

...

- 98J *Deferred Tax related to Assets and Liabilities arising from a Single Transaction*, issued in May 2021, amended paragraphs 15, 22 and 24 and added paragraph 22A. An entity shall apply these amendments in accordance with paragraphs 98K–98L for annual reporting periods beginning on or after 1 January 2023. Earlier application is permitted. If an entity applies the amendments for an earlier period, it shall disclose that fact.
- 98K An entity shall apply *Deferred Tax related to Assets and Liabilities arising from a Single Transaction* to transactions that occur on or after the beginning of the earliest comparative period presented.
- 98L An entity applying *Deferred Tax related to Assets and Liabilities arising from a Single Transaction* shall also, at the beginning of the earliest comparative period presented:
- (a) recognise a deferred tax asset—to the extent that it is probable that taxable profit will be available against which the deductible temporary difference can be utilised—and a deferred tax liability for all deductible and taxable temporary differences associated with:
 - (i) right-of-use assets and lease liabilities; and
 - (ii) decommissioning, restoration and similar liabilities and the corresponding amounts recognised as part of the cost of the related asset; and
 - (b) recognise the cumulative effect of initially applying the amendments as an adjustment to the opening balance of retained earnings (or other component of equity, as appropriate) at that date.

Amendments to IFRS 1 *First-time Adoption of International Financial Reporting Standards*

Paragraph 39AH is added. In Appendix B, paragraph B1 is amended and paragraph B14 and its heading are added.

EFFECTIVE DATE

...

- 39AH *Deferred Tax related to Assets and Liabilities arising from a Single Transaction*, issued in May 2021, amended paragraph B1 and added paragraph B14. An entity shall apply these amendments for annual reporting periods beginning on or after 1 January 2023. Earlier application is permitted. If an entity applies the amendments for an earlier period, it shall disclose that fact.

...

*Appendix B***Exceptions to the retrospective application of other IFRSs**

This appendix is an integral part of the IFRS.

B1 An entity shall apply the following exceptions:

...

- (g) government loans (paragraphs B10–B12);
- (h) insurance contracts (paragraph B13); and
- (i) deferred tax related to leases and decommissioning, restoration and similar liabilities (paragraph B14).

...

DEFERRED TAX RELATED TO LEASES AND DECOMMISSIONING, RESTORATION AND SIMILAR LIABILITIES

B14 Paragraphs 15 and 24 of IAS 12 *Income Taxes* exempt an entity from recognising a deferred tax asset or liability in particular circumstances. Despite this exemption, at the date of transition to IFRSs, a first-time adopter shall recognise a deferred tax asset—to the extent that it is probable that taxable profit will be available against which the deductible temporary difference can be utilised—and a deferred tax liability for all deductible and taxable temporary differences associated with:

- (a) right-of-use assets and lease liabilities; and
- (b) decommissioning, restoration and similar liabilities and the corresponding amounts recognised as part of the cost of the related asset.

COMMISSION REGULATION (EU) 2022/1393
of 11 August 2022
amending Regulation (EC) No 1881/2006 as regards maximum levels of delta-9-tetrahydrocannabinol
(Δ^9 -THC) in hemp seeds and products derived therefrom

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EEC) No 315/93 of 8 February 1993 laying down Community procedures for contaminants in food ⁽¹⁾, and in particular Article 2(3) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1881/2006 ⁽²⁾ sets maximum levels for certain contaminants in foodstuffs.
- (2) In 2015, the European Food Safety Authority ('the Authority') Panel on Contaminants in the Food Chain adopted a scientific opinion on the risks to human health related to the presence of tetrahydrocannabinol (THC) in milk and other food of animal origin ⁽³⁾. THC, more precisely Δ^9 -THC, is the most relevant constituent of the hemp plant *Cannabis sativa*. The Authority established an acute reference dose (ARfD) of 1 μg Δ^9 -THC/kg body weight (bw).
- (3) In order to obtain more data on the presence of Δ^9 -THC and other relevant non-psycho-active precursors in hemp-derived foods and foods containing hemp or hemp-derived ingredients, Commission Recommendation (EU) 2016/2115 ⁽⁴⁾ was adopted.
- (4) On 7 January 2020, the Authority published a scientific report assessing acute human exposure to Δ^9 -THC ⁽⁵⁾, taking into account the occurrence data generated through Recommendation (EU) 2016/2115. The ARfD of 1 μg /kg bw was exceeded in certain acute exposure estimates. Although the exposure estimates are expected to overestimate acute exposure to Δ^9 -THC in the Union, the current exposure to Δ^9 -THC is a potential health concern.
- (5) Maximum levels should therefore be set in hemp seeds and hemp seed derived products to ensure a high level of human health protection. Since delta-9-tetrahydrocannabinolic acid (Δ^9 -THCA) can be converted into Δ^9 -THC through processing, the maximum levels should be set for the sum of Δ^9 -THC and Δ^9 -THCA, expressed in Δ^9 -THC equivalents.
- (6) Regulation (EC) No 1881/2006 should therefore be amended accordingly.
- (7) To enable economic operators to prepare for the new rules introduced by this Regulation, it is appropriate to provide for a reasonable time until the maximum levels apply. It is also appropriate to provide for a transitional period for foodstuffs lawfully placed on the market before the date of application of this Regulation.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

⁽¹⁾ OJ L 37, 13.2.1993, p. 1.

⁽²⁾ Commission Regulation (EC) No 1881/2006 of 19 December 2006 setting maximum levels for certain contaminants in foodstuffs (OJ L 364, 20.12.2006, p. 5).

⁽³⁾ European Food Safety Authority (EFSA) Journal 2015;13(6):4141

⁽⁴⁾ Commission Recommendation (EU) 2016/2115 of 1 December 2016 on the monitoring of the presence of Δ^9 -tetrahydrocannabinol, its precursors and other cannabinoids in food (OJ L 327, 2.12.2016, p. 103).

⁽⁵⁾ EFSA (European Food Safety Authority), Arcella D, Cascio C and Mackay K, 2020. Acute human exposure assessment to tetrahydrocannabinol (Δ^9 -THC). EFSA Journal 2020;18(1):5953, 41 pp. <https://doi.org/10.2903/j.efsa.2020.5953>

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 1881/2006 is amended in accordance with the Annex to this Regulation.

Article 2

Foodstuffs listed in the Annex, lawfully placed on the market before 1 January 2023, may remain on the market until their date of minimum durability or use-by date.

Article 3

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

It shall apply from 1 January 2023.

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

Done at Brussels, 11 August 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

In Section 8 of the Annex to Regulation (EC) No 1881/2006, the following entry 8.6 is added:

Foodstuffs		Maximum level (mg/kg)
'8.6.	Delta-9-tetrahydrocannabinol (Δ^9-THC) equivalents (*)	
8.6.1.	Hemp seeds	3,0
8.6.2.	Ground hemp seeds, (partially) defatted hemp seed and other hemp seed derived/processed products (**) with the exception of the products referred to in 8.6.3.	3,0
8.6.3.	Hemp seed oil	7,5

(*) the maximum level refers to the sum of delta-9-tetrahydrocannabinol (Δ^9 -THC) and delta-9-tetrahydrocannabinolic acid (Δ^9 -THCA), expressed as Δ^9 -THC. A factor of 0,877 is applied to the level of Δ^9 -THCA and the maximum level refers to the sum of Δ^9 -THC + 0,877 x Δ^9 -THCA (in case of a separate determination and quantification of Δ^9 -THC and Δ^9 -THCA).

(**) hemp seed derived/processed products are products derived/processed exclusively from hemp seeds.'

COMMISSION IMPLEMENTING REGULATION (EU) 2022/1394**of 11 August 2022**

imposing a definitive anti-dumping duty on imports of silicon originating in the People's Republic of China, as extended to imports of silicon consigned from the Republic of Korea and from Taiwan, whether declared as originating in the Republic of Korea or Taiwan or not, following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and the Council

THE EUROPEAN COMMISSION,

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

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

Whereas:

1. PROCEDURE**1.1. Measures in force**

- (1) The measures currently in force are a definitive anti-dumping duty on imports of silicon originating in the People's Republic of China imposed by Commission Implementing Regulation (EU) 2016/1077 ⁽²⁾ following an expiry review pursuant to Article 11(2) and a partial interim review pursuant to Article 11(3) of Council Regulation (EC) No 1225/2009 ⁽³⁾ ('the previous review investigation'). The measures are in the form of duties ranging between 16,3 % and 16,8 % of the value of the imported goods.
- (2) The measures were extended to imports consigned from the Republic of Korea whether declared as originating in the Republic of Korea or not by Council Regulation (EC) No 42/2007 ⁽⁴⁾.
- (3) The measures were further extended to imports consigned from Taiwan, whether declared as originating in Taiwan or not by Council Implementing Regulation (EU) No 311/2013 ⁽⁵⁾.

1.2. Request for an expiry review

- (4) Following the publication of a notice of impending expiry ⁽⁶⁾ the European Commission ('the Commission') received a request for a review pursuant to Article 11(2) of the basic Regulation.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Commission Implementing Regulation (EU) 2016/1077 of 1 July 2016 imposing a definitive antidumping duty on imports of silicon originating in the People's Republic of China following an expiry review under Article 11(2) and a partial interim review under Article 11(3) of Council Regulation (EC) No 1225/2009 (OJ L 179, 5.7.2016, p. 1).

⁽³⁾ Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ L 343, 22.12.2009, p. 51).

⁽⁴⁾ Council Regulation (EC) No 42/2007 of 15 January 2007 extending the definitive anti-dumping duty imposed by Regulation (EC) No 398/2004 on imports of silicon originating in the People's Republic of China to imports of silicon consigned from the Republic of Korea whether declared as originating in the Republic of Korea or not (OJ L 13, 19.1.2007, p. 1).

⁽⁵⁾ Council Implementing Regulation (EU) No 311/2013 of 3 April 2013 extending the definitive antidumping duty imposed by Implementing Regulation (EU) No 467/2010 on imports of silicon originating in the People's Republic of China to imports of silicon consigned from Taiwan, whether declared as originating in Taiwan or not (OJ L 95, 5.4.2013, p. 1).

⁽⁶⁾ OJ C 331, 7.10.2020, p. 13.

- (5) The request for review was submitted on 30 March 2021 by Euroalliages ('the applicant'), an association that represents all three of the Union producers, which therefore represents more than 25 % of the total Union production of silicon, in the sense of Article 5(4) of the basic Regulation. The request for review was based on the grounds that the expiry of the measures would be likely to result in continuation of dumping and continuation of injury to the Union industry.

1.3. Initiation of an expiry review

- (6) Having determined, after consulting the Committee established by Article 15(1) of the basic Regulation, that sufficient evidence existed for the initiation of an expiry review, on 2 July 2021 the Commission initiated an expiry review with regard to imports into the Union of silicon originating in People's Republic of China ('China' or 'the country concerned') on the basis of Article 11(2) of the basic Regulation. It published a Notice of Initiation in the *Official Journal of the European Union* ⁽⁷⁾ ('the Notice of Initiation').

1.4. Review investigation period and period considered

- (7) The investigation of continuation or recurrence of dumping covered the period from 1 July 2020 to 30 June 2021 ('the review investigation period' or 'RIP'). The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2018 to the end of the review investigation period ('the period considered').

1.5. Interested parties

- (8) In the Notice of Initiation, interested parties were invited to contact the Commission in order to participate in the investigation. In addition, the Commission informed the three Union producers representing 100 % of the Union industry, the known producers in China and the authorities of the country concerned, the known importers, users, as well as associations known to be concerned about the initiation of the investigation and invited them to participate.
- (9) Interested parties had an opportunity to comment on the initiation of the expiry review and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

1.6. Comments on initiation

- (10) Comments were received from EUSMET regarding the initiation of the expiry review.
- (11) EUSMET claimed that the state of the non-confidential request for review did not comply with the requirements of Article 19(1) and 19(2) of the basic Regulation.
- (12) This argument was rejected. Following the relevant comments from EUSMET, the applicant provided additional information to further facilitate the understanding of the facts presented in the request. This additional information has been included in the file for inspection by interested parties, thereby making it possible for EUSMET to have a reasonable understanding of the confidential information in accordance with Article 19(2) of the basic Regulation.
- (13) The Commission therefore considered the information provided in the non-confidential version of the request to be sufficiently detailed for the interested parties to exercise their rights of defence throughout the proceeding.
- (14) In their comments on initiation EUSMET requested that at disclosure stage the Commission should disclose information concerning the quantities of factors of production used to calculate the normal value; and the Commission should also disclose the AlloyConsult report referred to in the request for review.
- (15) EUSMET reiterated these two requests in their comments after disclosure. As set out in recitals 178 to 181 and recital 191, both claims have been rejected.

⁽⁷⁾ OJ C 258, 2.7.2021, p. 8.

1.6.1. *Comments on substance*

- (16) EUSMET claimed that the request for review did not contain sufficient evidence to initiate an expiry review and that it contained incorrect allegations concerning dumping, the continuation of dumping, injury, and the continuation of injury. EUSMET supported its allegations by the following arguments.
- (17) First, EUSMET alleged there was a six-month gap between the end of the period used to present the data and the filing of the review request.
- (18) With regard to this argument, the Commission pointed out that considering the time until the data from various sources become available and the time needed to compile them in a request, there is inherently a time gap, typically of several months until the request is lodged. In this case, acceptance of a 6-month difference is compliant with the established guidance the Commission provides to the complainants.
- (19) Second, EUSMET claimed that the applicant excluded the imports made under the inward processing from China from the dumping and injury margin calculations.
- (20) Before initiation, the Commission analysed both imports with and without inward processing and in both cases it made the necessary adjustments to compare the normal value and the export prices. The Commission noted that the methodology used by the applicant, as well as the methodology where the inward processing would be included, both result in findings of significant dumping. The methodology chosen by the applicant thus could not render the initiation of this expiry review unlawful. Consequently, the argument must be rejected.
- (21) Third, EUSMET claimed that the use of Article 2(6a) of the basic Regulation and the selection of a representative country is WTO-inconsistent, as country-wide distortions are incompatible with the concept of dumping, which applies to individual companies. Furthermore, EUSMET submitted that distortion of the domestic input costs is not one of the factors that permits the construction of normal value under Article 2.2 of the WTO Anti-dumping Agreement ('ADA'). Moreover, by imposing an obligation to use only undistorted input costs reflecting costs/prices from 'sources' not affected by any distortions, Article 2(6a) precludes the calculation of the cost of production for an exporter or producer based on its records even if they are GAAP-consistent and reflect the recorded input costs. Finally, EUSMET claimed that the applicant did not provide sufficient evidence of the existence of distortions in the silicon metal sector.
- (22) EUSMET's arguments concerning the application of Article 2(6a) of the basic Regulation could not be accepted. With respect to the argument that the existence of distortions should not be assessed on a country-wide basis but individually for each exporting producer, the Commission recalls that once it is determined that, due to the existence of significant distortions for the exporting country in accordance with Article 2(6a)(b) of the basic Regulation, it is not appropriate to use domestic prices and costs in the exporting country, the normal value may be constructed using undistorted prices or benchmarks in an appropriate representative country, for each exporting producer, according to Article 2(6a)(a) of the basic Regulation. In this context, and also in response to EUSMET's argument on the use of only undistorted input costs reflecting costs/prices from a representative country not affected by any distortions, the Commission notes that Article 2(6a)(a) of the basic Regulation explicitly allows the use of domestic costs, if they are positively established not to be distorted. The Commission examined this during the investigation. However, since none of the exporting producers cooperated, the costs of production and sale of silicon could not be established as undistorted considering the evidence available.
- (23) As to EUSMET's argument on the concept of distortions not being among the factors that permit the construction of normal value under Article 2.2 of the WTO Anti-dumping Agreement, the Commission points out that domestic law does not need to use the exact same terms as the covered Agreements in order to be compliant with those Agreements. Consequently, the Commission considers Article 2(6a) of the basic Regulation to be fully compliant with the relevant rules of the ADA, including the possibilities to construct normal value provided in Article 2.2 of the ADA. Moreover, the Commission recalls that the WTO law, as interpreted by WTO panels and the Appellate Body, allows the use of data from a third country, duly adjusted when such adjustment is necessary and substantiated. The existence of significant distortions renders costs and prices in the exporting country inappropriate for the construction of normal value. In these circumstances, Article 2(6a) of the basic Regulation envisages the construction of costs of production and sale based on undistorted prices or benchmarks, including those in an appropriate representative country with a similar level of development as the exporting country.

- (24) As for the argument on evidence of the existence of distortions in the silicon metal sector, the Commission found that the applicant provided sufficient evidence of distortions in the silicon metal sector, based on the Commission's Report on distortions in China ⁽⁸⁾, as well as on a more specific independent study of 2018 commissioned by Euroalliages. Although the applicant referred specifically to distortions on raw materials and on electricity in the narrative of the request, they also provided the more detailed reports as an annex. These reports contain ample evidence on all aspects of significant distortions in the sense of Article 2(6a)(b) of the basic Regulation.
- (25) Fourth, EUSMET alleged that the dumping margin calculation was inflated, since the applicant 'cherry-picked' the time periods to calculate the constructed normal value.
- (26) The methodology proposed by the applicant is reasonable, as it was based on data available to the applicant and covering the period used for the dumping calculation (i.e. October 2019 to June 2020). This claim was thus rejected.
- (27) Fifth, concerning the likelihood of continuation of dumping, EUSMET noted that the evidence provided by the applicant was based solely on the analysis of Chinese export prices to India, South Korea and Japan, which were in any case inaccurate.
- (28) The Commission noted that the applicant did not only take into consideration Chinese export prices to other countries, but also referred to the more detailed analysis in chapter VI of the expiry review request, concerning the likelihood of recurrence of injury. This chapter concerns spare capacities in China, as well as Chinese export volumes to the EU and to third countries, which is also relevant for the likelihood of continuation of dumping. Therefore, the Commission considered that the information provided by the applicant was sufficient to satisfy the legal standard for initiation under Article 11(2) of the basic Regulation in respect to the likelihood of continuation of dumping. The applicant also provided a reasonable comparison between the normal value and the export prices to third countries. The adjustments proposed by EUSMET would not have led to a different conclusion, as the Chinese export prices would still have been significantly lower than the normal value. This claim was therefore dismissed.
- (29) Sixth, as concerns the volume of Chinese imports of silicon into the Union, EUSMET claimed that between 2017 and 2020 these have decreased faster than the Union consumption of silicon. In other words, the Chinese exporters could not have taken sales or market share from the Union producers.
- (30) The Commission considered the evidence present in the request as sufficient evidence reasonably available to the applicant. According to the evidence provided in the request and analysed by the Commission, the import volumes from China that would penetrate the Union market in the absence of measures would be likely to increase due to the existence of unused capacity in the country concerned. The effect of such volumes at prices that would in all likelihood continue to undercut the Union industry's prices would be likely to result in continuation of injury to the Union industry. Furthermore, the existence of other factors which may have an impact on the situation of the Union industry does not necessarily imply that the effect of dumped Chinese imports on the Union industry would not be material, in particular in the case of a prospective analysis where the focus lies on what would happen should measures be repealed. Therefore, EUSMET's argument must be rejected.
- (31) Seventh, EUSMET claimed that the price effects analysis and the price undercutting and underselling calculations in the review requests were unrepresentative as they did not take into account the prices of the imports under inward processing. Moreover, EUSMET claimed that the undercutting calculations were wrong because (i) the Chinese import prices of aluminium grade silicon were compared to the EU sales of all silicon metal, which also include the chemical grade, (ii) the post-importation costs have not been added to the Chinese import prices, (iii) no level of trade adjustment was made to the Chinese imports, although these are made via traders to the EU, whereas EU sales are normally made from the Union producers to the end users. Finally, EUSMET claimed that the price underselling calculations were wrong for the same reasons as in the case of the undercutting calculation, in addition to which they were also based on artificially high production costs linked to, inter alia, a 15 % target profit, without any legal basis.

⁽⁸⁾ Commission staff working document SWD(2017) 483 final/2, 20. 12. 2017, available at: https://trade.ec.europa.eu/doclib/docs/2017/december/tradoc_156474.pdf

- (32) The analysis presented by the applicant was based on the basis of the best evidence available to the applicant at the time and the Commission considered it sufficiently representative and reliable and containing sufficient evidence which justified initiation of the investigation.
- (33) Eighth, EUSMET claimed that the Union industry did not face any negative effects on account of the Chinese imports. EUSMET alleged that chemical and aluminium grade silicon are different and that whilst the Union industry's sales are mostly related to chemical grade silicon, imports from China under the normal regime are rather low-quality imports for the secondary aluminium market. Therefore, EUSMET requested the Commission to carry out a segmented injury analysis for the chemical and aluminium silicon grades. Such a request was reiterated in EUSMET's comments after disclosure, but this argument must be rejected. The Commission refers in this respect to section 2.3 below which analyses product homogeneity.
- (34) Ninth, EUSMET submitted that the Union consumption declined between 2018 and 2020, for both cyclical reasons and due to the COVID-19 pandemic outbreak. EUSMET therefore claimed that Chinese imports had no impact on the decrease of the Union consumption.
- (35) Even if the Commission agreed with EUSMET's analysis on the development of the Union consumption, it did not consider that the decrease of the consumption linked to other markets invalidated the allegation in the request, which covered both continuation and recurrence of injury, leading to the initiation of this expiry review. Nevertheless, even if the Union consumption decreased for reasons that are independent from the Chinese imports, the Commission shall still analyse in an expiry review what would be the consequences if measures were allowed to lapse, in terms of sales and market shares.
- (36) Tenth, EUSMET claimed that the fall in the Union Industry's production volumes and capacity cannot be attributed to the Chinese imports but rather to the decision of one Union producer to temporarily shut down production in certain plants. In the same vein, EUSMET claimed that the decline in the Union industry's sale volumes is not linked to the Chinese imports, which declined between 2017 and Q3 of 2020, but rather to a decline in the demand and an increase of imports from third countries. EUSMET claimed further in this context that, despite Chinese imports, Union sales prices remained stable over the 2017-2019 period and fell in the first three quarters of 2020, in coincidence with a global fall of silicon demand. In other words, in a context of falling demand, the Union producers would not be able to increase prices, irrespective of the Chinese silicon imports. For the same reasons, profitability fall cannot be imputable to Chinese imports.
- (37) These arguments cannot be accepted. The Commission recalls that the existence of measures is often associated with a reduction of imports from the country concerned and that existing anti-dumping measures often have a positive effect on the state of the Union industry. In an expiry review investigation the Commission carries out an analysis on what would happen should measures be allowed to lapse. The fact that Chinese imports might not be the main cause of the negative development of certain injury indicators cannot therefore impede the initiation of the investigation.
- (38) Eleventh, EUSMET listed some allegedly key factors affecting the Union industry which, in EUSMET's view, were overlooked or misinterpreted in the review. Those factors include the production strategy of the Union industry and its costs, development in the silicon demand, increase in third country imports and the impact of Brexit. EUSMET required the Commission to consider them in the review.
- (39) The Commission considered the way the applicant interpreted the factors in the request sufficient to initiate the expiry review. In any event the Commission considered all those factors in the framework of its analysis in the Injury and Union interest sections of this Regulation.
- (40) Twelfth, EUSMET claimed that the applicant underestimated the silicon demand outlook, overestimated the Chinese production and capacity and exaggerated the price effects of Chinese imports.
- (41) However, EUSMET did not bring any information that would call into question the estimates presented in the review request. Therefore, the argument could not be accepted.

- (42) In view of the above, the Commission considered that the request provided sufficient evidence to initiate the review investigation.
- (43) In their comments on the disclosure, EUSMET reiterated its claim that the use of Article 2(6a) of the basic Regulation was incompatible with the Anti-Dumping Agreement, without adding any new argument or evidence. The Commission therefore rejected this claim for the same reasons as set out in recitals 22 to 24 above.

1.7. Sampling

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

1.7.1. Sampling of importers

- (45) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation.
- (46) No unrelated importers came forward.

1.7.2. Sampling of producers in China

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

1.8. Replies to the questionnaire

- (49) The Commission sent a questionnaire concerning the existence of significant distortions in China within the meaning of Article 2(6a)(b) of the basic Regulation to the Government of China ('GOC').
- (50) The Commission sent questionnaires to the Union industry. Moreover, the questionnaires for Union industry, for unrelated importers and for users were made available on DG Trade's website ⁽⁹⁾.
- (51) Questionnaire replies were received from three Union producers and from three users.

1.9. Verification

- (52) The Commission sought and verified all the information deemed necessary for the determination of likelihood of continuation or recurrence of dumping and injury and of the Union interest. Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following cooperating companies:

Union producers

- RW Silicium GmbH, Pocking, Germany
- FerroAtlántica S.L., Madrid, Spain
- Ferropem, Chambéry, France

Users

- Wacker Chemie AG, Munich, Germany
- Raffmetal SpA, Casto, Italy
- Evonik Industries AG, Essen, Germany

⁽⁹⁾ <https://tron.trade.ec.europa.eu/investigations/case-view?caseId=2535>

1.10. Subsequent procedure

- (53) On 17 June 2022, the Commission disclosed the essential facts and considerations on the basis of which it intended to maintain the anti-dumping duties in force. All parties were granted a period within which they could make comments on the disclosure.
- (54) The comments made by interested parties were considered by the Commission where appropriate.

2. PRODUCT UNDER REVIEW AND LIKE PRODUCT

2.1. Product under review

- (55) The product under review is the same as in the original investigation and previous expiry reviews namely silicon ('the product under review'), currently falling under CN code 2804 69 00.

2.2. Like product

- (56) As established in the original investigation as well as in the previous expiry review, this expiry review investigation confirmed that the following products have the same basic physical, chemical and technical characteristics as well as the same basic uses:
- the product under review originating in the PRC;
 - the product produced and sold on the domestic market of the country concerned; and
 - the product produced and sold in the Union by the Union industry.
- (57) These products are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

2.3. Claims regarding product homogeneity

- (58) EUSMET claimed that silicon for chemical and aluminium uses is not a homogenous product and that silicon for the two end uses is not interchangeable.
- (59) First, EUSMET highlighted the different composition, technical and chemical characteristics of silicon, stating that silicon consists of elemental silicon and other by-elements in different concentrations and levels. Moreover, EUSMET explained that each of the by-elements has a source in the basic raw materials or production process of silicon, therefore, based on the different raw material used, the silicon has a certain chemical composition which is specific to a certain use.
- (60) EUSMET argued that different silicon purity levels are required for different uses in both the chemical and the aluminium sectors. Chemical and aluminium grade silicon users cannot use the same material as such and do not compete for the same material from suppliers. Therefore, the fungibility and competitive overlap between the chemical grade silicon and silicon suitable for the aluminium industry is extremely limited.
- (61) EUSMET emphasised that the price of silicon used in different products is impacted by the chemical composition of the silicon requested. More specifically, silicon used to manufacture silicones polymers is generally the highest priced and secondary aluminium grade silicon is the lowest priced. EUSMET claimed that the rationale for such price difference is that specific high-quality raw materials, which are also more expensive, are required for producing higher purity silicon.
- (62) EUSMET further pointed to the differences in distribution channels for the different types of silicon. Since chemical users purchase customised silicon pursuant to rigorous qualification processes of their suppliers, they buy directly from silicon producers. Additionally, chemical users buy silicon based on short/long term contracts and do not buy on the spot market. On the other hand, aluminium users, and generally secondary aluminium users buy silicon from traders or distributors or importers. Furthermore, except for some large users of silicon in the primary aluminium user segment, most aluminium-related sales are spot sales.

- (63) Silicon has always been considered as a homogenous product since the original investigation on imports of silicon from China and in all subsequent expiry review investigations. According to Article 11(9) of the basic Regulation, in all review investigations, the Commission shall apply the same methodology as in the investigation which led to the duty, provided that circumstances have not changed. In the present case, EUSMET did not present any evidence showing that circumstances with regards to the homogenous nature of the product concerned have changed since the last expiry review.
- (64) In their comments on the disclosure, EUSMET noted that, in the past investigations, the Commission only took into account aluminium-grade silicon metal imports to establish injury and that it thus already deployed a segmented analysis. EUSMET also added that the Commission recognised that chemical-grade silicon was mostly imported via the inward processing regime (IPP) and, therefore the imports related to this market segment were exempted from the duties.
- (65) The Commission first notes that, according to Article 11(9) of the basic Regulation, since there is no change in circumstances, the methodology used should be the one used in the investigation that led to the duty ⁽¹⁰⁾. No segment-based analysis was conducted in the previous interim review ⁽¹¹⁾. The Commission merely distinguished between two import regimes for the purpose of establishing undercutting and the injury elimination level.
- (66) As noted in recital 48 above, no exporting producer cooperated with the investigation. Furthermore, imports by EUSMET's members constitute only a small proportion of the total imports of the product concerned. Consequently, the Commission was unable to establish a proportion of aluminium- and chemical-grade silicon in the total import of the product concerned or any link between import regime used and silicon grade imported. This claim was therefore rejected.

3. DUMPING

3.1. Preliminary remarks

- (67) During the review investigation period, imports of silicon into the Union from China continued but at a lower market share than during the review investigation period of the previous review investigation.
- (68) No producers from China cooperated with the investigation. Therefore, the Commission informed the authorities of the country concerned that due to the absence of cooperation, the Commission might apply Article 18 of the basic Regulation concerning the findings with regard to them. The Commission did not receive any comments on this information, or requests for an intervention of the Hearing Officer.
- (69) Consequently, in accordance with Article 18 of the basic Regulation, the findings in relation to the likelihood of continuation or recurrence of dumping were based on facts available, in particular information contained in the request for review, information obtained from cooperating Union producers and users in the course of the review investigation, as well as Eurostat trade statistics on imports and exports.

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

- (70) Given the sufficient evidence available at the initiation of the investigation tending to show with regard to China the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation, the Commission initiated the investigation on the basis of Article 2(6a) of the basic Regulation.
- (71) In order to obtain information it deemed necessary for its investigation with regard to the alleged significant distortions, the Commission sent a questionnaire to the GOC. In addition, in point 5.3.2 of the Notice of Initiation, the Commission invited all interested parties to make their views known, submit information and provide supporting evidence regarding the application of Article 2(6a) of the basic Regulation within 37 days of the date of publication of the Notice of Initiation in the *Official Journal of the European Union*.

⁽¹⁰⁾ OJ L 179, 5.7.2016, p. 1; Council Regulation (EEC) No 2200/90 of 27 July 1990 imposing a definitive anti-dumping duty on imports of silicon metal originating in the People's Republic of China (OJ L 198, 28.7.1990, p. 57).

⁽¹¹⁾ OJ L 179, 5.7.2016, p. 1.

- (72) No questionnaire reply was received from the GOC and no submission on the application of Article 2(6a) of the basic Regulation was received within the deadline. Subsequently, the Commission informed the GOC that it would use facts available within the meaning of Article 18 of the basic Regulation for the determination of the existence of the significant distortions in China. The Commission did not receive any comments on this information, or requests for an intervention of the Hearing Officer.
- (73) In point 5.3.2 of the Notice of Initiation, the Commission also specified that, in view of the evidence available, it had provisionally selected Brazil as an appropriate representative country pursuant to Article 2(6a)(a) of the basic Regulation for the purpose of determining the normal value based on undistorted prices or benchmarks. The Commission further stated that it would examine other possibly appropriate countries in accordance with the criteria set out in first indent of Article 2(6a)(a) of the basic Regulation.
- (74) On 23 February 2022, the Commission informed interested parties by a note ('Note 1') on the relevant sources it intended to use for the determination of the normal value. In that note, the Commission provided a list of all factors of production such as raw materials, labour and energy used in the production of silicon.
- (75) In addition, based on the criteria guiding the choice of undistorted prices or benchmarks, the Commission identified an additional possible appropriate representative country, namely Malaysia. The Commission received comments on Note 1 from the applicant and EUSMET.
- (76) On 5 April 2022, the Commission informed interested parties by a second note ('Note 2') on the relevant sources it intended to use for the determination of the normal value, keeping Malaysia as the representative country. It also informed interested parties that it would establish selling, general and administrative costs ('SG&A') and profits based on available information for the company PMB Silicon Bhd, a producer of the product in the representative country.
- (77) The Commission received comments on Note 2 from the applicant and EUSMET. EUSMET also submitted comments in reply to those from the applicant.

3.2.1. Normal value

- (78) According to Article 2(1) of the basic Regulation, 'the normal value shall normally be based on the prices paid or payable, in the ordinary course of trade, by independent customers in the exporting country'.
- (79) However, according to Article 2(6a)(a) of the basic Regulation, if it is determined 'that it is not appropriate to use domestic prices and costs in the exporting country due to the existence in that country of significant distortions within the meaning of point (b), the normal value shall be constructed exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks', and 'shall include an undistorted and reasonable amount of administrative, selling and general costs and for profits' ('administrative, selling and general costs' is referred to as 'SG&A').
- (80) As further explained below, the Commission concluded in the present investigation that based on the evidence available, and in view of the lack of cooperation of the GOC and the producers, the application of Article 2(6a) of the basic Regulation was appropriate.

3.2.2. Existence of significant distortions in China

- (81) In recent investigations concerning ferro-silicon ⁽¹²⁾ and calcium silicon ⁽¹³⁾ originating in China, the Commission found that significant distortions in the sense of Article 2(6a)(b) of the basic Regulation were present in the metallurgical sector in China. The Commission concluded in these investigations that, based on the evidence available, the application of Article 2(6a) of the basic Regulation was appropriate.
- (82) The Commission found that there is substantial government intervention in China resulting in a distortion of the effective allocation of resources in line with market principles ⁽¹⁴⁾.
- (83) The Commission also concluded that a substantial degree of ownership by the GOC persisted in the sense of Article 2(6a)(b), first indent of the basic Regulation ⁽¹⁵⁾.
- (84) The Commission also established that the GOC was in a position to interfere with prices and costs through State presence in firms in the sense of Article 2(6a)(b), second indent of the basic Regulation ⁽¹⁶⁾.
- (85) The Commission also found that the State's presence and intervention in the financial markets, as well as in the provision of raw materials and inputs, have an additional distorting effect on the market. The system of planning in China also results in resources being concentrated in sectors designated as strategic or otherwise politically important by the GOC, rather than being allocated in line with market forces ⁽¹⁷⁾.
- (86) The Commission also concluded that the Chinese bankruptcy and property laws do not work properly in the sense of Article 2(6a)(b), fourth indent of the basic Regulation, thus generating distortions in particular when maintaining insolvent firms afloat and when allocating land use rights in China ⁽¹⁸⁾.
- (87) The Commission also found distortions of wage costs in the metallurgical sector in the sense of Article 2(6a)(b), fifth indent of the basic Regulation ⁽¹⁹⁾, as well as distortions in the financial markets in the sense of Article 2(6a)(b), sixth indent of the basic Regulation, in particular concerning access to capital for companies in China ⁽²⁰⁾.
- (88) As in previous investigations concerning the metallurgical sector in China, the Commission examined in the present investigation whether it was appropriate or not to use domestic prices and costs in China, due to the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation.

⁽¹²⁾ Commission Implementing Regulation (EU) 2020/909 of 30 June 2020 imposing a definitive anti-dumping duty on imports of ferro-silicon originating in Russia and the People's Republic of China, following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 (OJ L 208, 1.7.2020, p. 2).

⁽¹³⁾ Commission Implementing Regulation (EU) 2021/1811 of 14 October 2021 imposing a provisional anti-dumping duty on imports of calcium silicon originating in the People's Republic of China (OJ L 366, 15.10.2021, p. 17).

⁽¹⁴⁾ Regulation (EU) 2020/909, recitals 54-60 and 111-115; Regulation (EU) 2021/1811, recitals 58-63 and 85.

⁽¹⁵⁾ Regulation (EU) 2020/909, recitals 61-64; Regulation (EU) 2021/1811, recital 44.

⁽¹⁶⁾ Regulation (EU) 2020/909, recitals 66-69; Regulation (EU) 2021/1811, recitals 46-48. While the right to appoint and to remove key management personnel in SOEs by the relevant State authorities, as provided for in the Chinese legislation, can be considered to reflect the corresponding ownership rights, CCP cells in enterprises, state owned and private alike, represent another important channel through which the State can interfere with business decisions. According to the Chinese company law, a CCP organisation is to be established in every company (with at least three CCP members as specified in the CCP Constitution) and the company shall provide the necessary conditions for the activities of the party organisation. In the past, this requirement appears not to have always been followed or strictly enforced. However, since at least 2016 the CCP has reinforced its claims to control business decisions in SOEs as a matter of political principle. The CCP is also reported to exercise pressure on private companies to put 'patriotism' first and to follow party discipline. In 2017, it was reported that party cells existed in 70 % of some 1,86 million privately owned companies, with growing pressure for the CCP organisations to have a final say over the business decisions within their respective companies. These rules are of general application throughout the Chinese economy, across all sectors, including to the producers of silicon and the suppliers of their inputs.

⁽¹⁷⁾ Regulation (EU) 2020/909, recitals 70-80; Regulation (EU) 2021/1811, recitals 49-58.

⁽¹⁸⁾ Regulation (EU) 2020/909, recitals 81-86; Regulation (EU) 2021/1811, recital 59.

⁽¹⁹⁾ Regulation (EU) 2020/909, recitals 87-90; Regulation (EU) 2021/1811, recital 60.

⁽²⁰⁾ Regulation (EU) 2020/909, recitals 91-110; Regulation (EU) 2021/1811, recital 61.

- (89) The Commission did so based on the evidence available on the file, including the evidence contained in the request, as well as in the Commission's report on significant distortions in China ⁽²¹⁾ ('Report'), which relies on publicly available sources. That analysis covered the examination of the substantial government interventions in China's economy in general, but also the specific market situation in the relevant sector including the product under review.
- (90) The Commission further supplemented these elements with its own research on the various criteria relevant to confirm the existence of significant distortions in China as also found by its previous investigations in this respect.
- (91) The request in this case referred to the Report, in particular to section 12.4.2 regarding export restrictions on silicon and the sections referring to the electricity market. The applicant also referred to a copyrighted study from AlloyConsult in the request for review regarding State-induced market distortions in the Chinese ferro-alloys and silicon industries.
- (92) In the silicon sector, a certain degree of ownership and control by the GOC persists in the sense of Article 2(6a)(b), first indent of the basic Regulation. Since there was no cooperation from any Chinese exporters of the product under review, the exact ratio of private and State-owned silicon producers could not be further determined.
- (93) However, the Commission established that a number of Chinese silicon producers are state owned. One of them is Yunnan Nuijiang International Silicon Trade Co, a subsidiary of Xiamen ITG Group Corp., Ltd ⁽²²⁾. The ultimate controlling shareholder of Xiamen ITG Group is the City of Xiamen State-owned Assets Supervision and Administration Commission ⁽²³⁾.
- (94) Similarly, the Shanghai Puyuan Foreign Economic and Trading Company ⁽²⁴⁾ ('SPFC') is a wholly owned subsidiary of the Shanghai National Nuclear Puyuan Group which in turn is wholly owned by China National Nuclear Corporation ('CNNC'), one of the Chinese central level State-Owned Enterprises ('SOEs').
- (95) The investigation found further that in the electricity sector, which is the main factor of production in the manufacturing of the product under review, a substantial degree of ownership by the GOC persists. As found by the Commission in the Report, the electricity market in China is characterised by strong involvement of SOEs in various stages of the supply chain, with the entire transmission grid being owned by two SOEs and significant State ownership existing also at the generation stage.
- (96) As to the GOC being in a position to interfere with prices and costs through State presence in firms in the sense of Article 2(6a)(b), second indent of the basic Regulation, during the investigation the Commission established the existence of personal connections between the Chinese Communist Party ('CCP') and companies manufacturing the product under review, as well as organisational corporate features placing the CCP in position allowing it to interfere with the companies' conduct of business.
- (97) In the ITG Xiamen Group, the CCP Party committee occupies the highest level of the company's organisational level, at par with the Board of Directors and the Board of Supervisors and above the Senior Management ⁽²⁵⁾.
- (98) Moreover, in SPFC, the Chairman of the Board of Shanghai National Nuclear Puyuan Group holds at the same time the position of the Secretary of the Party Committee while the company's General Manager serves simultaneously as Deputy Secretary of the Party Committee ⁽²⁶⁾.

⁽²¹⁾ Commission staff working document SWD(2017) 483 final/2, 20.12.2017, available at: https://trade.ec.europa.eu/doclib/docs/2017/december/tradoc_156474.pdf

⁽²²⁾ See the Xiamen ITG Group annual report 2021, page 261 http://static.sse.com.cn/disclosure/listedinfo/announcement/c/new/2022-04-21/600755_20220421_2_cFJgASUK.pdf (accessed on 12 July 2022).

⁽²³⁾ <http://www.itg.com.cn/en/company/about> (accessed on 12 July 2022).

⁽²⁴⁾ www.ixin.com/company/472df966-2141-41bc-8209-66d37f0c2d88 (accessed on 27 April 2022), www.shpcoic.org.cn/Site/Home/_InfoShow?Info_ID=6720&Infoitem_ID=60 (accessed on 27 April 2022).

⁽²⁵⁾ www.itgholding.com.cn/en/company/organization (accessed on 27 April 2022).

⁽²⁶⁾ www.puyuan.com (accessed on 27 April 2022).

- (99) The investigation revealed further that both public and privately owned enterprises in the silicon sector are also subject to policy supervision and guidance. As in any other sector in China, these producers are constrained to host Party-building activities and maintain a close affiliation to the CCP and its ideology. The following examples illustrate the trend of an increasing level of intervention by the GOC also in the silicon sector.
- (100) The ITG Xiamen Group describes on its website extensive Party-building activities. Referring to a February 2022 meeting of the CCP study group, the company emphasizes that it is necessary to ‘firmly ensure the correct direction of the construction of the special economic zone, implement the Party’s comprehensive leadership over the China International Trade Holding Group, continue to deepen the comprehensive and strict governance of the Party, adhere to the path of socialism with Chinese characteristics, and unswervingly follow General Secretary Xi Jinping’s direction forward’ ⁽²⁷⁾.
- (101) Claiming allegiance to the CCP leadership is not limited only to the most recent period of time but extends also to the review investigation period, as apparent for instance from the website of SPFC which describes the conclusions of the group’s Party Committee meeting which took place on 17 November 2020: ‘[W]e must strengthen ideological content, raise profile, active thinking, self-discipline and self-examination, attach importance to learning, strengthen understanding, deepen study and implementation of the spirit of the Fifth Plenary Session of the 19th Central Committee of the Communist Party of China [...] The Fifth Plenary Session of the 19th Central Committee of the Communist Party of China required that the focus of economic development should be placed on the real economy, and efforts should be made to improve the modernization level of the industry chain and supply chain, accelerate the development of a modern industrial system [...] [I]t is necessary to study and implement the spirit of General Secretary Xi Jinping’s important speeches and the spirit of the Fifth Plenary Session of the 19th CPC Central Committee, (...) with a high degree of political consciousness, ideological and action consciousness, in accordance with the integrated deployment of the Party Central Committee, the group company, and CNNC Puyuan to ensure implementation on the ground, it is necessary to fully integrate the spirit of the Fifth Plenary Session of the 19th Central Committee of the Party [...] Members of the CNNC supply chain leadership team, middle-level cadres, and members of various branches participated in this enlarged study meeting.’ ⁽²⁸⁾
- (102) Moreover, according to the working rules of the Silicon industry association ⁽²⁹⁾, a branch of the China non-ferrous metal industry association, the association takes the basic line of the CCP as its own guideline ⁽³⁰⁾. Further, adhering to the Party’s line, principles and policies, and possessing good political quality are listed among eligibility requirements for serving as the association’s president, vice-president or secretary general ⁽³¹⁾.
- (103) Further, it was established that policies discriminating in favour of domestic producers or otherwise influencing the market in the sense of Article 2(6a)(b), third indent of the basic Regulation are in place in the silicon sector. Silicon plays a significant role in the production of aluminium, as well as semiconductors (for which the product under review is an input) which in turn qualifies the silicon sector to be considered part of the strategic emerging industries ⁽³²⁾ which benefit from a wide range of support policies in place.
- (104) The State interferes also in markets of inputs used for the production of silicon, in particular the electricity markets. While electricity is one of the main inputs in the manufacture of silicon, the prices of electricity are not market-based in China and are also affected by significant distortions (through central price-setting, price differentiation and in direct power purchase practices), as established in the Report ⁽³³⁾.

⁽²⁷⁾ www.itgholding.com.cn/cn/News/Detail/4244 (accessed on 27 April 2022).

⁽²⁸⁾ www.puyuan.com/puyuan/djdt11/971216/index.html (accessed on 27 April 2022).

⁽²⁹⁾ www.siliconchina.org/about/rules/index.html (accessed on 27 April 2022).

⁽³⁰⁾ *ibid*, Article 3.

⁽³¹⁾ *ibid*, Article 21.

⁽³²⁾ See the 14th Five Year Plan on the Development of Strategic and Emerging Industries of the Fujian province (in which ITG Xiamen Group headquarters are located): <http://www.qg.gov.cn/zwgk/zcfg/sjfgwj/202112/P020211207803152129885.pdf> (accessed 28 April 2022). See further for example the Catalogue of Four Essentials for ten key industries, a policy document released in 2016 in the context of the Made in China 2025 strategy; available at: <http://www.cm2025.org/show-14-126-1.html> (accessed 28 April 2022).

⁽³³⁾ Report, Chapter 10, p. 221-230.

- (105) While the energy market in China has undergone a number of changes and reforms, some prices relevant for the energy system are still not market-based. The government recognises that the prices are still largely controlled by the State: 'The current electricity price management is still based on government prices. Price adjustments often lag behind changes in costs and it is difficult to timely and reasonably reflect the electricity usage costs [...] An effective competitive mechanism for the sale of electricity has not yet been established, market transactions between electricity generation enterprises and users are limited and it is difficult to involve the decisive role of the market in the allocation of resources' ⁽³⁴⁾.
- (106) This State-induced market weakness is at the origin of further attempts to manage the market, which is reflected in a number of subsequent administrative documents. For example, in November 2020, the NDRC released the *Notice on promoting the signing of mid to long-term 2021 electricity contracts* ⁽³⁵⁾.
- (107) The document instructs 'the competent departments of local governments [...] to strive to ensure that the contracted electricity volume is not lower than 80 % of the average volume over the past three years', and with regard to pricing to 'establish a deviation settlement mechanism [...] in the local market regulations to deal with deviations between the contracted power volume and the actual implementation' and to '[i]mprove the medium and long-term transaction price mechanism. All localities shall strictly implement the power transmission and distribution prices as approved by the government.'
- (108) The Notice contains also specific provisions on implementation, notably through the establishment of a tracking mechanism for the contract signing progress, or by strengthening contracts monitoring, disclosure and enforcement ⁽³⁶⁾.
- (109) Furthermore, in January 2021, the State Council released the 'NDRC Opinion on standardising urban water, electricity and heating supplies fees to foster a high quality development of the sector' ⁽³⁷⁾. The Notice contains specific provisions with regard to government pricing ' [...] For projects subject to government pricing or government-guided prices, reasonably determine the cost composition, strengthen cost supervision and review, improve the price formation mechanism and scientifically determine the price level. [...]'
- (110) Among the main goals of the Notice, specific reference is made to the government input mechanism in relation to pricing, as well as the sectoral differentiation of pricing methods: 'By 2025, clear results shall be achieved in cleaning up and standardizing the charges in the water supply, power supply, gas and heating sector. A basis for a scientific, standardized and transparent price formation mechanism shall be established, and the government input mechanism shall be further improved. Pricing methods applicable to related sectors, cost supervision and review methods, price behaviour and standard comprehensive coverage of services, as well as the quality and efficiency of the supply of water, electricity, heating and other products and services shall be significantly improved'.
- (111) Coal is another raw material used to manufacture the product under review. As found in the Report, the coal market in China is subject to distortions, notably because of subsidisation ⁽³⁸⁾ and through the management and control over the exploitation of coal resources ⁽³⁹⁾.

⁽³⁴⁾ Opinions on further deepening the reform of the electric power system, issued 15 March 2015 by the CCP Central Committee and the State Council (ZhongFa [2015] no. 9 <https://chinaenergyportal.org/en/opinions-of-the-cpc-central-committee-and-the-state-council-on-further-deepening-the-reform-of-the-electric-power-system-zhongfa-2015-no-9/> (accessed on 8 April 2022).

⁽³⁵⁾ https://www.ndrc.gov.cn/xxgk/zcfb/tz/202012/t20201202_1252094.html (accessed on 8 April 2022).

⁽³⁶⁾ Notably: 'Local government departments shall, in coordination with the National Energy Administration's seconded entity, report to the National Development and Reform Commission and the State Energy Administration in a timely manner on the signing of medium- and long-term contracts as well as on relevant issues, and ensure the connection of medium- and long-term contracts signature with the spot power.'

⁽³⁷⁾ http://www.gov.cn/zhengce/content/2021-01/06/content_5577440.htm (accessed on 8 April 2022).

⁽³⁸⁾ Report – Chapter 10.

⁽³⁹⁾ Report – Chapter 12, p. 269.

- (112) The recent calcium silicon investigation established further elements of State interference in the coal market. In May 2021, the National Energy Administration (NEA) and NDRC jointly released the *Notice on Management measures for coal mine production capacity and approval criteria*, with the aim of regulating coal mine capacities and enforcing relevant limits, calculated based on the notice ⁽⁴⁰⁾. In December 2020, the NDRC issued the *Notice on ensuring the signature and performance of medium and long-term coal contracts in 2021* ⁽⁴¹⁾.
- (113) The Notice expressly emphasizes the goal of increasing the State's influence and supervision in the contractual process: 'Give better play to the role of the government, focus on strengthening system construction, improve transaction rules, strengthen credit supervision, and guide relevant parties to raise awareness of the overall situation, take social responsibilities, standardize contract performance, and ensure the smooth functioning of the coal market.'
- (114) The notice also instructs to '[s]trengthen industry self-discipline. All relevant industry associations shall guide enterprises to strengthen self-discipline, to duly implement the requirements of medium and long-term contracts, and not to use the market supply and demand situation and the advantageous position of the industry to sign unbalanced contracts. Large-scale enterprises shall play an exemplary role, self-regulate contract signatures, enhance their awareness of fulfilling commitments, take the initiative to take social responsibility of ensuring supply and stable prices, and promote the smooth operation of coal market at national level.'
- (115) Particularly worth noting is the clear directive not to use the demand and supply situation in the market when signing contracts. In April 2021, the NDRC issued a further 'Notice on ensuring supervision and management of 2021 coal medium and long-term contracts', which aims at better overseeing sale contracts compliance and to ensure the supply of coal (notably based on the provisions of the pre-cited Notice No 902). On that basis, relevant parties should notably ensure that the monthly compliance rate should not be less than 80 %, and the quarterly and annual compliance rate should not be less than 90 % ⁽⁴²⁾.
- (116) State interventionism in the coal market is also visible in the recent decision on extending for another year the trial operation time for shuttered coal mines with the aim to increase output and supply, to counter the commodity's price increases (after the mines production was previously suspended) ⁽⁴³⁾.
- (117) As can be seen from the above examples, the GOC manages the development of the silicon sector in accordance with a broad range of policy tools and directives and controls virtually every aspect in the functioning of the sector. This governmental guidance and intervention concerns also the main inputs used in the manufacturing of the product under review.
- (118) The present investigation has not revealed any evidence that the discriminatory application or inadequate enforcement of bankruptcy and property laws according to Article 2(6a)(b), fourth indent of the basic Regulation in the metallurgical sector would not affect the manufacturers of the product under review.
- (119) The metallurgical sector is also affected by the distortions of wage costs in the sense of Article 2(6a)(b), fifth indent of the basic Regulation. Those distortions affect the sector both directly (when producing the product under review or the main inputs), as well as indirectly (when having access to capital or inputs from companies subject to the same labour system in China).

⁽⁴⁰⁾ Available at the NEA website: www.nea.gov.cn/2021-05/18/c_139953498.htm (accessed on 13 April 2022).

⁽⁴¹⁾ NDRC Notice No 902 (2020) https://www.ndrc.gov.cn/xxgk/zcfb/tz/202012/t20201207_1252389.html?code=&state=123 (accessed on 13 April 2022).

⁽⁴²⁾ Notice 338 (2021); available at: www.ndrc.gov.cn/xxgk/zcfb/tz/202104/t20210429_1278643.html (accessed on 13 April 2022).

⁽⁴³⁾ See Nasdaq website article (original by Reuters Beijing Newsroom). China grants one-year trial extensions at 15 coal mines to boost output. 4 August 2021; available at: <https://www.nasdaq.com/articles/china-grants-one-year-trial-extensions-at-15-coal-mines-to-boost-output-2021-08-04> (accessed on 13 April 2022).

- (120) Moreover, no evidence was submitted in the present investigation demonstrating that the metallurgical sector is not affected by the government intervention in the financial system in the sense of Article 2(6a)(b), sixth indent of the basic Regulation. Therefore, the substantial government intervention in the financial system leads to the market conditions being severely affected at all levels.
- (121) Finally, the Commission recalls that in order to produce the product under review, a number of inputs is needed. When the producers of the product under review purchase or contract for these inputs, the prices paid (and which are recorded as their costs) are exposed to the same systemic distortions mentioned before. For instance, suppliers of inputs employ labour that is subject to the distortions; they may borrow money that is subject to the distortions on the financial sector/capital allocation; and they are subject to the planning system that applies across all levels of government and sectors.
- (122) As a consequence, not only the domestic sales prices of the product under review are not appropriate for use within the meaning of Article 2(6a)(a) of the basic Regulation, but all the input costs (including raw materials, energy, land, financing, labour, etc.) are also affected because their price formation is affected by substantial government intervention, as described in Parts I and II of the Report.
- (123) Indeed, the government interventions described in relation to the allocation of capital, land, labour, energy and raw materials are present throughout China. This means, for instance, that an input that in itself was produced in China by combining a range of factors of production is exposed to significant distortions. The same applies for the input to the input and so forth.
- (124) No evidence or argument to the contrary has been submitted by the GOC or the producers in the present investigation.
- (125) In sum, the evidence available showed that prices or costs of the product under review, including the costs of raw materials, energy and labour, are not the result of free market forces because they are affected by substantial government intervention within the meaning of Article 2(6a)(b) of the basic Regulation as shown by the actual or potential impact of one or more of the relevant elements listed.
- (126) On that basis, and in the absence of any cooperation from the GOC, the Commission concluded that it is not appropriate to use domestic prices and costs to establish normal value in this case.
- (127) Consequently, the Commission proceeded to construct the normal value exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks, that is, in this case, on the basis of corresponding costs of production and sale in an appropriate representative country, in accordance with Article 2(6a)(a) of the basic Regulation, as discussed in the following section.

3.2.3. *Representative country*

3.2.3.1. *General remarks*

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

— A level of economic development similar to China. For this purpose, the Commission used countries with a gross national income per capita similar to China on the basis of the database of the World Bank ⁽⁴⁴⁾;

⁽⁴⁴⁾ World Bank Open Data – Upper Middle Income, <https://data.worldbank.org/income-level/upper-middle-income>

- Production of the like product in that country ⁽⁴⁵⁾;
- Availability of relevant public data in the representative country.
- Where there is more than one possible representative country, preference should be given, where appropriate, to the country with an adequate level of social and environmental protection.

(129) The Commission issued two notes for the file on the sources for the determination of the normal value. These notes described the facts and evidence underlying the relevant criteria, and addressed the comments received by the parties on these elements and on the relevant sources.

3.2.3.2. A level of economic development similar to China

(130) In Note 1, the Commission identified Brazil and Malaysia as countries with a similar level of economic development as China according to the World Bank where silicon is being produced. These countries are both classified by the World Bank as 'upper-middle income' countries on a gross national income basis where production of the like product was known to take place.

(131) No further possible representative countries were identified by any interested party.

3.2.3.3. Availability of relevant public data in the representative country

(132) In Note 1 the Commission indicated that the producer of silicon in Brazil identified by the applicant, RIMA Industrial, was not profitable during calendar year 2020, and that no other Brazilian producers had been identified at this stage.

(133) The producer of silicon in Malaysia identified by EUSMET, PMB Silicon Bhd, was profitable during calendar year 2020. On this basis the Commission considered in Note 1 that Malaysia could be an appropriate representative country.

(134) Following the publication of Note 1 the applicant submitted a list of silicon producers in Brazil, indicating the availability of public financial data for each of those producers.

(135) The list supplied by the applicant identified one silicon producer in Brazil, the company MinasLigas, that was profitable in 2020.

(136) The Commission therefore had two profitable producers of silicon, one in Malaysia and one in Brazil.

(137) In Note 2, the Commission further compared the data available from Malaysia and Brazil concerning factors of production. The Commission concluded that Malaysia had a more representative dataset for the factors of production, since there were no imports of medium ash coal into Brazil, and only limited quantities of imports of quartz and wood chips which were also at unrepresentative prices.

(138) The Commission thus informed the interested parties with Note 2 that it intended to use Malaysia as an appropriate representative country and the company PMB Silicon Bhd, in accordance with Article 2(6a)(a), first indent of the basic Regulation in order to source undistorted prices or benchmarks for the calculation of normal value.

(139) Interested parties were invited to comment on the appropriateness of Malaysia as a representative country and of PMB Silicon Bhd as producer in the representative country.

(140) Comments on Note 2 were received from EUSMET, who supported the Commission's decision to use Malaysia, and from the applicant, who maintained that Brazil should be considered an appropriate representative country.

(141) The applicant disputed the use of Malaysia as representative country, based on the financial data of the company PMB Silicon Bhd. The applicant asserted that the company was loss making in 2020, but without providing any evidence.

⁽⁴⁵⁾ If there is no production of the like product in any country with a similar level of development, production of a product in the same general category and/or sector of the like product may be considered.

- (142) In their submission of 1 April 2022, EUSMET provided locally published accounts for PMB Silicon Bhd showing that they were profitable during 2020. This argument from Euroalliages is therefore rejected.
- (143) The applicant also disputed the representativity of some of the publicly available data from Malaysia regarding by-products and requested again that the Commission uses Brazilian data for those factors where it was appropriate to do so and use data from other countries where it was not.
- (144) The Commission therefore re-examined the data from Malaysia, considering the comments from both the applicant and EUSMET regarding this data. The Commission concluded that Malaysian data concerning the factors of production are reliable. The Commission also noted that as the normal value calculations would be using a percentage to calculate by-product income, the benchmarks in Note 2 for by-products would no longer be used.
- (145) Moreover, the Commission notes that with respect to Brazil, the applicant admitted that some data are not appropriate and that other sources would have to be used. The Commission therefore rejected this argument of the applicant.
- (146) After issuing Note 2, the Commission noted that there was an error in the extraction of data from GTA regarding imports of wood chips into Malaysia. The extraction had been done in EUR rather than in CNY and therefore the price per tonne was incorrect. On analysis however, the actual price in CNY per tonne was far in excess of that paid by the Union industry, and far in excess of the average export price per tonne in GTA for all countries.
- (147) As prices of wood chips were considered to be non-representative, and in the absence of an undistorted international price for wood chips, the Commission found that the average import price into the European Union in CNY per tonne to be a suitable benchmark for this raw material.
- (148) The applicant also disputed the sources of data for electricity and labour costs, deeming them to be 'obsolete' ⁽⁴⁶⁾.
- (149) The Commission verified these sources again and, concerning electricity, noted that the tariffs indicated in Note 2 are still in force. However, concerning labour costs, the source indicated in Note 2 covers the year 2016. The Commission therefore sought more recent data and identified labour cost statistics from the Department of Statistics of Malaysia, 'Salaries and Wages Survey Report 2020' ⁽⁴⁷⁾ published in July 2021 as a suitable source of data.

3.2.3.4. Level of social and environmental protection

- (150) Having established that Malaysia was the only available appropriate representative country, based on all of the above elements, there was no need to carry out an assessment of the level of social and environmental protection in accordance with the last sentence of Article 2(6a)(a) first indent of the basic Regulation.

3.2.3.5. Conclusion

- (151) In view of the above analysis, Malaysia met the criteria laid down in Article 2(6a)(a), first indent of the basic Regulation in order to be considered as an appropriate representative country.

3.2.4. Sources used to establish undistorted costs

- (152) In Note 1, the Commission listed the factors of production such as raw materials, energy and labour used in the production of the product under review and invited the interested parties to comment and propose publicly available information on undistorted values for each of the factors of production mentioned in that note.

⁽⁴⁶⁾ 'No longer used or practised; outmoded, out of date.' (Oxford English Dictionary).

⁽⁴⁷⁾ <https://www.dosm.gov.my/v1/index.php> (accessed on 26 April 2022).

- (153) Subsequently, in Note 2, the Commission stated that, in order to construct the normal value in accordance with Article 2(6a)(a) of the basic Regulation, it would use GTA to establish the undistorted cost of most of the factors of production, notably the raw materials. In addition, the Commission stated that it would use Malaysian official data for establishing undistorted costs of labour ⁽⁴⁸⁾ and energy ⁽⁴⁹⁾.

3.2.5. Factors of production

- (154) Considering all the information in the request for review and subsequent information submitted by the applicant and interested parties, the following factors of production and their sources have been identified in order to determine the normal value in accordance with Article 2(6a)(a) of the basic Regulation:

Table 1

Factors of production of silicon

Factor of Production	Commodity Code in Malaysia	Undistorted value in CNY	Unit of measurement
Raw materials			
Quartz	2506 10	468,20	Tonne
Medium Ash Coal	2701 19	437,23	Tonne
Wood chips	4401 21	412,50	Tonne
	4401 22	412,50	Tonne
Electrodes	8545 11	39 692,39	Tonne
Labour			
Labour		21,92	Labour hour
Energy			
Electricity		0,53	kWh

3.2.6. Raw materials

- (155) Silicon is produced in electric submerged arc furnaces with carbothermic reduction of quartz (silica) in the presence of various types of carbon reductants such as coal and wood chips.
- (156) In order to establish the undistorted price of raw materials as delivered at the gate of a representative country producer, the Commission used as a basis the weighted average import price to the representative country as reported in GTA.
- (157) An import price in the representative country was determined as a weighted average of unit prices of imports from all third countries excluding China and countries which are not members of the WTO, listed in Annex I of Regulation (EU) 2015/755 of the European Parliament and the Council ⁽⁵⁰⁾.
- (158) The Commission decided to exclude imports from China into the representative country as it concluded that it is not appropriate to use domestic prices and costs in China due to the existence of significant distortions in accordance with Article 2(6a)(b) of the basic Regulation. Given that there is no evidence showing that the same distortions do not equally affect products intended for export, the Commission considered that the same distortions affected export prices.

⁽⁴⁸⁾ <https://bit.ly/3vJD5On> (accessed on 26 April 2022).

⁽⁴⁹⁾ <https://www.tnb.com.my/commercial-industrial/pricing-tariffs1> (accessed on 26 April 2022).

⁽⁵⁰⁾ Regulation (EU) 2015/755 of the European Parliament and of the Council of 29 April 2015 on common rules for imports from certain third countries (OJ L 123, 19.5.2015, p. 33).

- (159) The remaining import data from other countries excluding China was considered representative for all inputs except wood chips. As noted in recital 146, the import price for wood chips into Malaysia was not considered representative and therefore data from imports into the European Union was used instead.
- (160) For a number of factors of production, the actual costs incurred by the Union producers represented a negligible share of total raw material costs in the review investigation period.
- (161) As the value used for these had no appreciable impact on the dumping margin calculations, regardless of the source used, and in the absence of data from cooperating exporting producers, the Commission decided to include those costs into consumables. The Commission calculated the percentage of the consumables on the total cost of raw materials and applied this percentage to the recalculated cost of raw materials when using the established undistorted benchmarks in the appropriate representative country.
- (162) For by-products, the Commission calculated the percentage of the income from the by-products reported by the Union industry in relation to the total cost of production and deducted this percentage from the recalculated cost of production when using the established undistorted benchmarks in the appropriate representative country.
- (163) Normally, domestic transport prices should also be added to these import prices. However, considering the nature of this expiry review investigation, which is focused on finding whether dumping continued during the review investigation period or could reoccur, rather than finding its exact magnitude, the Commission decided that adjustments for domestic transport were unnecessary. Such adjustments would only result in increasing the normal value and hence the dumping margin.

3.2.7. Labour

- (164) Labour costs in Malaysia are published by the Department of Statistics of the Government of Malaysia ⁽³¹⁾ and this source was used to determine the wages in Malaysia by using the information published for average mean labour cost per employee in the manufacturing sector for 2020. According to the Department of Statistics this is 2 542 MYR per month. On an average of 186 working hours per month, the Commission calculated a mean average wage of 13,67 MYR per hour.

3.2.8. Electricity

- (165) Prices for electricity for companies (industrial users) in Malaysia are published by the electricity company Tenaga Nasional Berhad (TNB) ⁽³²⁾. The most recent rates were published on 1 January 2014 and were still applicable in the RIP. The Commission used the rates of the industrial electricity prices in the consumption band 'Tariff E2 – Medium Voltage Peak/Off-Peak Industrial Tariff' from TNB to establish the electricity cost per kWh.

3.2.9. Manufacturing overhead costs, SG&A, profit and depreciation

- (166) According to Article 2(6a)(a) of the basic Regulation, 'the constructed normal value shall include an undistorted and reasonable amount for administrative, selling and general costs and for profits'. In addition, a value for manufacturing overhead costs needs to be established to cover costs not included in the factors of production referred to above.
- (167) In order to establish an undistorted value of the manufacturing overheads and given the absence of cooperation from the Chinese producers, the Commission used facts available in accordance with Article 18 of the basic Regulation. Therefore, based on the data provided by the applicant, the Commission established the ratio of manufacturing overheads to the total manufacturing and labour costs. This percentage was then applied to the undistorted value of the cost of manufacturing to obtain the undistorted value of manufacturing overheads.

⁽³¹⁾ <https://www.dosm.gov.my/v1/index.php>

⁽³²⁾ <https://www.tnb.com.my/commercial-industrial/pricing-tariffs1>

3.2.10. Calculation of the normal value

- (168) On the basis of the above, the Commission constructed the normal value per product type on an ex-works basis in accordance with Article 2(6a)(a) of the basic Regulation.
- (169) First, the Commission established the undistorted manufacturing costs. In the absence of cooperation by the exporting producers, the Commission relied on the information provided by the applicant in the review request on the usage of each factor (materials and labour) for the production of silicon. The Commission multiplied the consumption ratios by the undistorted costs per unit observed in Malaysia as described above.
- (170) Once the undistorted manufacturing cost had been established, the Commission added the manufacturing overheads, SG&A and profit as noted above. Manufacturing overheads were determined based on data provided by the applicant. SG&A and profit were determined based on the financial statements of PMB Silicon Bhd for the year 2020 as reported in the company's audited accounts ⁽⁵³⁾.
- (171) The Commission used the following percentages to calculate the normal value from the undistorted cost of manufacturing:
- Addition of manufacturing overheads, which accounted in total for 7,6 % of the direct cost of manufacturing,
 - Addition of SG&A and other costs, which accounted for 17,7 % of the total cost of manufacturing,
 - Removal of by-product income, which accounted for 6,97 % of the cost of production, and
 - Addition of profit, which amounted to 5,05 % of the cost of manufacturing.
- (172) On that basis, the Commission constructed the normal value on an ex-works basis in accordance with Article 2(6a)(a) of the basic Regulation.
- (173) After disclosure, EUSMET commented on the method used to deal with by-product income, which was based on a percentage of the cost of production rather than a percentage of the cost of manufacturing.
- (174) The method used in this case is appropriate, given that no Chinese producer cooperated, and therefore the calculation of normal value was based on the format of the consumption data received from the sampled Union producers where by-product income was expressed as a percentage of cost of their production.
- (175) The simulations in the submission of EUSMET take the indexed normal value from 122,87 to 119,92, a reduction of just under 3 percentage points. The Commission does not consider that this small difference requires any change to the consumption data received from the Union industry, where by-product income is expressed as a percentage of cost of production.
- (176) In any event, the purpose of the normal value calculation in an expiry review is to determine whether there is a continuation of dumping, and regardless of the methods proposed by EUSMET to deal with by-product income, the finding of continuation of dumping would not change.
- (177) However, on considering EUSMET claims regarding the dumping calculations, the Commission noted that there was an error in the calculation (the by-product income had not been deducted from the cost of production) and therefore the normal value had been overstated. This was corrected and re-disclosed to interested parties. No comments were received.
- (178) EUSMET also requested a further detailed disclosure to them of the calculation of the normal value and in particular the data regarding the quantity of the factors of production used to calculate the normal value.

⁽⁵³⁾ <http://www.pmbtechnology.com/investors-relation>

- (179) The Commission placed information regarding the benchmarks and the factors of production on the open file on 17 June 2022 ⁽⁵⁴⁾, attached to the Note Verbale sent to the Mission of the People's Republic of China to the European Union.
- (180) The Commission has not disclosed to any interested party the quantities of each factor of production used by the sampled Union producers to make 1 tonne of silicon because this information is business confidential.
- (181) The method used to calculate the normal value has been clearly explained to all interested parties in the disclosure document, reproduced as recitals 168 to 172 above.

3.3. Export price

- (182) In the absence of cooperation by producers from China, the export price was determined based on CIF Eurostat data corrected to ex-works level by removing 5 % as an estimate of the (sea) freight and insurance cost and domestic transport cost, based on data from previous cases.

3.4. Comparison

- (183) The Commission compared the constructed normal value established in accordance with Article 2(6a)(a) of the basic Regulation and the export price on an ex-works basis as established above.
- (184) The Commission made no adjustments to the normal value or the export price for differences affecting prices and price comparability, in accordance with Article 2(10) of the basic Regulation, as both were already at an ex-works level.

3.5. Dumping margin

- (185) Based on the data available the Commission calculated a dumping margin of 26,9 %.
- (186) The Commission therefore concluded that dumping continued during the review investigation period.

4. LIKELIHOOD OF CONTINUATION OF DUMPING

- (187) Further to the finding of the existence of dumping during the review investigation period, the Commission investigated, in accordance with Article 11(2) of the basic Regulation, the likelihood of continuation of dumping, should the measures be repealed. The following additional elements were analysed:

- (1) production capacity and spare capacity in China; and
- (2) the attractiveness of the Union market.

4.1. Production capacity and spare capacity in China

- (188) The request for review estimated that production capacity in China is between 6 and 8 million tonnes per year, stating also that general agreement exists that production capacity in China is higher than total world consumption. The applicant estimated the Chinese capacity utilisation to be between 20 % and 40 % in 2020. The request also pointed out that in 2014, production capacity in China was between 3 and 5 million tonnes per year, suggesting that in recent years capacity in China has significantly increased.
- (189) Even if a conservative approach was to be taken, with production capacity at 6 million tonnes and utilisation at 40 %, the PRC would have spare capacity of around 3,6 million tonnes. This is around seven times the entire Union consumption.
- (190) In the previous expiry review investigation, the Commission also found significant spare capacity in China and concluded that this spare capacity could indeed be used to supply the Union market if measures lapsed ⁽⁵⁵⁾. No evidence has been received to call that conclusion into question.

⁽⁵⁴⁾ Saved as file t22.003563, TRON files 171 to 176.

⁽⁵⁵⁾ OJ L 179, 5.7.2016, p. 1, recital 66.

- (191) In their comments on the disclosure, EUSMET disputed the amount of spare production capacity in China as set out in the request for review. EUSMET again requested that the applicants disclose the AlloyConsult report referred to in the request for review. The Commission notes that this report is copyrighted, and the open version of the request for review is a sufficient summary of the report's findings.
- (192) EUSMET instead referred to a report from CRU dated April 2021 that suggests that nameplate capacity in China is 5 million tonnes per year, and 'operative capacity' is 4 million tonnes per year.
- (193) EUSMET also disputed the capacity utilisation of 20 % to 40 %, which is based on the estimated capacity of 6 million tonnes and production of 2 million tonnes set out in the request for review.
- (194) EUSMET did not provide any estimates on the production of silicon in China for 2020. Using the estimate of 2 million tonnes of production in the request for review, and the estimate of 4 million tonnes capacity from CRU, this data would show capacity utilisation at 50 %, with an estimated 2 million tonnes of capacity that could be brought into use for export to the Union market.
- (195) The Commission's findings on the existence of significant spare capacity in China that could indeed be used to supply the Union market should measures be allowed to lapse remains therefore unchanged.
- (196) EUSMET also noted that in their submission of 10 August 2021 they had provided evidence that Chinese silicon demand is rising, and that in the future therefore this demand would be supplied from the spare capacity in China, reducing the amount of silicon that could supply the Union market.
- (197) The EUSMET submission of 10 August 2021 states that 'According to the CRU, Chinese silicon metal demand is set to rise at the highest pace in the coming years'. This is referenced to the 'CRU Silicon Metal Market Outlook, April 2021'.
- (198) EUSMET provided no summary of the CRU Outlook for April 2021 in their submission, as the report was protected by copyright.
- (199) At present all the evidence provided to the Commission points to the current significant spare capacity in China, which is not covered by existing Chinese demand. If the predictions in the CRU report that 'Chinese silicon metal demand is set to rise' come to pass, then there is no evidence that this increase would cover all of the spare operative capacity in China, let alone the nameplate capacity.
- (200) The CRU report predictions therefore do not change our conclusions that spare capacity remains in China that could supply the European Union should measures be allowed to lapse.

4.2. Attractiveness of the Union market

- (201) Continued imports into the Union, despite the measures in force, would suggest that the Union market continues to be attractive, and that if measures were to be allowed to lapse, imports at dumped prices would continue.
- (202) The Commission also notes that measures against circumvention remain in force on imports consigned from the Republic of Korea and Taiwan ⁽⁵⁶⁾. Such efforts deployed to circumvent the measures in place point to the continued attractiveness of the Union market for Chinese exporting producers.
- (203) The UK was the second biggest consumer of silicon in the Union. Although the Union market has been affected by the departure of the United Kingdom from the European Union, the Union remains an attractive market for Chinese exporters. This is because of the continued imports of silicon from China into the remaining Union market as referenced above.
- (204) The Commission further examined whether the Union market was attractive in terms of price levels.

⁽⁵⁶⁾ OJ L 179, 5.7.2016, p. 1, recital 218.

- (205) First, as set out below under injury and undercutting, the investigation found that Chinese import prices including the anti-dumping duties still undercut those of the Union producers by 9,2 % during the RIP. Without the duties, undercutting would amount to 14,6 %.
- (206) Second, the Commission analysed the export prices from China to other countries extracted from GTA for 2020. The request for review identified the three main open markets for Chinese silicon: Japan, the Republic of Korea and India. Exports to these three countries in 2020 made up 46 % of all Chinese exports of silicon. According to GTA, the average export price to these countries at FOB level for 2020 was 1 800 USD per tonne.
- (207) Using the same data extraction from GTA for the same period showed that the average export price to the Union at FOB level was 1 915 USD per tonne. This suggests that the Union market remains attractive in terms of price for Chinese exporters, despite the measures in force.
- (208) In their comments on the disclosure, EUSMET noted that the FOB price of 1 915 USD per tonne for Chinese exports to European Union countries was higher (when adjusted to EUR) than the CIF price of 1 523 EUR per tonne for Chinese imports into the European Union quoted in Table 4 below.
- (209) The Commission notes that the GTA extraction is based on data obtained from the Chinese customs authority and has been used simply as a baseline to compare export prices to various destinations. It should not be used, and was not extracted for, comparison with data from Eurostat as to the exact value in EUR per tonne of imports into the Union.
- (210) Finally, the fact that the US has high anti-dumping duties on imports of silicon from the PRC in place even further increases the attractiveness of the Union market. Australia, and Canada also have anti-dumping or anti-subsidy measures against imports of silicon from China.

4.3. Conclusion

- (211) Based on the significant spare capacity in China and the attractiveness of the Union market for the Chinese exporting producers the Commission concluded that there is a strong likelihood that the expiry of the anti-dumping measures would result in an increase of dumped exports.
- (212) In view of its findings on the continuation of dumping during the RIP and on the likely development of Chinese exports should the measures lapse, the Commission concluded that there is a strong likelihood that the expiry of the anti-dumping measures on imports from China would result in the continuation of dumping in significant quantities.

5. INJURY

5.1. Definition of the Union industry and Union production

- (213) The like product was manufactured by three producers, of which two belonging to the same group, in the Union during the period considered. They constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation. For confidentiality reasons, figures related to the Union industry are therefore indexed and/or given in a range.
- (214) The total Union production during the review investigation period was [120 000 to 160 000 tonnes] ⁽⁵⁷⁾. The figure was computed on the basis of the questionnaire reply from three Union producers, constituting the Union industry. As indicated in recital 8 the three Union producers represent 100 % of the total Union production of the like product.

⁽⁵⁷⁾ Ranges given for confidentiality reasons.

5.2. Union consumption

(215) The Commission established the Union consumption by adding the Union industry's sales on the Union market to the imports from China and other third countries, based on data from Eurostat and questionnaire replies.

(216) Union consumption developed as follows:

Table 2

Union consumption (in tonnes)

	2018	2019	2020	Review Investigation period
Total Union consumption ranges)	[500 000 – 550 000]	[460 000– 510 000]	[430 000 – 480 000]	[450 000 – 500 000]
<i>Index</i>	100	88	81	84

Source: Questionnaire replies and Eurostat

(217) Union consumption decreased steadily until 2020 and slightly rebounded by 3 percentage points between 2020 and the RIP. Overall, the Union consumption fell by 16 % over the period considered.

(218) The decrease in demand is partly driven by the lower demand for silicon used for aluminium production, caused by the decreased vehicle production in the EU, largely employing aluminium materials, which are produced using silicon. The decline in the vehicle sector was due to a market saturation which affected most industrialised countries in 2018 besides a fall in 2020 and the RIP, due to the Covid-19 pandemic. During the period considered, also the demand of silicon in the chemical sector decreased, partially influenced by the general disruption of trade flows, during 2020 and the RIP, due to the Covid-19 pandemic.

5.3. Imports from the country concerned

(219) The Commission established the volume of imports from China on the basis of Eurostat data. The market share of the imports was established on the basis of the Union consumption as set out in recitals 215 and 216.

(220) Imports into the Union from China developed as follows:

Table 3

Import volume (in tonnes) and market share

	2018	2019	2020	Review Investigation period
Volume of imports	76 401	48 379	36 310	29 788
<i>Index</i>	100	63	48	39
Volume of duty- paid imports	33 416	10 714	10 637	12 017
<i>Index</i>	100	32	32	36
Volume of imports under IPP	42 985	37 665	25 673	17 771
<i>Index</i>	100	88	60	41

Market share (range)	[12-18 %]	[8-13 %]	[5-10 %]	[4-9 %]
<i>Index</i>	100	72	59	46

Source: Eurostat

- (221) Import volumes from the country concerned decreased steadily over the period considered (an overall decrease of 61 %), resulting in halving of their market share during the period considered.
- (222) The majority of silicon (60 % of the total in the RIP) from China are imported under IPP and used as a raw material mainly in the chemical industry. For those imports no duties (conventional or anti-dumping) are paid, provided the downstream products are exported.
- (223) In their comments on the disclosure, EUSMET submitted that there was no competition between imports and Union production as between 56 % and 80 % of the silicon imports from China were made under IPP and that they were related to a special silicon grade, which is not produced in the Union.
- (224) As concluded in recital 65, silicon is considered a homogenous product. As noted in recitals 48, no exporting producers in the PRC cooperated with the investigation and therefore the Commission had to use import statistics. All grades of the product under review are reported under the same CN code and there is no import data available that would allow a differentiation by end-use or product grades, regardless of the import regime. As mentioned in recital 66, due to non-cooperation of the exporting producers in the present investigation, for majority of imports, the Commission is unable to determine which product-types (or grades of silicon) are being imported. This claim was therefore rejected.

5.3.1. Prices of the imports from the country concerned and price undercutting

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

Table 4

Import prices (EUR/tonne)

	2018	2019	2020	Review Investigation period
China	1 786	1 693	1 523	1 532
<i>Index</i>	100	95	85	86
Duty-paid imports	1 538	1 337	1 311	1 496
<i>Index</i>	100	87	85	97
IPP imports	1 980	1 795	1 611	1 556
<i>Index</i>	100	91	81	79

Figures are CIF Union border, Source: Eurostat

- (226) The average unit price decreased by 15 % between 2018 and 2020 and slightly rose by 1 % in the RIP. Overall, the price decreased by 14 % over the period concerned.
- (227) The import prices of silicon imports under IPP fell steadily during the period considered, whilst the duty-paid imports fell between 2018 and 2020 by 15 % and increased by 12 % in the RIP. Throughout the period considered, the prices of silicon imported under IPP were higher than the imports subject to duties.

5.3.2. Price undercutting

- (228) The Commission determined the price undercutting during the review investigation period by comparing:
- the weighted average sales price of the Union producers charged to unrelated customers on the Union market, adjusted to an ex-works level; and
 - the corresponding weighted average prices of the imports from the country concerned to the first independent customer on the Union market, established on a cost, insurance, freight (CIF) basis as explained in recital 182, with appropriate adjustments for conventional customs duties and anti-dumping duties (if applicable) and post-importation costs of 1 %.
- (229) The undercutting (expressed as a percentage of the Union producers' turnover during the review investigation period) applying the conventional and anti-dumping duty for imports, where applicable, was 9,2 %.
- (230) In their comments of the disclosure, EUSMET claimed that the Commission should have revised the undercutting margin calculation by taking into account post-importation costs, on the one hand, and by adjusting the Union sales prices, on the other hand. EUSMET based this on the assumption that 40 % of the imports from China were mainly made by traders/importers, whereas the EU producers sell their products to the end users in the aluminium sector. Additionally, EUSMET identified that some Union producers had intercompany sales, therefore there is a difference in the level of trade.
- (231) First, it should be recalled that, as noted in recital 48, no exporting producers in the PRC cooperated with the investigation. The undercutting margin was therefore established on facts available. Second, in their comments on the disclosure EUSMET does not explain how the type of the purchaser can be established based on the TARIC level data. Third, contrary to EUSMET's claim, the evidence on file indicates that the cooperating users made a significant number of purchases directly from China (without traders and/or distributors). Fourth, the Commission did not take into account intercompany sales, thus, there is no difference in the level of trade. Therefore, the Commission's findings during the investigation do not support EUSMET's submission.
- (232) Furthermore, the undercutting established in recital 229 was established based on all imports from China. For the avoidance of doubt the Commission found undercutting of 9,2 % when the totality of imports were taken into consideration and of 0,4 % when only duty-paid imports were considered.
- (233) The Commission also calculated the undercutting in absence of anti-dumping duties. While taking the comments after disclosure into account, the Commission noted that in the disclosed version, the total undercutting in absence of anti-dumping duties had a clerical mistake (i.e. the duties were actually not fully removed). After correcting the clerical mistake, the Commission found undercutting of 14,6 % when the totality of imports were taken into consideration and of 13,9 % when only duty-paid imports were considered.
- (234) Therefore, based on the evidence on file and the price analysis conducted by the Commission, EUSMET's claim of margin inflation was rejected.

5.4. Imports from third countries other than China

- (235) The imports of silicon from third countries other than China (duty-paid and inward processing) originated mainly from Norway, Brazil and Malaysia.
- (236) The volume of imports into the Union as well as the market shares and price trends for imports of silicon from other third countries developed as follows:

Table 5

Imports from third countries

Country		2018	2019	2020	Review Investigation period
Norway	Volume (tonnes)	136 812	168 827	174 008	185 342
	<i>Index</i>	100	123	127	135
	Market share (range)	[21-26 %]	[35-40 %]	[38-43 %]	[39-44 %]
	Average price (EUR/tonne)	1 960	1 860	1 809	1 787
	<i>Index</i>	100	95	92	91
Brazil	Volume (tonnes)	64 467	31 721	41 663	43 467
	<i>Index</i>	100	49	65	67
	Market share (range)	[10-15 %]	[5-10 %]	[9-14 %]	[9-14 %]
	Average price (EUR/tonne)	1 973	1 857	1 567	1 537
	<i>Index</i>	100	94	79	78
Malaysia	Volume (tonnes)	0	748	17 713	25 747
	<i>Index</i>	n/a	n/a	n/a	n/a
	Market share (range)	0 %	[0-5 %]	[2-6 %]	[5-10 %]
	Average price (EUR/tonne)		1 594	1 519	1 569
	<i>Index</i>		100	95	98
Other third countries	Volume (tonnes)	86 527	85 740	53 865	44 843
	<i>Index</i>	100	99	62	52
	Market share (range)	[15-20 %]	[16-21 %]	[10-15 %]	[6-11 %]
	Average price (EUR/tonne)	1 974	1 662	1 648	1 764
	<i>Index</i>	100	84	83	89
Total of all third countries except the country concerned	Volume (tonnes)	287 805	287 036	287 248	299 399
	<i>Index</i>	100	100	100	104
	Market share (range)	[50-55 %]	[60-65 %]	[65-70 %]	[65-70 %]
	Average price (EUR/tonne)	1 967	1 800	1 726	1 729
	<i>Index</i>	100	92	88	88

Source: Eurostat

- (237) The import volumes from third countries rose by 4 % over the period considered. Given the 16 % decrease of the Union consumption during the same period, the market share of the imports from third countries increased by 24 % between 2018 and the RIP. Most of these imports originated in Norway, Brazil, and Malaysia. However, whilst the imports from Norway grew by 35 %, the imports from Brazil decreased by 33 % and the imports from Malaysia, absent in 2018, reached 5-10 % market share in the RIP.
- (238) The import price in EUR per tonne from the third countries steadily fell over the period concerned (an overall decrease of 12 %). In the RIP, import prices from Norway, Brazil, Malaysia and all other third countries, were on average all higher than the import prices from China.

5.5. Economic situation of the Union industry

5.5.1. General remarks

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

5.5.1.1. Production, production capacity and capacity utilisation

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

Table 6

Production, production capacity and capacity utilisation

	2018	2019	2020	Review Investigation period
Production volume (in tonnes) (range)	[200 000 – 240 000]	[150 000 – 190 000]	[110 000 – 150 000]	[120 000 – 160 000]
<i>Index</i>	100	78	66	71
Production capacity (in tonnes) (range)	[200 000 – 240 000]	[170 000 – 210 000]	[170 000 – 210 000]	[170 000 – 210 000]
<i>Index</i>	100	84	84	83
<i>Capacity utilisation – Index</i>	100	93	78	86

Source: Questionnaire replies

- (241) The production volume decreased by 34 % between 2018 and 2020 and increased by 5 % in the RIP. Overall, during the period concerned, the production volume fell by 29 %, to adjust to a lower demand. The evolution of the production volume also reflects a supply excess at the beginning of the period considered, also apparent in the volume of closing stocks in 2018 (see recital 256), which was gradually reduced.
- (242) The production capacity also fell but mostly between 2018 and 2019 (16 %) and remained fairly stable until the RIP, when it fell by an additional 1 %. Since the production volumes fell faster than the production capacity, the capacity utilisation fell by 17 % in the period considered.

5.5.1.2. Sales volume and market share

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

Table 7

Sales volume and market share (in tonnes)

	2018	2019	2020	Review Investigation period
Sales volume on the Union market (range)	[150 000 – 190 000]	[120 000 – 160 000]	[100 000 – 140 000]	[110 000 – 150 000]
<i>Index</i>	100	80	64	71
Market share (range)	[30-35 %]	[25-30 %]	[26-31 %]	[27-32 %]
<i>Index</i>	100	90	80	85

Source: Questionnaire replies

- (244) The sales volume on the Union market followed a similar pattern as the production, decreasing steadily by 36 % between 2018 and 2020 and rising in the RIP, by 10 %. Overall, sales in the Union fell by 29 % in the period considered. During the same period, the market share of the Union industry decreased by 15 %.

5.5.1.3. Growth

- (245) While the consumption fell by 16 %, both Union industry's production volumes and sales fell by 29 %, resulting in a market share decreased by 15 %. The Union industry's losses in terms of production volume and sales exceeded the contraction of the market.

5.5.1.4. Employment and productivity

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

Table 8

Employment and productivity

	2018	2019	2020	Review Investigation period
<i>Number of employees – Index</i>	100	88	87	88
<i>Productivity (tonne/employee) – Index</i>	100	88	75	81

Source: Questionnaire replies

- (247) In line with the capacity trend, the employment fell by 12 % between 2018 and 2019, and remained fairly stable until the RIP. Since the production fell even faster (29 %), the productivity decreased by 19 %, between 2018 and the RIP.

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

- (248) Despite the decreasing levels of the import quantities from China, the imports dumped at 39,4 % had a negative impact on the Union industry's performance, making it also difficult for the Union industry to recover from past dumping practices.

5.5.1.6. Prices and factors affecting prices

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

Table 9

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

	2018	2019	2020	Review Investigation period
Average unit sales price in the Union on the total market – Ranges	[2 000 – 2 200]	[1 700 – 1 900]	[1 700 – 1 900]	[1 700 – 1 900]
<i>Average unit sales price in the Union on the total market – Index</i>	100	88	85	87
Unit cost of production – Ranges	[1 800 – 2 000]	[1 700 – 1 900]	[1 700 – 1 900]	[1 700 – 1 900]
<i>Unit cost of production – Index</i>	100	99	92	95
<i>Source: Questionnaire replies</i>				

- (250) The unit sales price of the Union industry to unrelated costumers in the Union decreased by 12 % in 2019 compared to 2018 and then further decreased by 1 percentage point between 2019 and the RIP.
- (251) Unlike the unit sales price, the unit cost of production of the Union industry remained stable in 2019 and fell by 5 % between 2019 and the RIP. This partly reflected the decision of some producers to shut down certain furnaces, in view of the oversupply that originated from the lower demand.
- (252) As a result, the sales price fell twice as much (13 %) than the cost of production (5 %) during the period considered.

5.5.1.7. Labour costs

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

Table 10

Average labour costs per employee

	2018	2019	2020	Review Investigation period
<i>Average labour costs per employee (EUR) – Index</i>	100	92	86	88
<i>Source: Questionnaire replies</i>				

- (254) The average labour cost per employee decreased by 12 % during the period considered. The employees' bonuses paid out in 2018 and social security programme in the periods of lower output explain the average cost trend.

5.5.1.8. Inventories

- (255) Stock levels of the Union producers developed over the period considered as follows:

Table 11

Inventories

	2018	2019	2020	Review Investigation period
<i>Closing stocks (in tonnes) – Index</i>	100	79	65	9
<i>Closing stocks as a percentage of production – Index</i>	100	101	98	13

Source: Questionnaire replies

(256) The closing stocks fell by 91 % during the period considered. This reduction was mostly because the stocks in 2018 were high in volumes, given the lower demand for silicon at the beginning of the period considered had created an oversupply in the Union.

(257) Similarly, the ratio between the closing stocks and the production volumes fell by 87 % between 2018 and the RIP.

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

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

Table 12

Profitability, cash flow, investments and return on investments

	2018	2019	2020	Review Investigation period
Profitability of sales in the Union to unrelated customers (% of sales turnover) (range)	[5 % – 10 %]	[- 6 % – - 1 %]	[0 % – 5 %]	[0 % – 5 %]
<i>Index</i>	100	- 107	38	12
<i>Cash flow (EUR) – Index</i>	100	- 11	104	38
<i>Investments (EUR) – Index</i>	100	88	8	41
Return on investments (range)	[70 % – 75 %]	[- 70 % – - 75 %]	[0 % – 5 %]	[- 15 % – 20 %]
<i>Index</i>	100	- 105	6	- 29

Source: Questionnaire replies

(259) The Commission established the profitability of the Union producers by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales. From a situation of positive profitability in 2018 the Union industry became loss making in 2019. The average profitability slowly improved in 2019 and 2020, but overall, the Union industry experienced an 88 % reduction in their profitability over the period considered.

- (260) The net cash flow is the ability of the Union producers to self-finance their activities. The trend in net cash flow decreased by 111 % in 2019 to grow again by 124 % in 2020 and decreased again by 66 % in the RIP. Despite the increase, the cash flow during the RIP was still 62 % lower than in 2018 and was mostly the consequence of the significant sales decrease of one Union producer during the period considered.
- (261) The level of investments decreased to a very low level in 2020 to slightly rebound in the RIP. Overall, the investments has more than halved during the period considered. Around 70-80 % of the investments relate to replacement of certain equipment by one of the producers. More in general, as a reaction to the falling demand, the companies were reducing their assets used for production during the period considered until the RIP, where some investments were made upon the signs of demand recovery.
- (262) The return on investments needed to produce silicon on the total silicon sales was following the decreasing profits.

5.6. Conclusion on injury

- (263) All injury indicators, apart from the stock levels, showed a negative pattern during the period considered. In a context of demand decrease (16 %), both sales and production fell in a higher magnitude (29 %). This led to a similar decrease in capacity (17 %) and employment (12 %). Since the decrease in production was faster (29 %) than the decrease of capacity and employment, the capacity utilisation and the productivity also fell during the period considered.
- (264) During the same period, the average unit prices also decreased (13 %). As a consequence, despite a decrease of the cost of production (5 %), the profitability fell by 88 %. Along with the profitability, also the investment, cash flow and return on investment fell significantly over the period considered.
- (265) Based on the above, the Commission concluded that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation during the review investigation period.

6. CAUSAL LINK BETWEEN THE INJURY AND THE DUMPED IMPORTS FROM CHINA

- (266) In accordance with Article 3(6) of the basic Regulation, the Commission examined whether the dumped imports from China concerned caused material injury to the Union industry. In accordance with Article 3(7) of the basic Regulation, the Commission also examined whether other known factors could at the same time have injured the Union industry, in particular imports from third countries.
- (267) Over the period considered, the import volumes from China decreased from 14 % in 2018 to 7 % in the RIP. These imports entered at price levels which undercut, during the RIP, the Union sales prices by 9,2 %, when considering the anti-dumping duties or 14,6 % when not considering the duties. Against the backdrop of a market which was shrinking during the period considered, the import from the country concerned therefore kept exerting pressure on the Union industry whose profitability remained very low throughout the period considered and even reached negative levels at times.
- (268) At the same time, imports from other countries, such as Norway and Malaysia, kept increasing and their market share went up from 53 % to 66 % between 2018 and the RIP. Imports from these countries were sold at prices lower or close than those of Chinese imports with duties included, thereby also contributing to the injurious situation of the Union industry. Therefore, the effect of third country imports on the Union industry's negative developments, in particular in terms of profitability, attenuating to some extent the causal link between the injury and the dumped imports from China.

- (269) On the basis of the above, the Commission concluded that the dumped imports from China contributed to the material injury suffered by the Union industry, with third country imports attenuating to an extent the causal link between the dumped imports and the material injury.
- (270) In their comments on the disclosure, EUSMET argued that the Commission followed a 'check list' approach in its injury assessment and it failed to consider conflicting evidence, such as the evidence suggesting that the Chinese imports did not constitute the explanatory force of the injury to the Union industry. In particular EUSMET claimed that the Commission did not take into account evidence relating to the fact that (i) the volume of Chinese imports declined over the period considered, (ii) there was no correlation between the Chinese silicon import volumes and prices on the Union industry's situation, (iii) the decline in the Union industry's production, sales volumes, sales prices and other financial indicators corresponded to the period of declining demand and prices in the Union and globally and (iv) the majority of the silicon imports from China in the RIP were under the IPP and basically pertained to the special grade silicon metal imports made by one EUSMET member, (v) the Commission also did not consider the significant imports of silicon metal from South Africa into the Union in the RIP and (vi) the Commission does not explain how the significantly higher volume of Norwegian imports at prices that undercut the EU producers' prices did not affect the economic situation of the Union industry.
- (271) It is clear from recital 269 that the Commission has not attributed to Chinese imports the role of explanatory force behind the injury suffered by Union producers. Nor the Commission concluded that the dumped Chinese import were the main and sole cause for the decrease on Union prices. And finally, the Commission has not neglected the decrease of the demand in the Union and globally, as explained in recital 218 and clearly reported in Table 2. Nevertheless, the Commission has factually noted that these Chinese imports, despite decreasing during the period considered, were still at dumped prices in the RIP and were still undercutting Union prices, thus certainly contributing to the injurious situation of the Union industry.
- (272) Whilst the Commission agrees that the majority of import from China were under IPP it contests that these pertained to a certain grade of silicon used by one EUSMET member. Indeed, even assuming that the totality of imports from EUSMET members during the RIP were entirely of the special grade silicon, these would only be equal to less than a half all the imports from China under IPP, or less than one third of the overall imports from China, during the RIP.
- (273) The Commission considered but did not single out the impact of imports from South Africa, because these are in lower volumes than imports from other countries such as Norway, Brazil and Malaysia, for which detailed data were provided. Impact of imports from South Africa, as well as from other minor exporting countries are still captured in the aggregated figure of 'other imports' in Table 5.
- (274) Finally, the Commission concurs with EUSMET that Norway, along with other countries including China, have contributed to the injurious situation of the Union industry over the period considered. Import volumes and prices of Norwegian imports are clearly reported in Table 5.
- (275) In conclusion, as explained in recital 269, the Commission attributed the injury to both imports of silicon from China and other third countries. Contrary to the EUSMET's claims, the Commission focused on an analysis of recurrence of injury, as described in recitals 276 to 294, identifying the likely situation whereby the Union industry would be injured, should the measures lapse and the imports from China surge at the current undercutting prices.

7. LIKELIHOOD OF RECURRENCE OF INJURY

- (276) The Commission concluded in recital 265 that the Union industry suffered material injury during the review investigation period. Nevertheless, given the trend of decreasing volumes and market share of Chinese imports over the period considered, the Commission also examined, in accordance with Article 11(2) of the basic Regulation, whether there would be a likelihood of recurrence of injury caused by the dumped imports from China if the measures against were allowed to lapse.

- (277) In this regard, the Commission examined the production capacity and spare capacity in China, attractiveness of the Union market, the likely price levels of imports from China in the absence of anti-dumping measures, and their impact on the Union industry.
- (278) The capacity and spare capacity in China is discussed in recital 188. Due to the non-cooperation of the Chinese producers, the findings of the investigation were based on the information provided in the expiry review request. The review request estimated the Chinese silicon production capacity between 6 and 8 million tonnes per year and stated that Chinese silicon production capacity is far higher than the total world consumption. This confirms the conclusions of the last expiry review that China has significant spare capacity that could be used to supply the Union market if the measures are allowed to lapse.
- (279) The attractiveness of the Union market is discussed in recitals 201 to 204. In the review investigation period, the Union industry average selling price was well above the average import price of Chinese silicon. In addition, other markets remained closed due to trade defence measures ⁽⁵⁸⁾, indicating that it is likely that Chinese exports in large quantities putting the spare capacity into use would be directed towards the Union, should the measures lapse.
- (280) The price levels of the Chinese exports to the Union without anti-dumping duties would be a reasonable indicator of future price levels to the Union market. Using the data from the RIP, applying only conventional duties, the undercutting would reach 14,6 % when all imports are considered and 13,9 % when only duty paid imports are taken into account.
- (281) The price pressure would not allow the Union industry to maintain a profitable pattern. Instead, the Union industry would further deteriorate should the measures be allowed to lapse. Indeed, in the absence of measures, Chinese dumped imports at injurious prices would likely exert further downward pressure on the sales prices in the Union market. The Union industry would very likely be obliged to decrease its sales prices which would lead to further loss of profitability and, in all likelihood, important losses in the short term.
- (282) Alternatively, should the Union industry attempt to increase its sales prices to profitable levels, considering the large overcapacity in China, the dumped imports would likely gain significant market share in the Union to the detriment of the Union industry.
- (283) While the volume of imports from China was gradually decreasing over the period considered, the interest of Chinese exporting producers in the Union market is shown by the continued imports during the period considered, despite the measures in force, at prices which undercut the Union industry prices. Moreover, as seen in recital 206 the export prices from China to other countries (i.e. 1 800 USD per tonne) were lower than the average prices of exports to the Union, during the same year (i.e. 1 915 USD per tonne).
- (284) In their comments on the disclosure, EUSMET reiterated its comment that the Commission has overestimated the capacity and spare capacity in China.
- (285) The Commission noted that EUSMET provided no new evidence in this regards and simply reiterated its previous claims. As clarified in recitals 191 to 195, the Commission's findings, that there is significant spare capacity in China, that could be used to supply the Union market should measures be allowed to lapse remain unchanged.
- (286) EUSMET noted that the analysis on the attractiveness of the Union market was based on export prices of Chinese silicon towards the EU vis-a-vis to other markets. EUSMET requested the disclosure of these data.
- (287) As specified in recital 209 the Commission based its analyses on GTA extraction, which is readily available. GTA data are based on data obtained from Chinese customs' authorities, and has been used simply as a baseline to compare export prices to various destinations.

⁽⁵⁸⁾ Australia, Canada, and the United States of America have anti-dumping or anti-subsidy measures in force against imports of silicon from China.

- (288) EUSMET claimed that the Commission failed to demonstrate that, by allowing measure to lapse, Chinese imports would flood the Union market. This was based on the fact that during the silicon shortage between 2021 and 2022 Chinese imports into the Union did not increase.
- (289) The Commission considered that the situation after the RIP and in particular the steep increase of demand and the consequent shortage of supply was of a temporary nature. Indeed, these shocks in demand and supply have been linked to the COVID-19 pandemic, the Russian aggression against Ukraine and the increase of electricity prices (part of which occurred even before the Russian aggression against Ukraine). Nevertheless, there are no elements supporting the arguments that these are not temporary, nor did EUSMET demonstrate this in its submissions. Furthermore, the Commission noted that a situation where demand temporarily increases is different from a situation where duties are permanently removed. The exporter's reaction to former cannot be considered as a blueprint for their reaction to the latter. Moreover, based on the considerations on Chinese spare capacity and attractiveness of the Union market the Commission still considers that the Chinese silicon imports would enter the Union market in significant quantities at dumped prices, should the measures be allowed to lapse.
- (290) EUSMET further claimed that the Commission's assumption that the Chinese imports would increase should measures be repealed was wrong since: (i) the undercutting margin was inflated: (ii) difference between various grades of the product concerned not being reflected in the analysis, (iii) the Union was not the major Chinese market for exports, (iv) the Chinese silicon metal was not the explanatory force behind the Union industry injury.
- (291) No new evidence to support these claims was provided in the comments on the disclosure. In the light of the above four elements addressed in the previous recitals on undercutting margin (see recital 234), product differentiation (see recital 65), the Union not being the major export market for the PRC (see recitals 206 to 210) and the causation (see recital 275), the Commission's analyses on the potential volumes and prices effects of the Chinese imports on the Union market, should measures be repealed, remained unchanged.
- (292) EUSMET claimed that the Commission failed to consider the market development post-RIP and in particular the sharp increase of the Union prices of silicon, the global supply shortage, including at Union industry level, that would lead the Union producer making significant profits.
- (293) The Commission considered that both the price development as well as the global shortage of silicon after the RIP were temporary trends, mostly linked to the COVID-19 pandemic and geopolitical events in 2021 and 2022. The evidence provided by EUSMET, including the forecast on the increase of silicon demand and prices, do not indicate that the global supply shortage or that the sharp price increase will be of a permanent nature.
- (294) On this basis, the Commission concluded that the absence of measures would in all likelihood result in a significant increase of dumped imports from China at injurious prices and material injury would be likely to recur.

8. UNION INTEREST

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

8.1. Interest of the Union industry

- (296) Three Union producers accounting for 100 % of Union production cooperated in this investigation. As stated in recital 265, the Union industry suffers material injury within the meaning of Article 3(5) of the basic Regulation despite the measures in force.

- (297) The measures in force have largely contained the imports volumes from China, which still occurred at injurious prices that undercut the Union prices and that therefore further contributed to the precarious condition of the Union industry.
- (298) Indeed, if measures were repealed, the import volumes from China would likely surge and, given the spare capacity in China as well as the attractiveness of the Union market, the economic situation of the Union industry would be even further compromised, leading to further reduction of production, sales and employment in the Union.
- (299) Any further deterioration of the Union industry's economic situation would entail the risk of a scaling-down of production or even definitive closure of production sites in the Union. Therefore, it can be concluded that the continuation of the measures against China would be in the interest of the Union industry.
- (300) Interest of unrelated importers
- (301) No importer came forward following the publication of the notice of initiation and during the investigation.
- (302) Therefore, there were no indications that the maintenance of the measures would have a negative impact on the importers outweighing the positive impact of the measures.

8.2. Interest of users

- (303) The Commission received replies from three users, two from the chemical sectors (Wacker and Evonik, forming the consortium EUSMET) and one from the aluminium sector (Raffmetal). Moreover, the Commission received comments from the European Aluminium Association, representing the whole value chain of the aluminium industry in Europe.
- (304) The European Aluminium Association along with Raffmetal support the continuation of the existing measures. These users emphasised that silicon is an essential material in the aluminium production. If on the one hand the anti-dumping measures have an adverse impact on the users' cost of production, on the other hand the measures preserve the production of silicon in the Union. As a consequence, the users benefit from a reliable and geographically close supply of silicon.
- (305) EUSMET claimed that the anti-dumping measures should not be maintained. For these users, silicon is of significant importance and it accounts for a large share of their raw materials cost. These users are importing from China and the anti-dumping duties increase their cost of production for silicon-based products. Moreover, they claimed that the effect of the measures on the chemical users would be potentially more significant than in the aluminium industries.
- (306) However, the information supplied by the two cooperating users producing chemical products shows that they import significant amounts under IPP, thereby being to certain extent exempted from the anti-dumping duty. The effect of the measures on part of the imports from these users was therefore considered to be limited.
- (307) EUSMET further pointed to the good financial situation of the Union producers, especially after the RIP.
- (308) The Commission notes that the apparent improvement of the financial situation of the Union producers coincides with the recent global growth of the silicon demand. Such short-term market development, occurring in any event after the RIP, cannot be considered indicative of the Union industry's financial situation, given in particular the conclusions in recitals 211, 212 and 294. Therefore, since the Union industry is not in a stable economic situation and since it would be subject to future negative impact of dumped imports from China should the measures be allowed to lapse, the argument was rejected.

- (309) EUSMET claimed that the demand for silicon has increased while the supply has declined, in the EU, in the last years. EUSMET expressed concern about the security of supply and in particular the inability of the Union industry to fully supply the Union demand. This would lead to a situation of unavailability of the like product to satisfy the demand, which is growing fast, especially after the RIP. EUSMET also pointed out to the fierce competition in their downstream products markets, where the higher silicon costs put EUSMET at a competitive disadvantage compared to other world producers.
- (310) The investigation, however, showed that a variety of sources of silicon exists. First, the Union industry has spare capacity that can be reactivated to meet a growing future demand. Indeed, as shown in Table 2, even if the Union industry reduced their production and production capacity to some degree in reaction to the declining silicon consumption, a significant free capacity (i.e. around 26 % in the RIP) is still available in the Union should the demand surge again. The investigation showed that the furnaces that have been shut down could be reactivated in as short as two weeks to two months, depending of the inactivity time.
- (311) Moreover, silicon can be sourced from other countries, such as Norway, Malaysia, Brazil, Bosnia and Herzegovina. As set out in recital 236 two thirds of the silicon purchased in the Union is imported from Norway, Brazil, Malaysia, and a number of other countries. The Commission noted further that the measures in force did not stop Chinese imports of silicon from entering the Union market.
- (312) In conclusion, the combination between other sources of supplies and the spare capacity in the Union represent a diversified variety of options for the Union users of silicon. The argument therefore could not be accepted.
- (313) EUSMET claimed that the measures should be terminated also in view of the fact that silicon has been classified as a critical raw material ('CRM') by the Commission ⁽⁵⁹⁾ based on its economic importance and supply risk. EUSMET claimed that maintaining the measures would limit the amount of silicon and the variety of sources available on the market.
- (314) The Commission concurs on the critical nature of silicon in the industrial ecosystem in the Union. Nevertheless, the presence of imports at dumped price in the market would significantly endanger the Union industry and jeopardise the reliability of supply of silicon in the Union in the long period. For this reason, the claim was rejected.
- (315) In their comments on the disclosure, EUSMET disagreed with the Commission's conclusions that the special grade silicon, needed by some users to produce products whose demand will increase in the future, is available in sufficient quantities in other markets than the PRC. Moreover, EUSMET claimed that the majority of IPP imports relate to this special grade silicon imported by one of its members.
- (316) The Commission noted that the duties on imports from the PRC are not prohibitive and if the users need a special grade of silicon, this remains available for importation under fair competition conditions.
- (317) Moreover, as already clarified in recital 272, based on Eurostat volumes, the majority of IPP imports relate to other imports than those from the EUSMET member who imports the special grade silicon, even assuming that this member only purchases the special grade silicon under IPP.
- (318) EUSMET submitted that the IPP is only relevant to the extent that goods are exported and cannot be used under several of the EU FTA's, including the EU-Japan FTA. Thus, the access to IPP does not reduce the competitive disadvantage suffered by EUSMET members.

⁽⁵⁹⁾ See the second CRM list (COM(2014) 297 final of 26 May 2014), the third list (COM(2017) 490 final) and also the last list (COM(2020) 474 final) which was published in September 2020.

- (319) The Commission mentioned in recital 306 that certain volumes imported by EUSMET members are under IPP only to underline that part of their imports were not subject to the duties and that the latter had therefore a limited impact during the RIP. The Commission is aware that EUSMET members cannot only import via IPP and that the residual imports under regular regime made by EUSMET members are subject to the duties and have an impact on the importers. However, it is a fact that if a company is in position to import silicon under IPP, this limits the impact of the duties for the users concerned, even if it does not limit that impact for the entire volume so imported.
- (320) EUSMET noted that the spare capacity of the EU industry is insufficient to supply the growing silicon demand in the Union. Moreover, EUSMET highlighted that due to the development of electricity prices in the Union, Union producers will not be in position to increase their capacity utilisation.
- (321) The spare capacity in the Union was considered to be significant (26 % on average, representing about 10 % of the current Union consumption). In addition, the imports of silicon from other sources, including China, are available. EUSMET also did not demonstrate that the potential electricity prices increase would not be accompanied by the silicon sales price, which would enable to increase the Union producer's capacity utilisation. As the electricity is a major cost component in the production, there is likely to be a correlation between those two, therefore this claim is rejected.
- (322) EUSMET claimed that first, the Commission did not consider the increase in demand for the period after the RIP. In particular, the Commission did not consider that the demand of the special silicon grade not produced in the Union and mostly originating from the PRC will increase. Second, the Commission allegedly did not consider the silicon shortage right after the RIP. Third, the Commission did not consider the increased competition faced by users in the Union from the United Kingdom of Great Britain and Northern Ireland ('the UK') and the PRC. Fourth, the Commission did not consider the effects of sanctions on Russian exports.
- (323) The Commission did considered the situation after the RIP and, as concluded in recital 293, found it to be of a temporary nature.
- (324) Furthermore, the commission agrees with EUSMET that Union users need diversity and security of supply to ensure continued production. However, such diversity and security will not be possible if the Union producers would be driven out of business due to the injurious imports of silicon from China at dumped prices.
- (325) Concerning the increased competition from the UK, the Commission notes that EUSMET did not provide sufficient information necessary to measure the impact of the increased competition from the UK so this claim is dismissed.
- (326) Concerning the effects of the sanctions on Russia, the Commission noted that this would further reduce the potential sources of silicon on the Union market. Nevertheless, based on the RIP data, Russia only represented 2 % of the total imports of silicon in the Union. Given the magnitude of Russian imports and the availability of other sources at global level, the Commission considered that the impact on the users of silicon not will not be substantial in the long period.
- (327) EUSMET finally underlined that silicon metal producers in different countries of the world do not want to increase sales to EUSMET members because of the fear of AD measures.
- (328) This claim was not supported by any factual evidence or fact that the suppliers outside the Union will refuse to supply. Indeed, the Commission noted a continuation of imports from third countries and in some cases even an increase of these, during the period considered.
- (329) On balance, the positive effect of the measures on the Union industry and users in the aluminium industry therefore outweighs the limited negative impact of the measures in force on the other users.

8.3. Conclusion on Union interest

- (330) On the basis of the above, the Commission concluded that there were no compelling reasons of the Union interest against the maintenance of the existing measures on imports of silicon originating in China.

9. ANTI-DUMPING MEASURES

- (331) Based on the conclusions on continuation of dumping, recurrence of injury and Union interest, the anti-dumping measures on silicon from China should be maintained.
- (332) To minimise the risks of circumvention due to the difference in duty rates, special measures are needed to ensure the application of the individual anti-dumping duties. The companies with individual anti-dumping duties must present a valid commercial invoice to the customs authorities of the Member States. The invoice must conform to the requirements set out in Article 1(3) of this regulation. Imports not accompanied by that invoice should be subject to the anti-dumping duty applicable to 'all other companies'.
- (333) While presentation of this invoice is necessary for the customs authorities of the Member States to apply the individual rates of anti-dumping duty to imports, it is not the only element to be considered by the customs authorities. Indeed, even if presented with an invoice meeting all the requirements set out in Article 1(3) of this regulation, the customs authorities of Member States must carry out their usual checks and may, like in all other cases, require additional documents (shipping documents, etc.) for the purpose of verifying the accuracy of the particulars contained in the declaration and ensure that the subsequent application of the lower rate of duty is justified, in compliance with customs law.
- (334) Should the exports by one of the companies benefiting from lower individual duty rates increase significantly in volume after the imposition of the measures concerned, such an increase in volume could be considered as constituting in itself a change in the pattern of trade due to the imposition of measures within the meaning of Article 13(1) of the basic Regulation. In such circumstances and provided the conditions are met an anti-circumvention investigation may be initiated. This investigation may examine the need for the removal of individual duty rate(s) and the consequent imposition of a country-wide duty.
- (335) The individual company anti-dumping duty rates specified in this Regulation are exclusively applicable to imports of the product under review originating in the People's Republic of China and produced by the named legal entities. Imports of the product under review produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other companies'. They should not be subject to any of the individual anti-dumping duty rates.
- (336) A company may request the application of these individual anti-dumping duty rates if it changes subsequently the name of its entity. The request must be addressed to the Commission ⁽⁶⁰⁾. The request must contain all the relevant information enabling to demonstrate that the change does not affect the right of the company to benefit from the duty rate which applies to it. If the change of name of the company does not affect its right to benefit from the duty rate which applies to it, a regulation about the change of name will be published in the *Official Journal of the European Union*.
- (337) All interested parties were informed of the essential facts and considerations on the basis of which it was intended to recommend that the existing measure s be maintained. They were also granted a period to make representations subsequent to this disclosure. Only one interested party – EUSMET provided comments.
- (338) In their comments on the disclosure, EUSMET requested that, should measures be confirmed, the measures be limited to a period of two years, given the changed market circumstances concerning both demand and supply and Union's high import dependence on specific silicon grades.

⁽⁶⁰⁾ European Commission, Directorate-General for Trade, Directorate G, Rue de la Loi 170, 1040 Brussels, Belgium.

- (339) However, the Commission noted that there is nothing in the RIP data that would support such conclusion. Moreover, as discussed in recitals 289 and 293, the post-RIP developments appear to be of a temporary nature. In any event, if there are special circumstances warranting that the situation is reassessed in the future, an interim reviews can be requested in accordance with Article 11(3) of the basic Regulation.
- (340) In view of Article 109 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽⁶¹⁾, when an amount is to be reimbursed following a judgment of the Court of Justice of the European Union, the interest to be paid should be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union* on the first calendar day of each month.
- (341) The Committee established by Article 15(1) of Regulation (EU) 2016/1036 did not deliver an opinion on the measures provided for in this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is imposed on imports of silicon, currently falling under CN code 2804 69 00 and originating in the People's Republic of China.

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

Company	Anti-dumping duty	TARIC additional code
Datong Jinneng Industrial Silicon Co., Pingwang Industry Garden, Datong, Shanxi	16,3 %	A971
All other companies	16,8 %	A999

3. The definitive anti-dumping duty applicable to imports from 'all other companies' originating in the People's Republic of China, as set out in paragraph 2, is hereby extended to imports of the product described in paragraph 1 consigned from the Republic of Korea, whether declared as originating in the Republic of Korea or not (TARIC code 2804 69 00 10) and to imports of the product described in paragraph 1 consigned from Taiwan, whether declared as originating in Taiwan or not (TARIC code 2804 69 00 20).

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

⁽⁶¹⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

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

Article 2

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

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

Done at Brussels, 11 August 2022.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION IMPLEMENTING REGULATION (EU) 2022/1395**of 11 August 2022****imposing a definitive anti-dumping duty on imports of certain corrosion resistant steels originating in Russia and Turkey**

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 9(4) thereof,

Whereas:

1. PROCEDURE**1.1. Initiation**

- (1) On 24 June 2021, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports of certain corrosion resistant steels originating in Russia and Turkey ('the countries concerned') on the basis of Article 5 of the basic Regulation. It published a Notice of Initiation in the *Official Journal of the European Union* ⁽²⁾ ('the Notice of Initiation').
- (2) The Commission initiated the investigation following a complaint lodged on 12 May 2021 by the European Steel Association ('Eurofer' or 'the complainant'). The complaint was made on behalf of the Union industry of certain corrosion resistant steels in the sense of Article 5(4) of the basic Regulation. The complaint contained evidence of dumping and of resulting material injury that was sufficient to justify the initiation of the investigation.

1.2. Interested parties

- (3) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission specifically informed the complainant, other known Union producers, the known exporting producers and the authorities of Russia and Turkey, known importers and users, as well as associations known to be concerned about the initiation of the investigation and invited them to participate.
- (4) Interested parties had the opportunity to comment on the initiation of the investigation and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings. The Commission held a hearing with a Turkish exporting producer on 17 September 2021.

1.3. Sampling

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

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ OJ C 245, 24.6.2021, p. 21.

1.3.1. *Sampling of Union producers*

- (6) In its Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. The Commission selected the sample on the basis of production and Union sales volumes reported by the Union producers in the context of the pre-initiation standing assessment analysis, taking also into account their geographical location. This provisional sample consisted of three Union producers, located in three different Member States. The sample accounted for more than 23 % of production and sales in the Union of like product. The Commission invited interested parties to comment on the provisional sample ⁽³⁾. No parties made any comments within the given deadline.
- (7) During the verification visit at the premises of one of the sampled Union producers, it was found that the company had wrongly included in its reply to the standing questionnaire as well as in its reply to the anti-dumping questionnaire a significant share of data concerning products falling outside the scope of the investigation. To ensure that such situation did not affect the representativeness of the sample, the Commission decided to maintain the company concerned in the sample and to include an additional company to the sample. The final sample thus established consisted of four Union producers, located in three different Member States, which accounted for ca. 25 % of the estimated total volume of production and sales of the like product in the Union. The Commission invited interested parties to comment on the final sample ⁽⁴⁾. No parties made any comments within the given deadline.

1.3.2. *Sampling of importers*

- (8) To decide whether sampling is necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation.
- (9) None of the companies that submitted an Annex to the Notice of Initiation within the deadline reported imports of the product concerned. The Commission decided to abandon sampling. No comments were received to this decision.

1.3.3. *Sampling of exporting producers in Russia*

- (10) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all exporting producers in Russia to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Permanent Mission of the Russian Federation to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.
- (11) Three exporting producers/groups of exporting producers in Russia, accounting for around 98 % of the total Russian export volume of the product concerned to the Union, provided the requested information and agreed to be included in the sample. In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of two companies on the basis of the largest representative volume of exports to the Union which could reasonably be investigated within the time available. In accordance with Article 17(2) of the basic Regulation, all known exporting producers concerned and the Russian authorities were consulted on the selection of the sample.
- (12) The Commission received comments on the sample from PJSC Novolipetsk Steel. The company pointed out that there were sound legal reasons to conduct the investigation on three, rather than two, exporting producers, especially if one of the originally sampled companies would withdraw its cooperation. Such withdrawal would complicate the determination of the dumping margin for non-sampled cooperating exporting producers.
- (13) In addition, the company emphasized that the Commission sampled the exporting producer PJSC Magnitogorsk Iron and Steel Works in Russia and its subsidiary MMK Metalurji Sanayi Ticaret ve Liman İşletmeciliği A.Ş. in Turkey. The company asserted that the two related exporting producers shared part of their sales channels. That would reduce the workload of the Commission, thus allowing for investigation of NLMK.

⁽³⁾ Note to the file t21.005164 of 6 July 2021.

⁽⁴⁾ Note to the file t21.007177 of 21 October 2021.

- (14) After analysing the comments of NLMK, the Commission found in particular the claims described in recital (12) justified and decided to abandon sampling with regard to the exporting producers in Russia. The Commission informed the company in question as well as Russian authorities of this decision.

1.3.4. *Sampling of exporting producers Turkey*

- (15) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all exporting producers in Turkey to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of Turkey to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.
- (16) Eight exporting producers/groups of exporting producers in Turkey, accounting for around 100 % of the total Turkish export volume of the product concerned to the Union, provided the requested information and agreed to be included in the sample. In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of three companies on the basis of the largest representative volume of exports to the Union which could reasonably be investigated within the time available. In accordance with Article 17(2) of the basic Regulation, all known exporting producers concerned and the authorities of the country concerned were consulted on the selection of the sample. No comments were received to the sampling proposal. The final sample thus established accounted for 62,6 % of the total Turkish export volume of the product concerned to the Union.

1.4. **Individual examination**

- (17) One exporting producer in Turkey requested individual examination under Article 17(3) of the basic Regulation. The Commission decided that the examination of this request would have been unduly burdensome and would have prevented the completion of the investigation in good time. This is due to the complex corporate structure of the company in question. Therefore, the individual examination request was rejected.

1.5. **Questionnaire replies**

- (18) The Commission sent a questionnaire to the complainant and requested the four sampled Union producers ⁽⁵⁾, the three exporting producers in Russia and the three sampled exporting producers in Turkey to fill in the relevant questionnaires made available online ⁽⁶⁾ on the day of initiation.
- (19) Questionnaire replies were received from the four sampled Union producers, the complainant, the three exporting producers from Russia, the three sampled exporting producers from Turkey and the exporting producer from Turkey that requested individual examination.

1.6. **Verification visits**

- (20) The Commission sought and verified all the information deemed necessary for a determination of dumping, resulting injury and Union interest. Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:

Union producers:

- Acciaieria Arvedi S.p.A, Cremona, Italia
- ArcelorMittal Poland, Dabrowa Górnicza, Poland
- Marcegaglia Carbon Steel S.p.A, Gazoldo degli Ippoliti, Italia
- U.S. Steel Košice, s.r.o., Košice, Slovakia

⁽⁵⁾ The three initially sampled Union producers were instructed to complete the questionnaire upon confirmation of the provisional sample on 6 July 2021, whereas the Union producer which was added to the sample (see recital (7)) was instructed to do so on 21 October 2021.

⁽⁶⁾ Questionnaires for Union producers, exporting producers, importers and users were available at https://trade.ec.europa.eu/tdi/case_details.cfm?id=2531

Traders and importers related to the Russian exporting producers:

- MMK Steel Trade AG, Lugano, Switzerland
- NLMK Trading SA, Lugano, Switzerland
- Severstal Export GmbH ('SSE'), Manno, Switzerland
- SIA Severstal Distribution (Severstal Distribution Europe, 'SDE'), Riga, Latvia

(21) The Commission carried out remote cross-checks of the following parties:

Union producers' association:

- Eurofer, Brussels, Belgium

Exporting producers in Russia:

- PJSC Magnitogorsk Iron and Steel Works ('MMK'), Magnitogorsk, Russia
- Novolipetsk Steel ('NLMK'), Lipetsk, Russia
- PAO Severstal ('PAOS'), Cherepovets, Russia

Domestic traders related to the Russian exporting producers:

- LLC Torgovy dom MMK ('TD MMK'), Magnitogorsk, Russia
- Novolipetsk Steel Service Center LLC ('NSSC'), Lipetsk, Russia
- Torgovy dom NLMK LLC ('NLMK Shop'), Moscow, Russia
- JSC Severstal Distribution (Severstal Distribution Russia, 'SDR'), Cherepovets, Russia

Exporting producers in Turkey:

- MMK Metalurji Sanayi Ticaret ve Liman İşletmeciliği A.Ş. ('MMK Turkey'), Dordyol, Turkey
- TatMetal Çelik Sanayi ve Ticaret A.Ş. ('Tatmetal'), Istanbul, Turkey
- Tezcan Galvanizli Yapi Elemanlari Sanayi ve Ticaret A.Ş. ('Tezcan'), Kartepe-Kocaeli, Turkey

1.7. Investigation period and period considered

- (22) The investigation of dumping and injury covered the period from 1 January 2020 to 31 December 2020 ('the investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2017 to the end of the investigation period ('the period considered').
- (23) The Turkish association CIB and several exporting producers found the chosen investigation period and period considered biased. They deemed them inappropriate, as 2017 was a relatively good year for the steel business while 2020 was negatively affected by the COVID-19 pandemic. They alleged that the comparison of both endpoints would not be representative of the performance and situation of the Union industry. Some requested quarterly analysis for a better comparison.
- (24) The Commission dismissed the claims as both the period considered and the investigation period were appropriate bearing in mind the date of the lodging of the complaint and the applicable rules. In any event, the Commission's analysis is not made on a comparison of the base year with the investigation period but on trends throughout the period concerned and includes factors possibly affecting the corrosion resistant steel ('CRS') market in the Union and factored them in in the investigation, as shown, inter alia, in Section 5 below.

- (25) After final disclosure CIB and several exporting producers disagreed with the Commission's position. They argued that the Commission should have considered developments subsequent to the investigation period, as during the first 8 months of 2021 prices of hot dipped galvanized products, which include CRS, as well as the average margin of hot dipped galvanized steel products over hot rolled coils would have increased strongly in the Union. At the same time, in 2021 the production levels of the Union industry would have been restored to the 2019 levels. With reference to the judgement of the General Court in *Rusal Armenal ZAO v Council* (⁷), they therefore claimed that these developments constitute new facts which make the proposed anti-dumping duty manifestly inappropriate and these facts have to be considered by the Commission including by expanding the period of investigation to capture 2021 and the first quarter of 2022.
- (26) The Commission analysed the claim. It found that the rise in sales prices in 2021 as such is not indicative for an improvement, of whatever magnitude, of the Union industry's profitability. Indeed, the Commission noted that a rise in prices can only have a positive effect on the situation of the industry as compared to the previous year if it is significantly higher than the rise in costs over the same period. For this, no evidence was submitted. As concerns production, the Commission acknowledged that in 2021 certain producers experienced difficulties to satisfy the strong market demand of CRS at certain moments in time, in particular in the beginning of that year. However, it underlined that this was a temporary phenomenon and did not have any information at its disposal indicating that this would relate to the industry as a whole. The Commission therefore found that none of the claims invoked by the parties concerned demonstrated that the new developments after the investigation period would make the proposed anti-dumping duty manifestly inappropriate. The Commission thus rejected the claim.

1.8. Non-imposition of provisional measures

- (27) Pursuant to Article 7(1) of the basic Regulation, the deadline for the imposition of provisional measures was 23 February 2022. On 26 January 2022, in accordance with Article 19a(2) of the basic Regulation, the Commission informed the interested parties of its intention not to impose provisional measures and gave the interested parties the opportunity to submit additional information and/or to be heard. No party submitted comments or asked to be heard.
- (28) After final disclosure, Government of Russia ('GOR') submitted that the fact that no provisional measures had been imposed meant that the Union industry was stable and did not need intervention from the Commission to prevent injury. The Commission rejected this claim. According to Article 7(1) of the basic Regulation, provisional measures may be imposed. There is no obligation upon the Commission to impose provisional measures if the Union industry is suffering injury. Therefore, no conclusions can be drawn as regards the state of the Union industry if the Commission decides not to impose provisional measures but to continue the investigation instead, as it had done in this case.
- (29) Since no provisional anti-dumping measures were imposed, no registration of imports was performed.

1.9. Subsequent procedure

- (30) The Commission continued to seek and verify all the information it deemed necessary for its final findings.
- (31) Following the analysis of the collected and verified data, the Commission informed MMK and PAOS of its intention to apply facts available to certain parts of their questionnaire replies in accordance with Article 18 of the basic Regulation. The Commission gave the companies the opportunity to comment. The reasons for the application of facts available and the comments submitted by the companies are addressed in Section 3.1.2 of this Regulation.
- (32) When reaching its definitive findings, the Commission considered the comments submitted by interested parties.

(⁷) Judgement of the General Court of 25 January 2017 in Case T-512/09 RENV, *Rusal Armenal ZAO v Council*, ECLI:EU:T:2017:26, para. 130.

- (33) The Commission informed all interested parties of the essential facts and considerations on the basis of which it intended to impose a definitive anti-dumping duty on imports CRS originating in Russia and Turkey ('final disclosure'). All parties were granted a period within which they could make comments on the final disclosure.
- (34) Following the final disclosure, comments were received from the complainant, the GOR, all three Russian cooperating exporting producers, the Government of Turkey ('GOT'), all three Turkish cooperating exporting producers and the Turkish Steel Exporters Association. Hearings were requested by and held with MMK, NLMK, the GOT, Tezcan and the Turkish Steel Exporters Association. The comments submitted by the parties and/or presented during the hearings are addressed in the respective parts of this Regulation.
- (35) Furthermore, following the individual additional definitive disclosures, Tezcan and MMK requested the intervention of the Hearing Officer.
- (36) Following final disclosure, CIB argued that the anti-dumping measures should be suspended pursuant to Article 14(4) of the basic Regulation due to market changes occurring after the end of the investigation period. In particular, CIB referred to sharp CRS price increases since the end of the investigation period, strongly improved profitability of certain Union producers since then, and the sanctions against Russia which would guarantee that injury would be unlikely to resume as a result of suspension.
- (37) Article 14(4) states that measures may only be suspended where injury to the Union industry would be unlikely to resume as a result of the suspension. The Commission has no information on file supporting that the Union industry improved after the end of the investigation period so that injury would be unlikely to resume. The fact that CRS prices might have increased after the investigation period alone cannot be the basis for a conclusion that the Union industry is no longer injured even if CIB claim that the profitability of 'certain Union producers' would have increased was accepted. Indeed, the opening of the investigation may itself have had such effects and those effects would thus quickly dissipate if definitive measures are suspended. The Commission can only suspend measures after a careful analysis of the situation of the Union industry after the investigation period, and of the alleged changes in market conditions, which requires the collection of detailed information. This assessment is normally done outside the investigation proceedings, in particular when such claims are submitted at a late stage and without the necessary supporting evidence, as was the case in this instance.
- (38) Following final disclosure, GOR argued that the application of Article 18 of the basic Regulation with regard to two Russian exporting producers was not justified as the companies showed cooperative behaviour, provided extensive responses to the questionnaire and the request for additional information including intermediate calculations and made the requested corrections. In addition, GOR pointed out that the letters on the application of Article 18 were sent more than a month after the verifications and remote cross-checks were concluded.
- (39) The Commission noted that the reasons for the application of Article 18 of the basic Regulation were duly communicated and explained to the respective companies after all information collected from the questionnaire and deficiency replies and during the verifications and remote cross-checks was properly analysed. With regard to PAOS, the issue is addressed in recitals (93) to (109) in detail. With regard to MMK, the reasons are explained in recitals (75) to (90) in general and, for confidentiality reasons, in the company specific disclosure in detail. Therefore, the Commission rejected GOR's claims concerning the application of Article 18 of the basic Regulation.

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

- (40) The product concerned is flat-rolled products of iron or alloy steel or non-alloy steel; plated or coated by hot dip galvanisation with zinc and/or aluminium and/or magnesium, whether or not alloyed with silicon; chemically passivated; with or without any additional surface treatment such as oiling or sealing; containing by weight: not more than 0,5 % of carbon, not more than 1,1 % of aluminium, not more than 0,12 % of niobium, not more than 0,17 % of titanium and not more than 0,15 % of vanadium; presented in coils, cut-to-length sheets and narrow strips originating in Russia and Turkey, currently falling under CN codes ex 7210 41 00, ex 7210 49 00, ex 7210 61 00, ex 7210 69 00, ex 7210 90 80, ex 7212 30 00, ex 7212 50 61, ex 7212 50 69, ex 7212 50 90, ex 7225 92 00, ex 7225 99 00, ex 7226 99 30, ex 7226 99 70 (TARIC codes: 7210 41 00 20, 7210 41 00 30,

7210 49 00 20, 7210 49 00 30, 7210 61 00 20, 7210 61 00 30, 7210 69 00 20, 7210 69 00 30, 7210 90 80 92, 7212 30 00 20, 7212 30 00 30, 7212 50 61 20, 7212 50 61 30, 7212 50 69 20, 7212 50 69 30, 7212 50 90 14, 7212 50 90 92, 7225 92 00 20, 7225 92 00 30, 7225 99 00 22, 7225 99 00 23, 7225 99 00 41, 7225 99 00 92, 7225 99 00 93, 7226 99 30 10, 7226 99 30 30, 7226 99 70 13, 7226 99 70 93, 7226 99 70 94) ('the product concerned').

The following products are excluded:

- of stainless steel, of silicon-electrical steel, and of high-speed steel,
- not further worked than hot-rolled or cold-rolled (cold-reduced).

- (41) CRS is produced by coating flat rolled steel coils, sheets and strips by immersion in a bath of molten metal or metal alloy of zinc. The coating metal combines with the steel substrate in a metallurgical reaction to form a multiple layered structure of alloys, resulting in a coating which is metallurgically bonded to the steel. The surface of the product is further treated with chemical passivation to protect the surface against humidity and to reduce the risk of formation of corrosion products during storage and transportation.
- (42) CRS is mainly used in the construction sector for various cladding building materials but also for manufacturing domestic appliances, deep-drawing and stamping processes and small welded pipes.

2.2. Like product

- (43) The investigation showed that the following products have the same basic physical, chemical and technical characteristics as well as the same basic uses:
- the product concerned,
 - the product produced and sold on the domestic market of Russia and Turkey, and
 - the product produced and sold in the Union by the Union industry.
- (44) The Commission decided that those products are therefore like products within the meaning of Article 1(4) of the basic Regulation.

2.3. Claims regarding product scope

- (45) An importer requested CRS with a thickness below 0,40 mm ('thin sizes') to be excluded from the scope of the investigation. The party argued that thin sizes, more labour-intensive and expensive, form a distinct segment which is produced in insufficient quantities by the Union industry. The party added that the exclusion of thin sizes would not diminish the corrective effect of the measures sought by the complainants, whereas the imposition of anti-dumping measures on thin sizes would hurt users (as they will have no access to such products at competitive prices).
- (46) The Commission found the grounds for the request unfounded because, overall, the Union industry has production capacity for all required sizes of CRS ⁽⁸⁾. The Commission also found that all types of CRS, no matter their size or point of importation, are produced in hot dipped galvanising lines and share the same features in terms of their basic physical and technical characteristics, their end-uses and interchangeability. The Commission therefore rejected the exclusion request.
- (47) Tezcan, a Turkish producer of, inter alia, CRS coated AluZinc ('AluZinc CRS') requested the exclusion of AluZinc CRS from the scope of the measures. According to the party, AluZinc CRS products are a distinct segment of CRS, which does not compete with products produced by the Union industry. The party stated that AluZinc CRS products were not produced in the Union 'in commercially viable quantities' and that the Union producer manufacturing such product was unable to provide the amount of AluZinc CRS necessary to satisfy demand in the Union.

⁽⁸⁾ In the non-confidential file t21.005520, the complainant provided a list of 9 Union producers and web catalogue pages showing that those producers can produce CRS with a thickness below 0,40 mm.

- (48) The Commission found the grounds for the request unfounded because, even if temporarily there was limited Union production of AluZinc CRS, overall, the Union industry has production capacity for AluZinc CRS. The Commission also found that all types of CRS, no matter their coating, are produced in hot dipped galvanising lines. In addition, AluZinc CRS and CRS with other coatings share the same features in terms of their basic physical and technical characteristics, their end-uses and interchangeability ⁽⁹⁾. The Commission therefore rejected the exclusion request.
- (49) After final disclosure, Tezcan reiterated its request. It stated that there was no Union production as a result of financial mismanagement on the part of the sole Union producer of AluZinc CRS. Tezcan insisted that AluZinc and Zinc CRS were entirely different products – physically, chemically and technically – namely on the grounds of AluZinc CRS's production process and some AluZinc properties.
- (50) The Commission found Tezcan's grounds for the request unfounded because the producer mentioned by Tezcan had a viable business plan and remained a viable part of the Union industry. Also, the Commission had found that all types of CRS, no matter their coating, are produced in hot dipped galvanising lines, which was acknowledged by Tezcan when noting that the sole Union producer of AluZinc CRS has one hot dipped galvanising line but two pots, which they can switch, depending on whether the producer wanted to produce AluZinc CRS or other products. In addition, the claim that not all CRS coatings have exactly the same properties does not undermine the fact that AluZinc CRS and CRS with other coatings share the same features in terms of their basic physical and technical characteristics, their end-uses and interchangeability ⁽¹⁰⁾. The Commission therefore rejected the exclusion request.

3. DUMPING

3.1. Russia

3.1.1. Normal value

- (51) The Commission first examined whether the total volume of domestic sales for each cooperating exporting producer was representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales are representative if the total domestic sales volume of the like product to independent customers on the domestic market per exporting producer represented at least 5 % of its total export sales volume of the product concerned to the Union during the investigation period. On this basis, the total sales by each cooperating exporting producer of the like product on the domestic market were representative.
- (52) The Commission subsequently identified the product types sold domestically that were identical or comparable with the product types sold for export to the Union.
- (53) The Commission then examined whether the domestic sales by each cooperating exporting producer on its domestic market for each product type that is identical or comparable with a product type sold for export to the Union were representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales of a product type are representative if the total volume of domestic sales of that product type to independent customers during the investigation period represents at least 5 % of the total volume of export sales of the identical or comparable product type to the Union.
- (54) The Commission established that MMK did not sell one product type in representative quantities on the domestic market. In addition, all three Russian cooperating exporting producers did not sell certain product types on the domestic market at all.

⁽⁹⁾ In the non-confidential file t21.005520, the complainant provided examples, supported by the applicable EU standards, that AluZinc CRS and CRS with other coatings can be used alternatively in construction.

⁽¹⁰⁾ In the non-confidential file t22.003396, the complainant provided examples, supported by the applicable EU standards, that AluZinc CRS and CRS with other coatings can be used interchangeably in certain metal framing, roofing and cladding products.

- (55) The Commission next defined the proportion of profitable sales to independent customers on the domestic market for each product type during the investigation period in order to decide whether to use actual domestic sales for the calculation of the normal value, in accordance with Article 2(4) of the basic Regulation.
- (56) The normal value is based on the actual domestic price per product type, irrespective of whether those sales are profitable or not, if:
- (a) the sales volume of the product type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of this product type; and
 - (b) the weighted average sales price of that product type is equal to or higher than the unit cost of production.
- (57) In such situation, the normal value is the weighted average of the prices of all domestic sales of that product type during the investigation period.
- (58) The normal value is the actual domestic price per product type of only the profitable domestic sales of the product types during the investigation period, if:
- (a) the volume of profitable sales of the product type represents 80 % or less of the total sales volume of this type; or
 - (b) the weighted average price of this product type is below the unit cost of production.
- (59) The analysis of domestic sales showed that, depending on the product type, 47 to 100 % of all domestic sales of MMK, 43 to 100 % of all domestic sales of NLMK and 24 to 100 % of all domestic sales of PAOS were profitable and their weighted average sales price was higher than the cost of production. Accordingly, the normal value was calculated as a weighted average of the prices of all domestic sales during the investigation period or a weighted average of the profitable sales only.
- (60) For the product types where the weighted average sales price was lower than the cost of production, the normal value was calculated as a weighted average of the profitable sales of that product type.
- (61) Where there were no sales of a product type of the like product in the ordinary course of trade or where a product type was not sold in representative quantities on the domestic market, the Commission constructed the normal value in accordance with Article 2(3) and (6) of the basic Regulation.
- (62) Normal value was constructed by adding the following to the average cost of production of the like product of the cooperating exporting producers during the investigation period:
- (a) the weighted average selling, general and administrative ('SG&A') expenses incurred by the cooperating exporting producers on domestic sales of the like product, in the ordinary course of trade, during the investigation period; and
 - (b) the weighted average profit realised by the cooperating exporting producers on domestic sales of the like product, in the ordinary course of trade, during the investigation period.
- (63) For the product types not sold in representative quantities on the domestic market, the average SG&A expenses and profit of transactions made in the ordinary course of trade on the domestic market for those types were added. For the product types not sold at all on the domestic market, the weighted average SG&A expenses and profit of all transactions made in the ordinary course of trade on the domestic market were added.
- (64) The cost of production was adjusted where justified pursuant to Article 2(5) of the basic Regulation. All three cooperating exporting producers procured certain raw materials from related suppliers. The Commission examined whether those raw materials were purchased at an arms-length price and, where necessary, adjusted the cost of production to reasonably reflect the costs associated with the production and sale of the product concerned.

- (65) Following final disclosure, NLMK claimed that such adjustments were unwarranted, in particular, since that the Commission did not take into account the effect of freight cost included in the price of the examined raw materials sold to NLMK and to unrelated customers at various delivery terms although this information was available. The Commission accepted the claim with regard to certain raw materials and revised the normal value accordingly. The revised calculation was disclosed to the company.
- (66) Following final disclosure, PAOS submitted that the adjustment of raw material cost under Article 2(5) of the basic Regulation was unlawful. In particular, the company argued that Article 2(5) of the basic Regulation allowed the Commission to depart from the company's records in two situations: (a) where the records were not in accordance with the generally accepted accounting principles of the country concerned; and (b) where the records did not reasonably reflect the costs associated with the production and sale of the product under investigation. With regard to the second situation, the company referred to paragraph 6.97 of the WTO Appellate Body report in *Ukraine – Ammonium Nitrate (Russia)* ⁽¹¹⁾, according to which 'the second condition in the first sentence of Article 2.2.1.1 [of the WTO Anti-dumping Agreement] relates to whether the records kept by the exporter or producer under investigation suitably and sufficiently correspond to or reproduce those costs incurred by the investigated exporter or producer that have a genuine relationship with the production and sale of the specific product under consideration'.
- (67) The Commission noted that paragraph 6.97 of the Appellate Body report in *Ukraine – Ammonium Nitrate (Russia)* should be considered in the context provided by the paragraphs preceding it. Already in *EU – Biodiesel (Argentina)* ⁽¹²⁾, the Appellate Body approved that the raw materials prices between related parties could be considered as not at arm's length and as a consequence could be rejected. Paragraph 6.97 of the Appellate Body report in *Ukraine – Ammonium Nitrate (Russia)* further clarified that the situations mentioned in the Panel report in *EU – Biodiesel (Argentina)* should not be understood as open-ended exceptions but should be examined on a case-by-case basis. In the present case, the Commission rejected the prices of certain raw materials purchased by PAOS from related suppliers following a proper analysis and thus in full consistency with the WTO rules. The Commission compared the prices charged by the related supplier to PAOS with those charged by the related supplier to unrelated customers. Based on this the Commission found prices charged by the related supplier to PAOS to be not at arm's length. Consequently, the claim was rejected.
- (68) Furthermore, PAOS claimed that the Commission did not employ the correct methodology when analysing whether the price of certain raw materials paid between PAOS and its related suppliers was at arm's length. The company argued that the Commission should have compared the prices paid by PAOS when purchasing a raw material from its related suppliers with the prices charged by independent suppliers.
- (69) In this respect, the Commission noted that it was an established practice to use the prices charged by the related supplier for the arm's length price analysis. In the present case, the sales prices of the related supplier to PAOS and to unrelated customers were available and verified. Therefore, the Commission found it appropriate to use the verified information for its analysis. In addition, the company did not provide any explanation for the price difference other than the relation between the supplier and PAOS. Consequently, the Commission rejected the claim.
- (70) Finally, PAOS commented on a number of technical details concerning the analysis of the arm's length prices. First, the company objected to the rejection of financial income in the calculation of loss generated by the supplier of coal. Second, the company argued that the Commission did not reflect correctly, in the price comparison, the differences in certain coal grades purchased by PAOS. Third, the company pointed out a clerical error in the calculation of total consumption of coal. Fourth, the company claimed that the Commission incorrectly compared the sales price of iron ore pellets to unrelated customers with the resale price charged by PAOS for iron ore pellets, which were purchased from the related supplier for the sole purpose of their resale. Fifth, the company claimed that

⁽¹¹⁾ Appellate Body report, DS493 – *Ukraine – Anti-Dumping Measures on Ammonium Nitrate (Russia)*, para 6.97.

⁽¹²⁾ Panel report, DS473 – *EU – Biodiesel (Argentina)*, para. 7.232.

the Commission did not take into account the differences in delivery terms and thus in freight cost included in the sales price of iron ore pellets when supplied to PAOS and to unrelated customers. And sixth, where the Commission conducted the price analysis for a broad category of iron ore pellets (fluxed and non-fluxed), the company claimed that certain pellets, for which the information was not specified in the purchase listing, should be considered either as fluxed or as non-fluxed.

- (71) The Commission examined the claims and concluded that points two, three and four described in recital (70), warranted a correction in the calculation of the cost adjustment. In this respect, the Commission compared the price of the coal grade in question with the most similar coal grade, corrected the clerical error in the calculation of the total consumption of coal, and used the sales price of iron ore pellets for PAOS' consumption for the arm's length price analysis. The corrected figures were re-disclosed to the company.
- (72) The Commission, however, rejected the claims described under points one, five and six in recital (70) for the following reasons:
- Financial income was rejected as it was generated from interest received from granted loans. Therefore, the Commission considered that such income was not linked to the production and sales of the raw material.
 - The Commission could not take into account the differences in freight cost included in the sales price of transactions under various delivery terms since neither the related supplier nor PAOS reported the incurred freight cost.
 - The information provided by PAOS with regard to certain types of iron ore pellets being fluxed or non-fluxed could not be verified at this point of the investigation. Nor did the company provide any evidence supporting its claim.

3.1.2. Export price

- (73) The Russian cooperating exporting producers exported to the Union through related companies acting as an importer pursuant to Article 2(9) of the basic Regulation or through related traders located in a third country.
- (74) MMK reported sales of CRS to the Union via MMK Steel Trade, a related trader located in Switzerland, and via another company located in Switzerland that MMK described as unrelated (hereinafter 'the Swiss trader').
- (75) With regard to the Swiss trader, the Commission enquired about the nature of its relationship to MMK. In particular, the Commission analysed publicly available documents issued by MMK, such as the consolidated financial statements of the MMK Group ⁽¹³⁾, disclosures of transactions with interested parties ⁽¹⁴⁾, annual reports and their annexes ⁽¹⁵⁾, and readily available information available in market intelligence databases, such as Dun & Bradstreet.
- (76) The information provided by the company and collected by the Commission from other sources led the Commission to conclude that MMK provided misleading information concerning its relationship with the Swiss trader, thereby impeding the investigation. For confidentiality reasons, the analysis leading to the Commission's conclusion has been disclosed only to MMK.

⁽¹³⁾ PJSC MMK and Subsidiaries. Consolidated Financial Statements For the Year Ended 31 December 2012, 2013 and 2014. Available at <https://mmk.ru/en/investor/results-and-reports/financial-results/> (last viewed 25 October 2021).

⁽¹⁴⁾ The disclosure of 'Making of an interested-party transaction by the Issuer'. Available at <https://mmk.ru/en/about/corporate-governance/disclosure-of-information/essential-facts/>. As at 4 April 2022, this location on the company's website was not available. The documents continue to be publicly available at the online portal of the Corporate Information Disclosure Centre of LLC Interfax, <https://e-disclosure.ru/portal/company.aspx?id=9&attempt=1> (last viewed 4 April 2022).

⁽¹⁵⁾ Annexes to MMK's annual report 2017. Available at <https://mmk.ru/en/investor/results-and-reports/annual-reports/> (last viewed 4 April 2022).

- (77) As a result, the Commission had no information on the resale prices of transactions to the first independent customer in the Union for sales made via the Swiss trader, nor on its concrete functions, and therefore it was not able to establish the export price for one channel of the company's sales on the Union market. Therefore, the Commission informed the company of its intention to apply Article 18 of the basic Regulation in relation to the information that it failed to provide.
- (78) The explanations provided by MMK, following the Article 18 letter, did not change the Commission's conclusion that MMK provided misleading information concerning its relationship with the Swiss trader, thereby impeding the investigation. For confidentiality reasons, the analysis of MMK's comments on the intended application of Article 18 of the basic Regulation was disclosed only to MMK.
- (79) As a result, the Commission confirmed the application of Article 18 of the basic Regulation to the sales on the Union market carried out via the Swiss trader. In this respect, the Commission based the determination of the dumping margin for this sales channel on the dumping margins calculated for sales carried out via MMK Steel Trade.
- (80) In its comments on final disclosure, MMK submitted that the Commission made an error by applying Article 18 of the basic Regulation to MMK in relation to the Swiss trader. In this respect, the company claimed that the Commission failed to take into account certain documents provided by MMK and reiterated its explanation of the contradictions found by the Commission. Furthermore, MMK submitted that the Commission breached the legal standard set by Article 18 of the basic Regulation in selecting the facts available by selecting those facts with a specific aim of penalizing MMK by applying adverse facts available which is completely incompatible with the object and purpose of Article 18 of the basic Regulation.
- (81) MMK provided no new evidence regarding the relationship with the Swiss trader. The Commission had already carefully analysed all information including the documents referred to by the company. In addition, the Commission found that the company did not provide any evidence supporting the explanation of the contradicting information on the relationship between MMK and the Swiss trader. Therefore, the Commission confirmed the application of Article 18 of the basic Regulation.
- (82) Regarding the claim that the Commission breached the legal standard of Article 18 of the basic Regulation, the Commission disagrees. As explained above, the Commission was not able to establish the export price for one whole sales channel of the company's sales on the Union market, and therefore it based the dumping margin for this sales channel on the dumping margins calculated for sales carried out via a related trader, MMK Steel Trade, for which it could establish the export price.
- (83) This approach is fully in line with the relevant WTO rules and the EU law. According to WTO Panel report on *United States – Anti-dumping and countervailing duties on certain products and the use of facts available* ⁽¹⁶⁾, when applying facts available investigating authorities are required to select, in an unbiased and objective manner, those facts available that constitute reasonable replacements for the missing 'necessary' information in the specific facts and circumstances of a given case. In doing so, investigating authorities must take into account all facts that are properly available to them. In selecting the replacement facts, Article 6.8 of the WTO Anti-dumping Agreement does not require investigating authorities to select those facts that are most 'favourable' to the non-cooperating party. Investigating authorities may take into account the procedural circumstances in which information is missing, but Article 6.8 does not condone the selection of replacement facts for the purpose of punishing interested party.
- (84) The approach of the Commission fully followed this prescription. In an unbiased manner, it took the actual and verified pricing behaviour of MMK observed in a sales channel for which the Commission was able to verify the relevant data and used it as a model of pricing behaviours for the channel where the data was not provided. It used an average dumping amount for a product type representative of the company's known dumping potential during the investigation period. In the circumstances where the company chose not to provide the Commission with a large proportion of its export sales, using an actual and verified pricing behaviour practiced by the company during

⁽¹⁶⁾ Panel Report, *US – Anti-Dumping and Countervailing Duties (Korea)*, WT/DS539/R, para. 7.36. See also Appellate Body Report, *US – Carbon Steel (India)*, WT/DS436/AB/R, para. 4.421.

the investigation period as a model cannot be said to be subjective or punitive. It leads to as accurate dumping and injury margins as possible in the context of the company's significant lack of cooperation, and thus complies with the WTO jurisprudence quoted by MMK. Consequently, the Commission rejected the claim.

- (85) As mentioned in recital (35), MMK requested a hearing with the Hearing Officer. At the hearing, MMK pointed out that, in its Article 18 letter, the Commission stated it would apply Article 18(3) of the basic Regulation. The company requested a clarification of the legal basis as the general disclosure document only mentioned Article 18 of the basic Regulation. In this respect, the company asserted that the Commission should have applied the provisions of Article 18(3) of the basic Regulation as the MMK responded to all the Commission's requests for necessary information, did not provide misleading information, and did not impede the investigation. Moreover, the company submitted that the Commission had never requested the information on the export prices of the Swiss trader. Finally, MMK reiterated that the Commission breached the legal standard of Article 18 of the basic Regulation when applying facts available.
- (86) Indeed, the reference to Article 18(3) in the Article 18 letter was an obvious clerical error since the letter also said that the Commission services concluded MMK provided misleading information, thereby impeding the investigation, as provided for in Article 18(1) of the basic Regulation. It is clear from the language of the Article 18 letter and the facts of the case that the conditions for the acceptance of deficient data under Article 18(3) of the basic Regulation were not met since the data – export prices to the first independent customer – was not provided and hence not verifiable. Furthermore, it is clear that the party did not act to the best of its ability. The Commission also noted that MMK's reply to the Article 18 letter unequivocally showed that MMK understood that the circumstances called for Article 18(1) of the basic Regulation and that the Commission would turn to facts available. This is why in that response MMK argued which sets of information should be used in place of the disregarded data.
- (87) Moreover, that the reference to Article 18(3) of the basic Regulation was a clerical error was confirmed by the fact that there was no reference to Article 18(3) of the basic Regulation in the general disclosure document.
- (88) With regard to the claims listed in recital (85) concerning the cooperation of the company, the Commission noted that the company misled the Commission with regard to the relationship established between MMK and the Swiss trader as it continued claiming that the companies were not related. In addition, the company failed to provide the export prices of the Swiss trader, i.e. information necessary for the determination of the dumping margin. The Commission considered that the company wrongly claimed that the Commission never requested the export prices of the Swiss trader. In the questionnaire for exporting producers published on DG Trade's website on the date of the initiation of the investigation, related companies involved in sales of the product under investigation to the Union are clearly required to fill in Annex I to the questionnaire ⁽¹⁷⁾. Consequently, the continued denial of the relationship between MMK and the Swiss trader and the failure to provide export prices of the Swiss trader impeded the investigation.
- (89) Therefore, the Commission confirmed that it considered the facts to fit under Article 18(1) of the basic Regulation. Yet, as explained in recitals (82) to (84), the Commission sought to establish what facts available, on the basis of the actual information provided by the company at issue, would constitute a reasonable replacement for the missing necessary information in this case.
- (90) Following the recommendations of the Hearing Officer, the Commission carefully considered the issues raised by the company at the hearing and informed the Hearing Officer of its conclusions.
- (91) In addition to the clarifications provided in recitals (81) to (84) and (86) to (89), the Commission disclosed a more detailed analysis of MMK's comments on final disclosure and presented at the hearing only to the company for confidentiality reasons.

⁽¹⁷⁾ Introduction, point (5) of the questionnaire for the exporting producers in Russia (p. 7). Available at <https://tron.trade.ec.europa.eu/investigations/case-history?caseId=2531> (last viewed 10 June 2022).

- (92) PAOS exported to the Union via Severstal Export GmbH, a related trader located in Switzerland, and SIA Severstal Distribution, a related importer located in Latvia. SDE is a service centre, which sold CRS to unrelated customers in the Union both without processing and also after further processing.
- (93) SDE did not submit information on purchases and stocks of CRS in its questionnaire and deficiency replies. The company was reminded to provide this data by e-mails sent on 15 November 2021 and 25 January 2022. Despite the request in the deficiency letter and the aforementioned reminders, the company did not provide the missing information until the first day of the on-spot verification visit. The Commission was therefore unable to analyse the purchase data before the verification visit, in particular to check it for consistency with other parts of the questionnaire and deficiency replies. Purchase data of a related trader is generally used to connect sales of an exporting producer to its trader or importer with subsequent resales and is crucial for determining the export price.
- (94) Already during the verification visit at the premises of SDE, the Commission noticed and brought to the company's attention issues with the product types assigned to resales transactions by SDE. The Commission selected a sample of resales transactions and checked the available documents supporting the information submitted by the company, including the technical specifications of the products sold. The Commission collected supporting documents related to a sample of twelve sales invoices. In four cases, the Commission observed that the product type was assigned incorrectly. The company agreed to make corrections. It, however, claimed that it would be too burdensome to cross-check all potentially affected resales transactions with the technical specifications agreed in the sales orders. Therefore, the company suggested to use a methodology based on the product types sold by PAOS to SDE. This issue was properly recorded in the verification report, which was shared with the company. The company had the opportunity to comment on potential factual errors. Nevertheless, SDE did not object to any part of the verification report.
- (95) Following the on-spot verification, the Commission cross-checked the purchase data that was provided by SDE only during the verification visit with the corresponding sales data of PAOS. The Commission noted that the two datasets were still inconsistent as far as product types were concerned.
- (96) In this respect, product types reported by SDE as purchased in the investigation period from PAOS but not reported by PAOS as sold to SDE represented approximately 30 % of the total purchased volume reported by SDE.
- (97) Instead of dismissing the whole dataset outright, the Commission used the resales transactions, to which the product types were attributed correctly, to determine the dumping margin of resales transactions with incorrectly attributed product types.
- (98) The Commission concluded that PAOS did not provide within the time limits set the necessary information, thereby impeding the investigation. The Commission informed the company that it intended to apply Article 18 of the basic Regulation to the extent of the information that the company failed to provide.
- (99) In its comments on the Article 18 letter, the company stated that it provided all data including intermediate files where requested. It further recalled that the creation of product types was explained to and verified by the Commission. Where the Commission identified errors in reported product types, the company provided corrections. PAOS argued that the information on purchases was not used in the dumping calculation. It further pointed out that the Commission never raised these issues during the remote cross-checks and on-spot verifications. With regard to the Commission's conclusion on the impossibility to identify the product types sold by SDE on the Union market, the company recalled its explanations provided in the deficiency reply. According to the company, SDE was not able to provide a transaction-by-transaction link between purchased and sold goods due to storage, and a mismatch between the mix of supplies and mix of sales.
- (100) The Commission does not contest that eventually, PAOS and SDE provided the information requested in the questionnaire. Nevertheless, the late provision of certain information seriously impeded the Commission's ability to properly analyse the data.

- (101) Although the information on purchases is not directly used in the dumping margin calculation, it is a tool for cross-checking and verifying the internal consistency of information submitted by the producer and its related importer that is used in the calculation. In this case, the comparison of PAOS' sales data with SDE's purchase data during the same period, the investigation period, revealed an incorrect reporting of product types by either PAOS or SDE.
- (102) Furthermore, the Commission could not be aware of the extent of this issue during the remote cross-checks and the on-spot verification since SDE only provided its purchase data on the first day of the verification, thus not leaving the Commission any time to analyse the information beforehand. Nevertheless, already during the verification visit the Commission did point out that in the sample of sales transactions that were verified in detail some product types were reported incorrectly.
- (103) Finally, the fact that there was no direct link between PAOS' sales data and SDE's resales data was not the issue at hand. The Commission observed that indeed, the goods resold by SDE during the investigation period were to a certain extent purchased before the investigation period. However, the main issue was that the product types reported as purchased by SDE from PAOS during the investigation period in many cases did not match the product types reported as sold by PAOS to SDE during the investigation period. As a result, the Commission was not able to determine or verify which product types, that were produced by PAOS, were actually resold by SDE in the Union market during the investigation period.
- (104) In view of the above, the Commission confirmed the application of Article 18 of the basic Regulation to the sales on the Union market of certain product types via SDE.
- (105) Consequently, for PAOS' sales to the Union via SDE acting as an importer, for transactions where the product type was identified correctly, the export price was established on the basis of the price at which the imported product was first resold to independent customers in the Union, in accordance with Article 2(9) of the basic Regulation. In this case, adjustments to the price were made for all costs incurred between importation and resale, including SG&A expenses, processing cost, and for profits accruing. The Commission used facts available to determine the export price and subsequently the dumping margin of the incorrectly assigned product types sold to the Union via SDE.
- (106) Following final disclosure, PAOS claimed that the application of Article 18 of the basic Regulation was not warranted. In particular, the company argued that the information it submitted was merely 'not ideal in all aspects' and that it was provided in time since the Commission received the previously missing information well before the final disclosure. Furthermore, the company claimed that the Commission should have contacted the company when it discovered the inconsistencies in the reported product types. PAOS argued that the inconsistencies resulted from the producer using the actual zinc coating mass (measured in the production) while SDE using the nominal zinc coating mass (included in the company's product codes).
- (107) In addition to the Commission's decision to apply Article 18 of the basic Regulation, PAOS also contested the choice of facts available. Instead of assigning to the affected product types the highest dumping margin, which was calculated for a product type representing only 0,01 – 0,03 % of the company's exports in the IP, the Commission should have used the dumping margin of the most representative product type in terms of sales quantity. Alternatively, the company suggested the Commission use the average dumping margin of correctly reported product types.
- (108) First, the Commission disagrees with the company's assessment of timely provision of data that was merely 'not ideal in all aspects'. The information on purchases by SDE was provided at a time which made it impossible for the Commission to verify any potential corrections that would have been provided after the verifications and/or remote cross-checks. Therefore, the Commission contacting the company after the inconsistencies had been discovered would remain without effect. Moreover, an incorrect assignment of product types is not a mere inconvenience. At the beginning of the investigation, the Commission defined product types based on certain characteristics that influenced the costs and prices of CRS to enable proper comparison. Without correct product types, it is not possible to compare the domestic sales price with the cost of production to determine the normal value per product type, nor is it possible to compare the normal value with the export price to establish the dumping margin per

product type. Second, the fact that the inconsistencies allegedly stemmed only from different approaches by PAOS and SDE to the reporting of zinc coating mass did not change the fact that the product types were assigned incorrectly. It was the company's responsibility to ensure accuracy and consistency in the reporting. Moreover, it follows from the remote cross-check that PAOS actually used three different approaches to determine the zinc coating mass. Thus, the clarification provided after final disclosure could not be accepted. Consequently, the Commission rejected the claim that the application of Article 18 of the basic Regulation was not warranted.

- (109) With regard to the choice of facts available, the Commission noted that none of the product types was substantially more representative of total PAOS' sales in the Union market. The product type suggested by the company represented only 1 – 3 % of the company's export sales. In addition, using the average dumping margin of all the correctly reported product types would have the same effect on the overall dumping margin as completely disregarding the sales with unknown product types. In the present case, those sales transactions represented a vast majority of all PAOS' sales in the Union. Therefore, the Commission considered that using the highest average dumping amount established for a product type appropriately reflected the company's potential for dumping behaviour. Consequently, the Commission rejected PAOS' claim concerning the choice of facts available.

3.1.3. Comparison

- (110) The Commission compared the normal value and the export price of the exporting producers on an ex-works basis.
- (111) Where justified by the need to ensure a fair comparison, the Commission adjusted the normal value and/or the export price for differences affecting prices and price comparability, in accordance with Article 2(10) of the basic Regulation. Adjustments were made for transport, insurance, handling and loading, packing, credit cost and commissions.
- (112) Two companies claimed an adjustment for discounts according to Article 2(10)(c) of the basic Regulation. Since the companies were not able to reconcile the value of the adjustment claimed with their accounting records, the Commission rejected those claims.
- (113) Following final disclosure, NLMK contested the Commission's calculation of certain adjustments to the export price. The company claimed that the Commission should have adjusted the export price of goods sold during the IP but purchased by the related trader before the IP for the freight cost actually incurred by the trader before the IP (instead of using the freight cost incurred during the IP at the same delivery term and for the same country of destination). In particular, the company claimed that the deduction would have been lower if the Commission used the freight cost incurred before the IP.
- (114) The Commission examined this claim and found it unwarranted. In particular, the difference pointed to by the company was not caused by the use of freight cost incurred during the IP but by the fact that the relevant adjustment to the export price did not only cover the freight cost but also an allowance for packing. Consequently, the claim was rejected. For confidentiality reasons, the detailed analysis of this claim was sent only to NLMK.
- (115) Following final disclosure, PAOS submitted that the Commission should not have rejected the allowance for freight cost incurred between the company and its related domestic trader or between the warehouses of the related trader since the cost is included in the sales price. In addition, the company claimed that the Commission should not have rejected the allowance for discounts since the company was able to reconcile with its accounting records the discount granted to its customer with the highest value of discount during the IP.
- (116) With regard to the freight cost, the Commission noted that it was not disputed whether the company and/or its related trader actually incurred the freight cost. In the present case, in accordance with Article 2(1) of the Basic Regulation, the point at which the sale to the first unrelated customer occurred – which was either the producer's premises in case of direct domestic sales to unrelated customers, or otherwise the related domestic trader's premises – was considered the appropriate point to establish the ex-works price of domestic sales.

- (117) With regard to the allowance for discounts, the Commission reiterated that during the remote cross-check, the company was not able to reconcile the claimed allowance for discounts with its accounting records with the exception of one customer. Following the comments of the company on final disclosure, the Commission examined to what extent it was possible to reconcile the value of discounts granted to the customer in question. The Commission clarified that the requested allowance matched the value in an intermediary preparation worksheet of the company, yet not the accounting records. With regard to other customers randomly selected for cross-check, the requested allowance did not even match the preparation worksheet. Subsequently, the Commission confirmed its rejection.
- (118) All three Russian cooperating exporting producers exported to the Union via related traders located in a third country.
- (119) MMK Steel Trade performed functions equivalent to that of an agent working on a commission basis within the meaning of Article 2(10)(i) of the basic Regulation. Therefore, the Commission adjusted the export price to ensure fair comparison. The Commission deducted from the export price charged to the first independent customer the SG&A of MMK Steel Trade and a reasonable profit, based on the profit of an unrelated importer
- (120) No unrelated importer came forward in the present investigation. Therefore, the Commission used the profit of an unrelated importer in the Union established on the basis of the findings of a previous investigation on imports of products similar to the product under investigation ⁽¹⁸⁾. The profit was 2 %.
- (121) NLMK exported to the Union via NLMK Trading SA, a related trader located in Switzerland. After analysing its functions, NLMK Trading was considered to perform functions equivalent to that of an agent working on a commission basis within the meaning of Article 2(10)(i) of the basic Regulation. For confidentiality reasons, the Commission's analysis has been disclosed only to NLMK.
- (122) Consequently, the Commission adjusted the export price to ensure fair comparison. The Commission deducted from the export price charged to the first independent customer the SG&A of NLMK Trading and a reasonable profit, based on the profit of an unrelated importer.
- (123) Following final disclosure, NLMK claimed that there was no legal basis for the Commission to carry out that deduction under Article 2(9) of the basic Regulation. The deduction was, however, carried out under Article 2(10)(i) of the basic Regulation as stated in recitals (121) and (122), and therefore the Commission dismissed the claim.
- (124) In addition, NLMK claimed that the conclusions the Commission reached regarding its related company for the export market were equally valid on the domestic market, i.e. the related companies performed similar functions for domestic and export sales. Subsequently, the company requested the Commission to adjust the normal value under Article 2(10)(i) of the basic Regulation with regard to domestic sales via NSSC and NLMK Shop.
- (125) The Commission noted that Article 2(1) of the basic Regulation, which determines the normal value, and Articles 2(8) and 2(9) of the basic Regulation, which determine the export price, are worded differently. Pursuant to Article 2(1) of the basic Regulation, it is on the domestic sales' price to the first independent customer that the normal value needs to be established. An adjustment pursuant to Article 2(10)(i) of the basic Regulation would assume that the relevant sale for the establishment of the normal value would rather be the sale between NLMK and NLMK Shop/NSSC. However, these sales were not sales to independent customers. In those circumstances, a deduction of the mark-up charged by NLMK Shop/NSSC would not be consistent with Article 2(1) of the basic Regulation.

⁽¹⁸⁾ Commission Implementing Regulation (EU) 2017/1795 of 5 October 2017 imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in Brazil, Iran, Russia and Ukraine and terminating the investigation on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in Serbia (OJ L 258, 6.10.2017, p. 24), recital (569).

- (126) The wording of Article 2(1) of the basic Regulation contrast with the approach and the wording of Articles 2(8) and 2(9) of the basic Regulation. Indeed, the second sentence of Article 2(10)(i) of the basic Regulation, pertaining to a mark-up, was specifically introduced in order to ensure that the mark-up charged by a trader situated outside the Union could be deducted when calculating the export price. Otherwise, the use of a related trader could obscure specifically some of the export-related differences that the comparison between the normal value and the export price at ex-factory level seeks to eliminate. By contrast, on the domestic market, goods will often circulate between related companies or warehouses before being sold, and insofar as the sales expenses and functions of related parties on the domestic market overlap, it is justified to treat related companies as a single economic entity.
- (127) In addition, and without prejudice to the above, the Commission noted that NSSC is a service centre further processing corrosion resistant steel produced by NLMK and thus, is an extension of NLMK's production ⁽¹⁹⁾. The company is located in Lipetsk, in the immediate neighbourhood of NLMK's factory. In light of the company's integration into the production chain of NLMK, NSSC can therefore not be considered to be carrying on functions similar to those of an agent acting on a commission basis within the meaning of Article 2(10)(i) of the basic Regulation..
- (128) Furthermore, with respect to NLMK Shop, the Commission recalled that, during the investigation period, NLMK Shop was involved in a negligible fraction of sales of the like product on the domestic market (less than 2 %). Any adjustment based on Article 2(10)(i) of the basic Regulation, if warranted, would therefore have a negligible impact on the normal value and resulting dumping margin (less than 0,1 % change in margin). Moreover, given that NLMK's final anti-dumping duty was based on the injury margin, an adjustment to the domestic sales of NLMK via NLMK Shop would not have affected the outcome of the investigation.
- (129) Consequently, the Commission rejected the claim.
- (130) As mentioned in recital (92), in addition to SDE, PAOS exported to the Union also via Severstal Export GmbH, a related trader located in Switzerland. Severstal Export GmbH performed functions equivalent to that of an agent working on a commission basis within the meaning of Article 2(10)(i) of the basic Regulation. Therefore, the Commission adjusted the export price to ensure fair comparison. The Commission deducted from the export price charged to the first independent customer the SG&A of Severstal Export GmbH and a reasonable profit, based on the profit of an unrelated importer.
- (131) Following final disclosure, NLMK claimed that its dumping margin should be calculated on a quarterly basis due to the increasing trends of its cost of manufacturing, normal value and export price throughout the IP in conjunction with an uneven distribution of its sales to the Union.
- (132) The Commission noted that a quarterly calculation would only be warranted in very specific circumstances, for example if the cost of production increased considerably throughout the IP combined with the export sales being concentrated in one part of the IP, and the domestic sales in another. In the present case, the production and the domestic sales were evenly distributed over the whole investigation period. In addition, the unit price on the domestic market (+ 6 – 10 % in the second quarter, +10 – 13 % in the third quarter, +25 – 26 % in the fourth quarter) and the unit cost of production (+ 1 – 4 % in the second quarter, +10 – 13 % in the third quarter, +25 – 26 % in the fourth quarter) followed a similar trend over the IP. The company's pricing decisions on the Union market followed, however, a completely different trend. The export price increased between the first and second quarter by 28 – 32 %, decreased slightly in the third quarter but continued growing and in the fourth quarter reached +43 – 47 % of its value in the first quarter. This increase was not paralleled by the costs of production that only slightly increased between the first and the second quarter then a bit more sharply in the third quarter and significantly in the fourth quarter. It was the company's decision to price its exports to the Union at a considerably lower level during a quarter, in which the exported quantities were most concentrated. Therefore, the Commission considered that the request for a quarterly calculation was not justified in the present case and subsequently dismissed the claim.

⁽¹⁹⁾ Although the company did not provide information as to whether each respective resale transaction was a pure resale or a resale after a processing operation, by simple comparison of PCNs and quantities sold by NLMK to NSSC and resold by NSSC to unrelated customers, it can be observed that only approximately 1/3 of the quantity resold by NSSC represented unprocessed goods purchased from NLMK in the IP. The other 2/3 were sold either from stock or after a processing operation, which changed the product type.

- (133) Following the additional final disclosure mentioned in recital (65), NLMK claimed that in accordance with Article 2(10)(j) of the basic Regulation, the Commission should recognise the date of contract as the date when material terms of trade were established in the present case as far as it concerns the export sales transactions to be used in the dumping calculation. In this respect, the company also referred to a previous investigation ⁽²⁰⁾, in which the contract/purchase order date were used to establish the material terms of trade instead of the invoice date.
- (134) The Commission noted that Article 2(10)(j) of the basic Regulation concerned currency conversions and the date of exchange rate used where currency conversions were necessary for the purpose of comparison. The Commission noted that those provisions were not applicable to determine which transactions should be included in the dumping margin calculation. In addition, the Commission noted that in the previous investigation, the date of contract/purchase order was decisive only for the purposes of determining the date of the exchange rate to be used. This is the extent to which a potential adjustment under Article 2(10)(j) of the basic Regulation can be made. This provision cannot be used to exclude transactions from the dumping calculation.
- (135) Consequently the Commission rejected the claim.

3.1.4. Dumping margins

- (136) For the cooperating exporting producers, the Commission compared the weighted average normal value of each type of the like product with the weighted average export price of the corresponding type of the product concerned, in accordance with Article 2(11) and (12) of the basic Regulation.
- (137) As explained in recitals (12) to (14), sampling of the Russian exporting producers was abandoned and the investigation was conducted on all cooperating companies.
- (138) For all other exporting producers in Russia, the Commission established the dumping margin on the basis of the facts available, in accordance with Article 18 of the basic Regulation. To this end, the Commission determined the level of cooperation of the exporting producers. The level of cooperation is the volume of exports of the cooperating exporting producers to the Union expressed as proportion of the total imports from the country concerned to the Union in the investigation period, that were established on the basis of the Surveillance 2 database as explained in recital (201).
- (139) The level of cooperation in this case is high because the exports of the cooperating exporting producers constituted around 98 % of the total imports during the investigation period. On this basis, the Commission found it appropriate to establish the dumping margin for non-cooperating exporting producers at the level of the cooperating company with the highest dumping margin.
- (140) The definitive dumping margins, taking into consideration the changes following final disclosure, expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Company	Dumping margin
PJSC Magnitogorsk Iron and Steel Works	36,6 %
Novolipetsk Steel	12,7 %
PAO Severstal	39,8 %
All other companies	39,8 %

⁽²⁰⁾ Recital 71 of the Commission Implementing Regulation (EU) 2016/1328 of 29 July 2016 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain cold rolled flat steel products originating in the People's Republic of China and the Russian Federation (OJ L 210, 4.8.2016, p. 1).

3.2. Turkey

3.2.1. Normal value

- (141) The Commission first examined whether the total volume of domestic sales for each sampled exporting producer was representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales are representative if the total domestic sales volume of the like product to independent customers on the domestic market per exporting producer represented at least 5 % of its total export sales volume of the product concerned to the Union during the investigation period. On this basis, the total sales by each sampled exporting producer of the like product on the domestic market were representative.
- (142) The Commission subsequently identified the product types sold domestically that were identical or comparable with the product types sold for export to the Union for the exporting producers with representative domestic sales.
- (143) The Commission then examined whether the domestic sales by each sampled exporting producer on its domestic market for each product type that is identical or comparable with a product type sold for export to the Union were representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales of a product type are representative if the total volume of domestic sales of that product type to independent customers during the investigation period represents at least 5 % of the total volume of export sales of the identical or comparable product type to the Union.
- (144) For each of the three exporters, for some product types that were exported to the Union during the investigation period there were either no domestic sales at all, or the domestic sales of that product type were below 5 % in volume and thus not representative.
- (145) The Commission next defined the proportion of profitable sales to independent customers on the domestic market for each product type during the investigation period in order to decide whether to use actual domestic sales for the calculation of the normal value, in accordance with Article 2(4) of the basic Regulation.
- (146) The normal value is based on the actual domestic price per product type, irrespective of whether those sales are profitable or not, if:
- (a) the sales volume of the product type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of this product type; and
 - (b) the weighted average sales price of that product type is equal to or higher than the unit cost of production.
- (147) In such situation, the normal value is the weighted average of the prices of all domestic sales of that product type during the investigation period.
- (148) The normal value is the actual domestic price per product type of only the profitable domestic sales of the product types during the investigation period, if:
- (a) the volume of profitable sales of the product type represents 80 % or less of the total sales volume of this type; or
 - (b) the weighted average price of this product type is below the unit cost of production.
- (149) The analysis of domestic sales showed that, depending on the product type, 14 to 100 % of all domestic sales of MMK Turkey, 28 to 100 % of all domestic sales of Tatmetal and 19 to 100 % of all domestic sales of Tezcan were profitable and that the weighted average sales price was higher than the cost of production. Accordingly, the normal value was calculated as a weighted average of the prices of all domestic sales during the investigation period or a weighted average of the profitable sales only.
- (150) For the product types where the weighted average sales price was lower than the cost of production, the normal value was calculated as a weighted average of the profitable sales of that product type.

- (151) Where there were no sales of a product type of the like product in the ordinary course of trade or where a product type was not sold in representative quantities on the domestic market, the Commission constructed the normal value in accordance with Article 2(3) and (6) of the basic Regulation.
- (152) Normal value was constructed by adding the following to the average cost of production of the like product of the sampled exporting producers during the investigation period:
- (a) the weighted average selling, general and administrative ('SG&A') expenses incurred by the sampled exporting producers on domestic sales of the like product, in the ordinary course of trade, during the investigation period; and
 - (b) the weighted average profit realised by the sampled exporting producers on domestic sales of the like product, in the ordinary course of trade, during the investigation period.
- (153) For the product types not sold in representative quantities on the domestic market, the average SG&A expenses and profit of transactions made in the ordinary course of trade on the domestic market for those types were added. For the product types not sold at all on the domestic market, the weighted average SG&A expenses and profit of all transactions made in the ordinary course of trade on the domestic market were added.
- (154) Following final disclosure, MMK Turkey claimed that the Commission made an error when it excluded part of the company's financial costs from SG&A expenses while constructing normal value.
- (155) The excluded financial costs were foreign exchange incomes/losses which were not actual expenses but resulted from the difference in exchange rates between the invoice currency and the accounting currency on the date of transaction and date of payment, and therefore do not reflect the actual SG&A expenses pertaining to the production or sales of the product under investigation. Furthermore, the Commission noted that it took the same approach with respect to all the sampled companies regardless of whether they made losses or gains from foreign exchange. The reason for that approach is that, in extreme cases, not doing so would lead to overall negative SG&A costs which would not reflect actual SG&A expenses. Therefore, this claim was rejected.
- (156) Following final disclosure Tezcan indicated that there was an error in the calculation of the costs of one of the raw materials due to double counting of its opening stocks. The Commission corrected this error and re-disclosed a revised dumping calculation to Tezcan. The impact of this correction did not change the dumping margin of the company because the final dumping margins are expressed at the level of the first digit after coma.
- (157) The same company claimed that, in the amendments done to its cost of production, the Commission did not take into account differences in the cost of coils used for the production of exported and domestically sold CRS which allegedly resulted from a duty exemption scheme used by the company.
- (158) The investigation revealed that the imported and domestically purchased coils cannot be linked directly to the manufacturing of either exported or domestically sold products and that, for the duty exemption system, an exporting producer can use 'equivalent goods' instead of the imported goods stated in the authorisation certificate. Therefore, the Commission could not establish any difference in the actual cost of manufacturing of CRS for export and domestic market resulting from the use of the duty exemption scheme. Therefore, this claim was rejected.
- (159) Finally, in its comments on disclosure and at a hearing with the Commission services, Tezcan claimed that the Commission wrongly used its cost of production for the domestic market ('DMCOP') instead of the cost of production for exports to the EU ('EUCOP') in the construction of normal value for those product types which were not sold domestically in the IP. The company claimed that this is inconsistent with the Commission's description of the methodology provided in the specific disclosure, the Commission's 'long-standing practice' and EU jurisprudence. The company further claimed that actually EUCOP should have been used also in the construction of the normal value for those product types which had 'extremely limited' domestic sales in the IP.

- (160) The Commission's practice is to construct normal value on the basis of DMCOP and the SG&A expenses and profit of transactions made in the ordinary course of trade on the domestic market. EUCOP is used only if there is no DMCOP for specific types of products in the IP. This practice is consistent with the Court case quoted by Tezcan, that states that 'the purpose of constructing the normal value is to determine the selling price of a product as it would be if that product were sold in its country of origin or in the exporting country ⁽²¹⁾'. In this investigation, the product types at issue were manufactured in the IP for the domestic market but were not sold, i.e. they remained in stock at the end of the IP. The company rightly reported a DMCOP for these product types. The DMCOP was verified by the Commission. The wording of the methodology provided in the specific disclosure referring to product types 'not sold domestically', for which EUCOP is to be used in the construction of normal value, is intended to mean product types 'where DMCOP did not exist'. The wording is a general description of what the Commission does when constructing normal value and is not tailored for unusual cases where there are specific domestic costs of productions but no sales. However, this wording certainly does not reflect the practice of the Commission which follows the case-law recalled by the exporting producer and which was referred to above, as normal value should first be based on the costs and prices in the domestic market. Therefore, the claim was rejected.
- (161) As mentioned in recital (35), Tezcan requested the intervention of the Hearing Officer on this issue. Tezcan reiterated the claim described in recital (159) and added that at the hearing with the Commission services, the Commission had orally agreed to accept this claim. The Commission wishes to clarify the situation. Indeed, during the hearing the Commission told the company that the claim and its bases were understood and that they could move on to following points. Still the Commission advised the company to leave the claim in writing in the submission. However, after a closer analysis of the claim after the hearing, the Commission concluded that the claim was not justified for the reasons explained in recital (160). The Commission informed the Hearing Officer of its further reflections and the conclusions.

3.2.2. Export price

- (162) All the sampled exporting producers exported to the Union directly to independent customers. Therefore, their export price was the price actually paid or payable for the product concerned when sold for export to the Union, in accordance with Article 2(8) of the basic Regulation.

3.2.3. Comparison

- (163) The Commission compared the normal value and the export price of the sampled exporting producers on an ex-works basis.
- (164) Where justified by the need to ensure a fair comparison, the Commission adjusted the normal value and/or the export price for differences affecting prices and price comparability, in accordance with Article 2(10) of the basic Regulation. Adjustments were made for transport, insurance, handling, loading and ancillary costs, credit costs, commissions and packing expenses.
- (165) Following final disclosure, MMK Turkey claimed that the Commission wrongly treated some domestic transport costs between the two production sites of the company as internal transport costs and provided evidence that these costs were not internal. The Commission found the claim justified in view of the evidence and re-disclosed a revised dumping calculation to MMK. As a result MMK Turkey's dumping margin decreased from 10,6 % to 10,5 %.
- (166) Two sampled exporting producers made a claim under Article 2(10)(b) of the basic Regulation for a duty drawback adjustment, arguing that the existence of a duty drawback scheme for certain input materials in the country concerned implies that all their domestic sales would incorporate an indirect tax compared to the export sales.

⁽²¹⁾ Judgment of 5 October 1988, *Silver Seiko Limited and others v Council of the European Communities*, C-273/85 and C-107/86, ECLI:EU:C:1988:466, para. 16.

- (167) In Turkey, an import duty applies to hot rolled coils, which are an input in the manufacture of the CRS. Under the inward processing regime (IPR), domestic producers are exempted from the payment of such duty if the imported raw material is used to produce finished products that are finally exported. The two sampled exporters claimed that the amount of duties they would have paid if the finished CRS were sold domestically instead of exported should be taken into account for the purpose of fair comparison of the normal value and the export price.
- (168) However, the investigation showed that none of the two sampled exporters paid any import duty during the investigation period, neither for domestic sales, nor for export sales as they fulfilled the export commitment linked to each IPR permit. As such, there could be no issue of price comparability between exports of CRS, incorporating hot rolled coils for which a duty was not paid, and domestic sales of CRS, incorporating hot rolled coils for which an import duty was paid (as the latter situation never arose during the investigation period). Neither exporting producer was able to substantiate with any evidence that absent the actual payment of import duties, domestically sold CRS incorporated the cost of the import duty on hot rolled coils in instances where no such import duty was actually paid. This cannot simply be presumed to be the case. For these reasons, the claim was considered unfounded and therefore rejected.
- (169) Following final disclosure, Tatmetal reiterated its claims with regard to the duty drawback adjustment, but it provided no new evidence that could change the Commission's conclusion as explained in recital (129). Therefore, this claim is rejected.
- (170) One sampled producer requested the Commission to use the quarterly method to establish its individual dumping margin due to high inflation in Turkey and the decreasing values of the Turkish lira.
- (171) The Commission analysed this claim and determined that the average inflation rate and devaluation of the Turkish lira in the investigation period were not of such magnitude as to justify deviating from the Commission's consistent practice to calculate the dumping margin on an annual basis. Furthermore, the company has almost all domestic sales and all raw-material purchases in USD, so the impact of the exchange rate should be similar on normal value and on export price. Moreover, there was no concentration of domestic or export sales in any particular quarter, but sales were evenly distributed over the investigation period, except for a decline, for all three sampled companies, in export sales in quarter three which was clearly affected by the COVID restrictions. Therefore, the request for a quarterly calculation of dumping margins was rejected.
- (172) Following final disclosure, Tezcan reiterated its claim that the dumping margin should be calculated quarterly. The company provided no new evidence, but argued that in the previous investigations, several against Turkey, the Commission resorted to this method and that the 12 % inflation rate in Turkey and 37 % devaluation of the Turkish lira against the euro in the IP would justify this approach.
- (173) The company further argued that in a situation where the costs are weight-averaged for 12 months whereas the profitability of domestic sales is analysed on a transaction by transaction basis, some transactions were treated as loss making while in reality they were profitable, resulting in a distorted dumping margin, and quarterly calculations would result in a more adequate dumping margin.
- (174) The Commission maintained that in this case neither the level of the inflation nor the Turkish lira devaluation rates justified such an approach. The Commission noted that in the previous investigations against Turkey quoted by Tezcan the inflation rates were significantly higher.
- (175) Similarly, the Commission maintained its conclusion that in this investigation there was no concentration of domestic or export sales in any particular quarter that would justify quarterly calculations. Quarterly variations of domestic and exports sales are bound to occur, but it is only in exceptional situations that the Commission may set aside its standard methodology, for example in a situation described in the first sentence of recital (132). The Commission did not consider that the variation in the present case was so significant as to justify a quarterly calculation. Indeed, the Commission reiterated that it cannot be under an obligation to deviate from the standard methodology as set out in the basic Regulation whenever an exporting producer requests a different methodology that would improve its dumping margin.

(176) Consequently, the Commission upheld its rejection of this claim.

3.2.4. *Dumping margins*

(177) Following final disclosure, Tezcan claimed that, should the Commission not exclude AluZinc CRS from the product scope, it should recalculate its dumping margin without AluZinc because it stopped producing it as of September 2021. This way Tezcan's dumping margin would appropriately and adequately reflect present day reality. Tezcan added that the stop in production is manifest, undisputed and lasting. Tezcan also raised this claim at the hearing with the Hearing Officer, although the initial request for a hearing was limited to the claim regarding the use of EUCOP instead of DMCOP and Tezcan only asked to add this part, and submitted its presentation on the issue, one day before the hearing took place.

(178) The Commission disagreed with the claim. As provided in Article 6(1) of the basic Regulation, information relating to a period subsequent to the investigation period shall, normally, not be taken into account. Indeed, as per Commission's practice, events relating to a period subsequent to the IP can only be taken into account if they are manifest, undisputed and lasting. More importantly, as clarified by the General Court in Case T-462/04 ⁽²²⁾, such events would need to make the anti-dumping duty manifestly inappropriate. That is not the case in this investigation as, based on the facts it verified, the Commission cannot establish with sufficient certainty that Tezcan will not produce AluZinc in the future. Even if this would have been the case, the exporting producer did not present any evidence showing, nor indeed argue, that the proposed duty was manifestly inappropriate. Therefore, the Commission rejected the claim.

(179) For the sampled cooperating exporting producers, the Commission compared the weighted average normal value of each type of the like product with the weighted average export price of the corresponding type of the product concerned, in accordance with Article 2(11) and (12) of the basic Regulation.

(180) For the cooperating exporting producers outside the sample, the Commission calculated the weighted average dumping margin, in accordance with Article 9(6) of the basic Regulation. Therefore, that margin was established on the basis of the margins of the three sampled exporting producers.

(181) On this basis, the definitive dumping margin of the cooperating exporting producers outside the sample is 8 %. This margin was not affected by the slight changes in individual dumping margins of MMK Turkey and Tezcan described in recitals (156) and (165).

(182) For all other exporting producers in Turkey, the Commission established the dumping margin on the basis of the facts available, in accordance with Article 18 of the basic Regulation. To this end, the Commission determined the level of cooperation of the exporting producers. The level of cooperation is the volume of exports of the cooperating exporting producers to the Union expressed as proportion of the total imports from the country concerned to the Union in the investigation period, that were established on the basis of the Surveillance 2 database as explained in recital (201).

(183) The level of cooperation in this case is high because the exports of the cooperating exporting producers constituted 100 % of the total imports during the investigation period. On this basis, the Commission found it appropriate to establish the dumping margin for non-cooperating exporting producers at the level of the sampled company with the highest dumping margin.

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

⁽²²⁾ Judgement of the Court of First Instance of 17 December 2008, *HEG Ltd, Graphite India Ltd v Council of the European Union*, Case T-462/04, EU:T:2008:586, para 64.

Company	Dumping margin
MMK Turkey	10,5 %
Tatmetal	2,4 %
Tezcan	11,0 %
Cooperating not sampled companies	8,0 %
All other companies	11,0 %

4. INJURY

4.1. Definition of the Union industry and Union production

- (185) The like product was manufactured by 20 producers in the Union during the investigation period. They constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.
- (186) Russian exporting producers claimed that Steel Service Centres ('SSCs') related to the complainants imported the product under investigation from Russia and Turkey and that such Union producers should be disqualified as complainants.
- (187) Russian exporting producers submitted no evidence of imports from Russia and Turkey by Union producers nor evidence of such imports in significant volumes by SSCs related to them. The verification visits confirmed that the Russian producers' claim was groundless as far as sampled Union producers were concerned. The Commission dismissed the claim.
- (188) Russian producers pointed to links between one of the producers supporting the complaint and Turkish exporters and called on the Commission to exclude the company concerned from the definition of Union industry.
- (189) At initial stage, the company concerned itself acknowledged to have business interests in Turkey ⁽²³⁾. However, the Commission found those interests insufficient to disqualify it as a Union producer in this investigation because they concern rather future plans. Thus, there was no objective reason to exclude this producer.
- (190) The total Union production during the investigation period was established at 9 797 517 tonnes, including production for the captive market. The Commission established the figure on the basis of the questionnaire replies received from Eurofer and the sampled Union producers.
- (191) As indicated in recital (7), the four sampled Union producers represented 25 % of the total Union production of the like product.

4.2. Determination of the relevant Union market

4.2.1. *Captive and free market*

- (192) 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 (i.e., captive use or non-captive use) had to be taken into account in the analysis.
- (193) The Commission found that a substantial part of the Union producers' production, ca. 22 %, was destined for the captive market in the Union. CRS is captively used as an intermediate material for the production of organic coated steel.

⁽²³⁾ t21.005086.

- (194) The distinction between captive and free market is relevant for the injury analysis in this case. Products destined for captive use are not exposed to direct competition from imports, but simply transferred to the next stage in production and/or delivered at transfer prices within the same company or groups of companies for further downstream processing according to the various price policies. By contrast, production destined for free market sale is in direct competition with imports of the product concerned and is sold at free market prices.
- (195) To provide a picture of the Union industry that is as complete as possible, the Commission obtained data for the entire CRS activity and determined whether the production was destined for captive use or for the free market.
- (196) The Commission examined certain economic indicators relating to the Union industry on the basis of data for the free market. These indicators are: sales volume and sales prices on the Union market; market share; growth; export volume and prices; profitability; return on investment; and cash flow. Where possible and justified, the findings of the examination were compared with the data for the captive market in order to provide a complete picture of the situation of the Union industry.
- (197) However, other economic indicators could meaningfully be examined only by referring to the whole CRS activity, including the captive use of the Union industry. These are: production; capacity, capacity utilisation; investments; stocks; employment; productivity; wages; and ability to raise capital. They depend on the whole activity, whether the production is captive or sold on the free market.

4.2.2. Statistical data

- (198) Following the request of several exporting producers, the Commission asked the complainant to supplement the information presented in the open version of the complaint as regards import volumes and values. The files supplementing Annex I-1 to the complaint were made available in the case file ⁽²⁴⁾.
- (199) Pursuant to Article 14(6) of the basic Regulation, in the course of the investigation, the Commission provided information on aggregated import volumes and values per exporting country for the calendar year 2020 for the product under investigation ⁽²⁵⁾.
- (200) The additional information described in the two recitals above was without prejudice to the final determination of import volumes in the current investigation.
- (201) During the investigation, the Commission cross-checked the data in the Comext database with those in Surveillance 2 database ('Surveillance 2') and noticed some discrepancies at TARIC level. The Commission inquired the issue with Eurostat and it found that some Member States had not reported some of the imports concerned in Comext. The Commission therefore decided to rely on Surveillance 2 data to determine the Union market, import prices and market shares.
- (202) Some product types covered by the investigation were only attributed a 10-digit TARIC code upon initiation of the anti-circumvention investigation in November 2019 ⁽²⁶⁾. As a result, data for those types was not available in Surveillance 2 for the period 2017–2019. Therefore, the Commission established those volumes on the basis of Table 1 of Commission Implementing Regulation (EU) 2020/1156 ⁽²⁷⁾.

⁽²⁴⁾ The files supplementing Annex I-1 to the complaint are attached to the Note to the file t21.006245 dated 8 September 2021 (for inspection by interested parties).

⁽²⁵⁾ Note to the file t22.001059 dated 4 February 2022 (for inspection by interested parties).

⁽²⁶⁾ Commission Implementing Regulation (EU) 2019/1948 of 25 November 2019 initiating an investigation concerning possible circumvention of anti-dumping measures imposed by Commission Implementing Regulation (EU) 2018/186 on imports of certain corrosion resistant steels originating in the People's Republic of China, and making such imports subject to registration (OJ L 304, 26.11.2019, p. 10).

⁽²⁷⁾ Commission Implementing Regulation (EU) 2020/1156 of 4 August 2020 extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) 2018/186 on imports of certain corrosion resistant steels originating in the People's Republic of China to imports of slightly modified certain corrosion resistant steels (OJ L 255, 5.8.2020, p. 36). The methodology to establish the figures in Table 1 of Implementing Regulation (EU) 2020/1156 is described in detail under that table. It draws from Commission Implementing Regulation (EU) 2018/186, Eurostat, and industry estimations.

4.3. Union consumption

- (203) The Commission established the Union consumption on the basis of: (a) Eurofer data concerning Union industry's sales and captive use (including captive sales) of the like product, cross-checked with the sales and captive use volumes reported by sampled Union producers; and (b) imports of the product under investigation into the Union from all third countries as reported in Surveillance 2.
- (204) Union consumption over the period considered developed as follows:

Table 1

Union consumption (tonnes)

	2017	2018	2019	IP
Total Union consumption	11 494 857	11 062 815	11 306 869	10 691 239
<i>Index (2017 = 100)</i>	100	96	98	93
Captive market	2 504 391	2 667 375	2 358 802	2 167 741
<i>Index (2017 = 100)</i>	100	107	94	87
Free market	8 990 466	8 395 440	8 948 067	8 523 498
<i>Index (2017 = 100)</i>	100	93	100	95

Source: Eurofer, sampled Union producers and Surveillance 2 (adjusted)

- (205) During the period considered, the Union consumption decreased by 7 %. In the same period, demand on the free market dropped by 5 % while demand in the captive market dropped by 13 %.

4.4. Imports from the countries concerned

4.4.1. Cumulative assessment of the effects of imports from the countries concerned

- (206) The Commission examined whether imports of CRS originating in the countries concerned should be assessed cumulatively, in accordance with Article 3(4) of the basic Regulation.
- (207) That provision stipulates that the imports from more than one country should be cumulatively assessed only if it is determined that:
- (a) the margin of dumping established in relation to the imports from each country is more than *de minimis* as defined in Article 9(3), and the volume of imports from each country is not negligible; and
 - (b) a cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between imported products and the like Union product.
- (208) The margins of dumping established in relation to the imports from each of the two countries concerned are summarised under recitals (140) and (184). They are all above the *de minimis* threshold laid down in Article 9(3) of the basic Regulation.
- (209) The volume of imports from each of the countries concerned was not negligible within the meaning of Article 5(7) of the basic Regulation. Market shares in the investigation period were 9,3 % for imports from Turkey and 3,5 % for imports from Russia. After final disclosure, GOR submitted that the Russian market share of 3,5 % was insignificant, a claim which however was unsubstantiated.

- (210) The conditions of competition between the dumped imports from Turkey and Russia and between the dumped imports from the countries concerned and the like product were similar during the period concerned. More specifically, the imported products competed with each other and with CRS produced in the Union in a similar manner, they are sold through the same sales channels and to similar categories of customers. The product concerned is a commodity and competition took place largely based on prices alone.
- (211) Therefore, all the criteria set out in Article 3(4) of the basic Regulation were met and imports from Turkey and Russia were examined cumulatively for the purposes of the injury determination.

4.4.2. Volume and market share of the imports from the countries concerned

- (212) The Commission established the volume of imports on the basis of Surveillance 2, as explained in Section 4.2.2. The market share of the imports from the countries concerned was established by comparing those imports with the Union consumption with the adjustment with regard to imports from China as explained in recital (202) which had a bearing on Chinese and, thus, total import volumes and therefore also on consumption volumes and market shares.
- (213) Imports into the Union from the countries concerned over the period considered developed as follows:

Table 2

Import volume (tonnes) and market share on free market

	2017	2018	2019	IP
Turkey (tonnes)	84 581	166 295	529 087	796 524
<i>Index (2017 = 100)</i>	100	197	626	942
Market share (%)	0,9	2,0	5,9	9,3
<i>Index (2017 = 100)</i>	100	211	629	997
Russia (tonnes)	112 062	175 772	240 240	300 729
<i>Index (2017 = 100)</i>	100	157	214	268
Market share (%)	1,2	2,1	2,7	3,5
<i>Index (2017 = 100)</i>	100	168	215	284
Total countries concerned	196 643	342 067	769 327	1 097 253
<i>Index (2017 = 100)</i>	100	174	391	558
Market share (%)	2,2	4,1	8,6	12,9
<i>Index (2017 = 100)</i>	100	186	393	589

Source: Surveillance 2 (tonnes) and Eurofer

- (214) Imports from the countries concerned as well as their market share increased by more than five-fold over the period considered. The Union market share of imports from the countries concerned was 12,9 % during the investigation period. Such increase took place despite a safeguard measure being in place during most part of the period considered, due to the fact that, under the safeguard measure, both countries exported the product concerned under the residual quota, which was large enough to allow these increased volumes free-of-safeguard duty into the Union market.

4.4.3. Prices of the imports from the countries concerned and price undercutting/price depression

(215) The Commission established the prices of imports on the basis of Surveillance 2, as explained in Section 4.2.2.

(216) The weighted average price of imports into the Union from the countries concerned developed as follows over the period considered:

Table 3

Import prices (EUR/tonne)

	2017	2018	2019	IP
Turkey	659	657	616	564
<i>Index (2017 = 100)</i>	100	100	93	85
Russia	639	643	598	548
<i>Index (2017 = 100)</i>	100	101	94	86
Total countries concerned	648	650	611	559
<i>Index (2017 = 100)</i>	100	100	94	86

Source: Surveillance 2

(217) The average import prices from the two countries concerned remained stable between 2017 and 2018 but then fell by 14 % in two years' time. Throughout the whole period considered, the average import prices from both countries concerned (together or separately) were constantly lower than the prices of Union producers (see Table 7), and the difference between average EU sales prices of the Union industry and average import prices from the countries concerned almost doubled over the period considered.

(218) The Commission also established the price undercutting during the investigation period by comparing:

- (1) the weighted average prices per product type of the imports from the sampled Turkish and the cooperating Russian producers to the first independent customer on the Union market, established on a cost, insurance, freight (CIF) basis, with appropriate adjustments for post-importation costs; and
- (2) the corresponding 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 ⁽²⁸⁾.

(219) The price comparison was made on a type-by-type basis for transactions at the same level of trade, duly adjusted where necessary, and after deduction of rebates and discounts. The result of the comparison was expressed as a percentage of the sampled Union producers' theoretical turnover during the investigation period.

(220) After final disclosure, Severstal claimed that there is no legal basis nor a rationale for the application of Article 2(9) of the basic Regulation by analogy to establish the export price for the purpose of calculating undercutting (and underselling). In Severstal view, this would be in breach with Article 3(1) of the basic Regulation. It also noted that the Commission had already been condemned by the General Court in *Hansol Paper* ⁽²⁹⁾ for this practice. In particular, Severstal submitted that the General Court, in that case, had ruled that the Commission had committed an error by deciding to apply by analogy Article 2(9) of the basic Regulation in the context of the determination of

⁽²⁸⁾ The sampled Union producers mostly sold the like product directly to independent customers in the EU. Around 5 % of those EU sales were made through related selling entities and those sales were made at prices similar to those of direct sales to independent customers.

⁽²⁹⁾ Judgement of the General Court of 2 April 2020, *Hansol Paper Co. Ltd. v Commission*, Case T-383/17, EU:T:2020:139, paras. 200-203.

injury, in particular 'by deciding to deduct SG&A costs and a profit margin, for the resales of the product concerned' to independent customers, as it is the prices of the product concerned charged to independent customers that are in 'competition with the like product of the Union industry and which inflicts injury on that industry' and not hypothetically constructed CIF prices. According to Severstal, that principle had been confirmed by the General Court in Giant ⁽³⁰⁾ and CRIA ⁽³¹⁾ and, most recently, by the Court of Justice in Hansol ⁽³²⁾. Severstal held that the prices charged by its related traders to their unrelated customers were by definition reliable, that such prices compete with those of the Union industry and that they should therefore be used for the purpose of calculating undercutting (and underselling).

- (221) The Commission rejected the claim that using Article 2(9) by analogy to establish the export price for the purpose of calculating undercutting and underselling is in breach of Article 3(1) of the basic Regulation. In fact, contrary to Severstal claim, in its judgement in Hansol ⁽³³⁾ the Court of Justice confirmed the legality of the Commission's methodology, stating that *'it was open to the Commission, in order to ensure an objective comparison of the prices at the level of the first release for free circulation in the Union of the product concerned, to construct that CIF EU border value by deducting SG&A costs and a profit margin from the price of resale of the product concerned by Schades to independent customers. That application, by analogy, of Article 2(9) of the basic regulation was within the broad discretion which the Commission enjoys when implementing Article 3(2) of that regulation and could not therefore be regarded, in itself, as vitiated by a manifest error of assessment'* ⁽³⁴⁾. Moreover, since in this case the Union industry predominantly sells directly to independent customers, the methodology followed by the Commission did not lead to a manifestly incorrect result ⁽³⁵⁾.
- (222) The above showed a weighted average undercutting margin of between 4,2 % and 7,1 % by the imports from Turkey and between 5 % and 20,4 % by the imports from Russia ⁽³⁶⁾. The bulk of CRS is a price sensitive commodity, thus the undercutting margins are significant.
- (223) The Turkish association CIB and some exporting producers asked the Commission to ensure that comparable products were considered. The methodology used during the investigation, when comparing types of the product concerned exported into the Union and the like product manufactured within the Union, as explained in recitals (218) and (219) is sufficiently refined as to ensure a proper price comparison for the undercutting calculations.
- (224) The Commission further considered other price effects, in particular the existence of significant price depression. During the period considered, the Union industry decreased its prices by 12 %, thus at a higher level than the drop of the cost of production (- 7 % over the same period) (see Table 7). But for the dumped imports, the Union industry would have been able to raise its prices at least at the level to sell without losses. For instance, in 2019, coinciding with the highest increase in dumped imports, the Union industry had to sell at a price close to the price of the dumped imports, but with significant losses. During the investigation period, the Union industry's sales prices decreased in parallel with the decrease in the costs of production, but to the level of hardly making any profits.
- (225) After final disclosure, CIB and several exporting producers submitted that the decrease in sales price from 2019 to the investigation period was less than the decrease in cost of production and that the Union industry even managed to make a profit in the investigation period. That would make the finding of price depression caused by the imports concerned doubtful.

⁽³⁰⁾ Judgement of the General Court of 27 April 2022, *Giant Electric Vehicle Kunshan Co. Ltd. v Commission*, Case T-242/19, EU:T:2022:259.

⁽³¹⁾ Judgement of the General Court of 4 May 2022, *China Rubber Industry Association (CRIA) and China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters (CCCME) v Commission*, Cases T-30/19 and T-72/19, EU:T:2022:266, paras. 128-131.

⁽³²⁾ Judgement of the Court of 12 May 2022, *Commission v Hansol Paper*, Case C-260/20 P, EU:C:2022:370, para. 101.

⁽³³⁾ Judgement of the Court of 12 May 2022, *Commission v Hansol Paper*, Case C-260/20 P, EU:C:2022:370.

⁽³⁴⁾ Judgement of the Court of 12 May 2022, *Commission v Hansol Paper*, Case C-260/20 P, EU:C:2022:370, para. 105.

⁽³⁵⁾ Judgement of the Court of 12 May 2022, *Commission v Hansol Paper*, Case C-260/20 P, EU:C:2022:370, para. 99.

⁽³⁶⁾ Since the Union producers sell predominantly to independent customers in the EU directly, the Commission considered the resulting undercutting margins sufficiently representative.

- (226) The Commission rejected this claim. The fact that the Union industry was able to achieve a 0,4 % profit in the investigation period cannot undermine the Commission's conclusion of significant price depression caused by the dumped imports. A profitability level just above break-even cannot be considered a healthy profit, which would be achievable in the absence of price pressure from dumped imports. It is clear that such profit levels were the result of the strongly increasing import volumes of CRS from the countries concerned. As explained before, CRS is a commodity sensitive to price competition. Thus, the dumped imports were capable of exercising significant price depression on Union industry sales.

4.5. Economic situation of the Union industry

4.5.1. General remarks

- (227) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.
- (228) As mentioned in recital (6), sampling was used for the determination of possible injury suffered by the Union industry from the imports of certain corrosion resistant steels from Turkey and Russia.
- (229) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators on the basis of data contained in the questionnaire reply of Eurofer relating to all Union producers, cross-checked where necessary with the questionnaire replies from the sampled Union producers. The Commission evaluated the microeconomic indicators on the basis of data contained in the questionnaire replies from the four sampled Union producers. Both sets of data were duly verified ⁽³⁷⁾ and found to be representative of the economic situation of the Union industry.
- (230) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity, magnitude of the dumping margin, and recovery from past dumping.
- (231) The microeconomic indicators are: average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital.

4.5.2. Macroeconomic indicators

4.5.2.1. Production, production capacity and capacity utilisation

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

Table 4

Production, production capacity and capacity utilisation

	2017	2018	2019	IP
Production volume (tonnes)	10 915 729	10 870 843	10 757 441	9 797 517
<i>Index (2017 = 100)</i>	100	100	99	90
Production capacity (tonnes)	12 110 762	12 107 279	13 240 172	13 340 130

⁽³⁷⁾ The questionnaire reply provided by Eurofer was remotely cross-checked.

<i>Index (2017 = 100)</i>	100	100	109	110
Capacity utilisation (%)	90	90	81	73
<i>Index (2017 = 100)</i>	100	100	90	81

Source: Eurofer and sampled Union producers

- (233) The Union industry's production volume was rather stable between 2017 and 2019 but it dropped by 10 % at the end of the period considered, partly due to the pressure exerted by Turkish and Russian imports which increased by almost 330 000 tonnes in the investigation period as compared to 2019 (table 2).
- (234) After final disclosure, GOR recalculated the Union industry's production volume on the basis of the data reported in Tables 5a, 5b, 9 and 12 and, by combining the figures in those tables, it concluded that the Commission had miscalculated the Union industry's production volumes. However, the source of these tables is not the same; in particular, the volumes reported in Table 9 are from the Union industry's sample whereas the volumes in the three other tables are from the Union industry as a whole. The claim was therefore rejected.
- (235) Over the period considered, the production capacity of the Union industry increased by 10 %. However, this increase is theoretical. Union producers use their hot dipped galvanising lines to produce CRS but also other products that are not subject to this investigation. Over the period considered, the share of these production lines that was allocated to CRS production changed for certain producers. The drop in production combined with an increase of production capacity led to a plunge of the capacity utilization rate.
- (236) After final disclosure, CIB and several exporting producers submitted that the increase in production capacity, and the impact thereof on the capacity utilisation rate, in particular in 2019 was the consequence of erroneous investment decisions. However, as explained in recital (235), that increase was only theoretical. This fact was taken into account by the Commission in its analysis, by giving a limited relevance of this negative factor in the injurious situation of the Union industry.

4.5.2.2. Sales volume and market share

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

Table 5 a

Free market sales volume and market share

	2017	2018	2019	IP
Free market sales	6 656 755	6 573 138	6 780 245	6 586 657
<i>Index (2017 = 100)</i>	100	99	102	99
Market share of free market sales (%)	74,0	78,3	75,8	77,3
<i>Index (2017 = 100)</i>	100	106	102	104

Source: Eurofer, sampled Union producers

- (238) The Union industry's sales volume in the free market was rather stable over the period considered. In terms of sales volumes, at the end of the period considered the Union industry managed to compensate for the impact of the sharp increase of imports from the countries concerned by the extension of the measures against China to circumvented imports ⁽³⁸⁾, which enabled the Union industry to regain some of the sales volumes previously lost due to the Chinese circumvention practices. Coupled with the decrease in consumption, this even resulted in an increase in market share over the period considered.
- (239) After disclosure, CIB and several exporting producers submitted that the above figures demonstrate that the Union industry did not suffer from a material injury on the account of lost sales or market share.
- (240) Although indeed the Union industry sales volumes as such only declined slightly and its market share increased in view of a drop in consumption, the Commission disagreed as the strong increase of low-priced imports from Russia and Turkey exerted price pressure, depressing prices and preventing the Union industry from taking full advantage of the anti-dumping measures on imports of CRS from China.

Table 5 b

Captive volume and market share

	2017	2018	2019	IP
Captive market	2 504 391	2 667 375	2 358 802	2 167 741
<i>Index (2017 = 100)</i>	100	107	94	87
The share of captive market over the total Union production (%)	22,9	24,5	21,9	22,1
<i>Index (2017 = 100)</i>	100	107	96	96

Source: Eurofer, sampled Union producers

- (241) The captive market of the Union industry (composed of CRS kept by the Union industry for downstream use, in particular for organic coated steel production) in the Union decreased by 13 % in the period considered. The fall is attributable to the decrease in demand of organic coated steel downstream products in the second part of the period considered, despite the rebound of the home appliances sector during the last quarter of 2020 ⁽³⁹⁾. The market share of the captive market over the total Union production decreased by 0,8 % percentage points overall during the period considered.

4.5.2.3. Growth

- (242) The above figures in respect of production and, less pronounced, sales in the free market show a decreasing trend as from 2017. As already referred to in recital (238), the Union industry's increase in market share was due to the registration of certain Chinese imports upon initiation of the anti-circumvention investigation concerning such imports ⁽⁴⁰⁾, which ended the significant imports from China and allowed the Union industry to compensate for part of sales lost to Russian and Turkish imports.

4.5.2.4. Employment and productivity

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

⁽³⁸⁾ Implementing Regulation (EU) 2020/1156.

⁽³⁹⁾ See the analysis of EU-steel using sectors in Eurofer's 'Economic and steel market outlook 2021-2022, second quarter 2021 report' from May 2021 available at <https://www.eurofer.eu/publications/economic-market-outlook/economic-and-steel-market-outlook-2021-2022-second-quarter/>

⁽⁴⁰⁾ Implementing Regulation (EU) 2019/1948.

Table 6

Employment and productivity

	2017	2018	2019	IP
Number of employees	8 389	8 731	9 751	9 238
<i>Index (2017 = 100)</i>	100	104	116	110
Productivity (tonnes/ employee)	1 301	1 245	1 103	1 061
<i>Index (2017 = 100)</i>	100	96	85	82

Source: Eurofer and sampled Union producers

- (244) Over the period considered, the level of Union industry employment related to the production of CRS fluctuated and increased by 10 %. However, some fluctuations are theoretical as they are the result of the methodologies used to allocate the resources starting from a product family broader than CRS (namely all hot dipped galvanised products).
- (245) The productivity of Union industry decreased by 18 % over the period concerned. This fall is explained by the drop in production volumes and the methodology used to establish the number of employees involved in CRS activities.

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

- (246) All dumping margins were above the *de minimis* level and most of them significantly higher. The impact of the magnitude of the actual margins of dumping on the Union industry was substantial, given the volume and prices of imports from the countries concerned.
- (247) Corrosion resistant steels have already been subject to anti-dumping investigations. The Commission found that, during the period 1 October 2015 to 30 September 2016, the situation of the Union industry was significantly affected by dumped imports of CRS originating in the People's Republic of China ('PRC'). Provisional anti-dumping measures on imports from PRC were imposed in August 2017 ⁽⁴¹⁾ and definitive measures were confirmed in February 2018 ⁽⁴²⁾.
- (248) In August 2020, an anti-circumvention investigation of the anti-dumping measures of imports originating in the PRC extended the measures to slightly modified certain corrosion resistant steels ⁽⁴³⁾.
- (249) The recovery of the Union industry from past dumping practices was thus ongoing when the present investigation started.

4.5.3. Microeconomic indicators

4.5.3.1. Prices and factors affecting prices

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

⁽⁴¹⁾ Commission Implementing Regulation (EU) 2017/1444 of 9 August 2017 imposing a provisional anti-dumping duty on imports of certain corrosion resistant steels originating in the People's Republic of China (C/2017/5512) (OJ L 207, 10.8.2017, p. 1).

⁽⁴²⁾ Commission Implementing Regulation (EU) 2018/186 of 7 February 2018 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain corrosion resistant steels originating in the People's Republic of China (OJ L 34, 8.2.2018, p. 16).

⁽⁴³⁾ Implementing Regulation (EU) 2020/1156.

Table 7

Sales prices and cost of production in the Union

	2017	2018	2019	IP
Average unit sales price on the free market (EUR/tonne)	662	674	616	584
<i>Index (2017 = 100)</i>	100	102	93	88
Unit cost of production (EUR/tonne)	622	664	638	578
<i>Index (2017 = 100)</i>	100	107	103	93

Source: Sampled Union producers

- (251) After the imposition of anti-dumping measures against Chinese imports in 2017, the Union producers could increase their sales prices in the Union by 2 % from 2017 to 2018. However, subsequently, the unit sales price on the free market decreased by 14 % between 2018 and the investigation period, resulting in a decrease of overall 12 % over the period considered.
- (252) The unit cost of production increased by 7 % between 2017 and 2018, but decreased after 2018, resulting in an overall decrease of 7 % over the period considered. The prices of some main raw materials decreased significantly in the second half of the period considered.
- (253) In its comments to the final disclosure, CIB and several exporting producers pointed at the fact that, from 2019 to the investigation period, the drop in cost of production was more pronounced than the continuing fall in the Union industry's sales prices. However, the Commission observed that during the period considered, the Union industry decreased its prices by 12 % which is more than the drop of the cost of production (-7 % over the same period). Indeed, the Union industry's low prices including during the investigation period severely influenced the Union industry's financial results, as Table 10 below shows.

4.5.3.2. Labour costs

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

Table 8

Average labour costs per employee

	2017	2018	2019	IP
Average labour costs per employee (EUR)	32 916	33 372	33 007	31 075
<i>Index (2017 = 100)</i>	100	101	100	94

Source: Sampled Union producers

- (255) The average labour costs per employee of the sampled Union producers fell by 6 % at the end of period considered.

4.5.3.3. Inventories

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

Table 9

Inventories

	2017	2018	2019	IP
Closing stocks (tonnes)	170 054	166 651	173 225	107 317
<i>Index (2017 = 100)</i>	100	98	102	63
Closing stocks as a percentage of production	5,9	5,3	6,0	3,9
<i>Index (2017 = 100)</i>	100	90	101	65

Source: Sampled Union producers

- (257) During the period considered the level of closing stocks decreased by 37 %. The Union producers usually only keep a low level of stock themselves. Therefore, stocks are not considered to be an important injury indicator for this industry. This is also confirmed by analysing the evolution of the closing stocks as a percentage of production. As can be seen above, this indicator remained relatively stable between 2017 and 2019, although it then fell. In the investigation period, temporarily some producers produced less and reduced stocks in an effort to cope with their difficult financial situation in 2019 and 2020 (see Table 9).

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

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

Table 10

Profitability, cash flow, investments and return on investments

	2017	2018	2019	IP
Profitability of sales in the Union to unrelated customers (% of sales turnover)	6,2	2,1	- 2,6	0,4
<i>Index (2017 = 100)</i>	100	34	- 42	6
Cash flow (EUR)	120 781 208	101 695 104	16 255 709	104 970 075
<i>Index (2017 = 100)</i>	100	84	13	87
Investments (EUR)	16 168 844	22 074 194	27 064 986	39 876 721
<i>Index (2017 = 100)</i>	100	137	167	247
Return on investments (%)	4,1	2,0	- 1,1	0,6
<i>Index (2017 = 100)</i>	100	49	- 27	16

Source: Sampled Union producers

- (259) The Commission established the profitability of the sampled Union producers by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales. Overall profitability fell from 6,2 % in 2017 to 0,4 % in the investigation period. This drop coincides with the massive increase of import volumes from the countries concerned (see Table 2) at prices lower than the Union industry's prices (see Tables 3 and 7).
- (260) After final disclosure, CIB and several exporting producers pointed at the positive development of the Union industry's profitability between 2019 and the investigation period (2020) and the upward trend in 2020 ⁽⁴⁴⁾. Moreover, these parties underlined that the profitability in the investigation period could not be considered as representative due to the impact of the COVID-19 measures on production volumes at the beginning of 2020 and the drop in the market of automotive CRS, which is outside the product scope in this investigation but produced on the same equipment, in 2020.
- (261) The Commission noted that, as mentioned in recital (24) above, the choice of the period considered was appropriate bearing in view of the date the complaint was lodged and the applicable rules and that the Commission's analysis is not made on a comparison of the base year with the investigation period but on trends throughout the period concerned. Fluctuations within a 12 months' period are not unusual. Moreover, the impact of the COVID-19 pandemic and of the evolution of demand in the automotive sector were fully considered in the causation analysis in Sections 5.2.7 and 5.2.4 of this Regulation.
- (262) The net cash flow is the ability of the Union producers to self-finance their activities. The net cash flow evolved to a large extent in line with profitability and return on investment. The net cash flow remained rather stable in 2017 and 2018, shrank in 2019 following the losses made by Union producers that year, and then recovered to a level close to the one at the beginning of the period considered.
- (263) Investments are the net book value of assets. The net investments showed a continuous increase over the period considered and more than doubled over the period considered. In general, the investments aimed at retaining the existing capacities, at improving quality and at making due replacements of necessary production assets. Some related to health, safety and environmental matters. Significant investments in the second half of the period considered concern one sampled Union producer and the upstream phase of its CRS production.
- (264) CIB and several exporting producers claimed after final disclosure that the increase in investments demonstrates that the Union industry is not injured. The claim was rejected. The investments, even if increasing over the period considered, were overall at low levels and, as mentioned, they were generally limited to necessary expenses to keep operations ongoing. The Commission therefore did not consider that its positive development detracts from the injury found in other areas.
- (265) The return on investments is the profit in percentage of the net book value of investments which reflects the level of depreciation of assets. It decreased continuously and became negative in 2019, when the sampled Union producers made losses globally. It became slightly positive during the investigation period but was far lower than at the beginning of the period considered.
- (266) The poor financial performance of the Union industry over the period considered limited its ability to raise capital. The Union industry is capital intensive and requires substantial investments. The return on investment during the period considered was too low to cover for such substantial investments.

4.5.4. Conclusion on injury

- (267) The evolution of the micro and macro indicators during the period considered showed that the financial situation for the Union industry deteriorated.

⁽⁴⁴⁾ On the basis of data in the complaint, CIB calculated quarterly costs and prices of the EU industry and resulting profits on a quarterly basis as from Q3 2019 until the last quarter of the investigation period (t21.007886 and t22.003104).

- (268) The increase of production capacity (+ 10 %) is theoretical and derives from the Union industry allocating more capacity to CRS production as a result of a lower demand of other products manufactured in the same lines as CRS. The same occurred to employment (+ 10 %). As to investments (+ 147 %), the bulk results from allocations of investments made in the upstream phase of CRS production. The increase of the Union industry's market share (+ 3,2 %) over the period considered is attributable to the initiation and outcome of the anti-circumvention investigation against China referred to in recital (202).
- (269) The Union industry endeavoured to keep its CRS sales volumes to unrelated customers in the Union (-1 %) in a context of a decreasing consumption in the free market (-6 %). However, the Union industry could only do this and respond to the price pressure exerted by the increasing dumped imports from the countries concerned by lowering its sales prices. During the period considered, the Union industry decreased its prices more than the drop of the cost of production.
- (270) Such low prices severely influenced the Union industry's results, which fell from a profit of 6,2 % in 2017 to losses in 2019 and basically no profit at the end of the period considered. Other financial indicators, such as cash flow and return on investment, followed a similar trend.
- (271) On the basis of the above, the Commission concluded that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.

5. CAUSATION

- (272) In accordance with Article 3(6) of the basic Regulation, the Commission examined whether the dumped imports from the countries concerned caused material injury to the Union industry. In accordance with Article 3(7) of the basic Regulation, the Commission also examined whether other known factors could at the same time have injured the Union industry. The Commission ensured that any possible injury caused by factors other than the dumped imports from the countries concerned was not attributed to the dumped imports. These factors are: imports from other third countries, the export performance of the Union industry, the evolution of demand, captive use, self-inflicted injury, COVID-19 pandemic and hot-rolled coils prices.

5.1. Effects of the dumped imports

- (273) Imports from the countries concerned increased by more than five-fold during the period considered, increasing from 196 643 tonnes in 2017 to over 1 million tonnes in the investigation period. Their market share grew from 2,2 % in 2017 to 13,1 % in the investigation period. These increasing imports were made at prices lower than those of the Union industry throughout the period considered, with the gap increasing over time. In particular, in 2019 and the investigation period, the years with the highest increases in the imports from the countries concerned, the Union industry's prices were depressed by the dumped imports. The price pressure exerted by imports from the countries concerned entailed that, in order to keep the loss in sales volumes limited, the Union industry had to decrease its sales prices more than to account for the drop in cost of production. As a result, profitability shrank from 6,2 % to 0,4 % and the financial indicators deteriorated.
- (274) The Turkish association CIB contested any negative impact of imports from the countries concerned on the grounds that such imports did not set prices on the Union market and followed global market trends driven by fluctuating hot-rolled coils prices. The Commission rejected the claim. With an exponential increase in volumes, by roughly 1 million tons in such short period and accounting for a market share of 12,9 % in the investigation period, the very low prices of imports from the countries concerned did negatively affect prices that the Union industry could obtain on the free market.

- (275) After final disclosure, CIB and several exporting producers reiterated this comment, pointing at market intelligence it had provided to the Commission, which would show that the price trends over the period considered were the same on the main global markets and for the Union industry in the Union.
- (276) The Commission rejected this claim. First, Union sales prices of the Union industry decreased by 12 % over the period considered, whereas prices from the countries concerned decreased by 14 %. With prices of imports already well below Union industry prices in 2017, in as mentioned recital (274), the high volume of imports at very low prices from the countries concerned negatively affected the prices that the Union industry could obtain on the free market. Second, the Commission noted that some of the price trends in the provided data might be partly comparable, but that the eventual price level was not and that prices on each of these main markets are thus established on the basis of the specific dynamics and circumstances applicable to that market. The fact that the Commission had established that the product concerned is a commodity, as the parties concerned mentioned, does not undermine such conclusion.
- (277) Several parties claimed that there was no correlation between imports from Russia and Turkey and the injury suffered by the Union industry. The Commission rejected the claim. The Commission acknowledged that in the first part of the period considered the Union industry was able to take advantage of relatively good market circumstances and the anti-dumping measures in place against Chinese imports. However between 2018 and 2019, when the year-on-year increase of imports from Russia and Turkey was the highest, the Union industry became lossmaking. The poor financial situation continued in the investigation period, after a further increase of imports from the countries concerned in absolute and relative terms. There was thus a clear correlation between the dumped imports and the injury suffered by the Union industry.
- (278) After final disclosure CIB and several exporting producers submitted that between 2018 and 2019, when the year-on-year increase of imports from Russia and Turkey was the highest, the Union industry managed to increase its Union sales volumes by a bit over 200 000 tonnes.
- (279) The Commission observed, however, that this increase was in absolute terms less than half of the increase of imports from the countries concerned and, in view of the prices prevailing in a market flooded by dumped imports, the financial situation of the Union industry deteriorated strongly as from 2018 and it became lossmaking in 2019.
- (280) Several parties stated that Turkish and Russian imports never reached volumes that could be injurious since, inter alia, they were below the level of the residual quota of the steel safeguard quotas in the Union. The Commission rejected the claim. Anti-dumping measures address a different situation than safeguard measures. The steel safeguard measures do not prevent the imposition of anti-dumping measures within the free-of-safeguard duty quotas, which indeed, as mentioned in recital (214), are large enough to allow significant volumes of imports before the safeguard duty applies. In addition, the volume of imports from each of the countries concerned was not negligible within the meaning of Article 5(7) of the basic Regulation, as noted in recitals (213) to (214) above. Therefore, dumped imports from the countries concerned were significant enough to materially cause injury to the Union producers.
- (281) Some parties called for the Commission to analyse data for 2021 and stated that the strong recovery of Union producers in that year evidenced that imports from the countries concerned were not the source of any material injury suffered by the Union industry. The Commission dismissed the claim in accordance with Article 6(1) of the basic Regulation, which establishes that information relating to periods subsequent to the investigation period should normally not be taken into account.

5.2. Effects of other factors

5.2.1. Imports from third countries

- (282) The volume of imports from other third countries developed over the period considered as follows:

Table 11

Imports from third countries

Country		2017	2018	2019	IP
South Korea	Volume (tonnes)	143 873	180 993	209 248	248 890
	<i>Index (2017 = 100)</i>	100	126	145	173
	Market share (%)	1,6	2,2	2,3	2,9
	<i>Index (2017 = 100)</i>	100	135	146	182
	Average price (EUR/tonne)	703	729	685	626
	<i>Index (2017 = 100)</i>	100	104	97	89
Taiwan	Volume (tonnes)	69 919	87 803	140 334	184 158
	<i>Index (2017 = 100)</i>	100	126	201	263
	Market share (%)	0,8	1,0	1,6	2,2
	<i>Index (2017 = 100)</i>	100	134	202	278
	Average price (EUR/tonne)	624	675	656	624
	<i>Index (2017 = 100)</i>	100	108	105	100
India	Volume (tonnes)	232 677	126 651	194 355	169 040
	<i>Index (2017 = 100)</i>	100	54	84	73
	Market share (%)	2,6	1,5	2,2	2,0
	<i>Index (2017 = 100)</i>	100	58	84	77
	Average price (EUR/tonne)	683	689	639	573
	<i>Index (2017 = 100)</i>	100	101	94	84
Tunisia	Volume (tonnes)	0	29 901	82 426	85 436
	<i>Index (2017 = 100)</i>		100	276	2 286
	Market share (%)	0	0,4	0,9	1,0
	<i>Index (2017 = 100)</i>		100	225	250
	Average price (EUR/tonne)		648	600	570
	<i>Index (2017 = 100)</i>		100	93	88
Ukraine	Volume (tonnes)	19 501	30 165	25 434	19 140
	<i>Index (2017 = 100)</i>	100	155	130	98
	Market share (%)	0,2	0,4	0,3	0,2
	<i>Index (2017 = 100)</i>	100	166	131	104
	Average price (EUR/tonne)	635	645	593	538
	<i>Index (2017 = 100)</i>	100	102	93	85

China	Volume (tonnes) ⁽⁴⁵⁾	1 557 192	903 775	668 707	245
	<i>Index (2017 = 100)</i>	100	58	43	0
	Market share (%)	17,3	10,8	7,5	0,0
	<i>Index (2017 = 100)</i>	100	62	43	0
	Average price (EUR/tonne)	597	478	860	896
	<i>Index (2017 = 100)</i>	100	80	144	150
Other third countries	Volume (tonnes)	113 906	120 947	77 991	132 678
	<i>Index (2017 = 100)</i>	100	106	68	116
	Market share (%)	1,3	1,4	0,9	1,6
	<i>Index (2017 = 100)</i>	100	114	69	123
	Average price (EUR/tonne)	658	691	687	599
	<i>Index (2017 = 100)</i>	100	105	99	87
Total of all third countries except the countries concerned	Volume (tonnes)	2 137 068	1 480 235	1 398 494	839 588
	<i>Index (2017 = 100)</i>	100	69	65	39
	Market share (%)	23,8	17,6	15,6	9,9
	<i>Index (2017 = 100)</i>	100	74	66	41
	Average price (EUR/tonne)	636	695	655	603
	<i>Index (2017 = 100)</i>	100	109	103	95

Source: Surveillance 2 (adjusted)

(283) During the period considered, the market share of imports from all other countries fluctuated. Overall, there was a decrease from 23,8 % in 2017 to 9,9 % in the investigation period, a trend which was partly influenced by the imposition of trade defence measures against Chinese CRS.

(284) In the investigation period, imports from other third countries amounted to 839 588 tonnes (72 % of which from South Korea, Taiwan and India). The bulk of these imports arrived in the Union at prices higher than import prices from the countries concerned.

(285) As noted in recitals (247) and (248) above, the Union industry was still affected by Chinese dumped imports during a share of the period considered. Some parties stated that there was no evidence that circumventing Chinese imports did not continue to enter the Union market in 2020, for which they requested the disclosure of TARIC data ⁽⁴⁶⁾. Given the timing of the anti-circumvention proceeding against China and the registration that applied as from the initiation of that investigation, the Commission considered that Chinese imports did not cause the material injury suffered by the Union industry during the investigation period of the present proceeding. Most importantly, imports of CRS from the PRC were virtually inexistent during the investigation period, when the Commission found the Union industry continued to be materially injured.

⁽⁴⁵⁾ Based on volumes from Surveillance 2 database only for 2020.

⁽⁴⁶⁾ On 4 February 2022, the Commission provided information on aggregated import volumes and values per exporting country basis for the calendar year 2020 for the product under investigation via the note to the file t22.001509.

- (286) After final disclosure, CIB and several exporting producers submitted that the Union industry's decrease in profitability in 2018 and 2019 was because the profitability that was achieved in 2017 was mainly due to the imposition of anti-dumping duties on Chinese imports of CRS and that the drop in profitability from that 2017 level in 2018 and 2019 was caused by the imports of circumvented Chinese CRS, a claim which was also made by GOT.
- (287) First, with regard to the Union industry's profitability in 2017, the Commission noted that in 2017 the profitability was above the minimum target profit of 6 % which suggested that (i) after a period of unfair competition from China resulting in material injury to the Union industry, the Union industry's profitability was not, in that year, materially affected by the Chinese dumping in the Union market, most likely as a consequence of the initiation of an anti-dumping investigation against Chinese CRS in December 2016; and (ii) the volume of imports from the countries concerned was not yet as such that it materially affected the profitability level of the Union industry. The absence of unfair trade distortions does however in no way mean that the profitability was inflated, as the parties concerned seemed to suggest, even more as the level was at a modest 6,2 %. With regard to the impact of the circumvented imports from China in 2018 and 2019, the Commission did not 'simply disregard' it, as CIB and several exporting producers claimed, but it had acknowledged that the Union industry was still affected by it. However, contrary to the trend of imports from the countries concerned, due to the anti-circumvention investigation, those imports decreased strongly in volume in 2018 and 2019, when they were already at a level below that of imports from the countries concerned. There were virtually no more imports of CRS from China in the investigation period.
- (288) The Commission therefore concluded that the impact of imports from other third countries did not attenuate the causal link between dumped imports from Russia and Turkey and the material injury suffered by the Union industry.

5.2.2. *Export performance of the Union industry*

- (289) The volume and prices of exports of the Union industry developed over the period considered as follows:

Table 12

Export performance of the sampled Union producers

	2017	2018	2019	IP
Export volume (tonnes)	708 037	657 417	812 594	748 774
<i>Index (2017 = 100)</i>	100	93	115	106
Average price (EUR/tonne)	608	672	600	589
<i>Index (2017 = 100)</i>	100	110	99	97

Source: Eurofer (volumes), Sampled Union producers (unit price)

- (290) The Union industry increased its export volume by 6 % over the period considered. The additional export sales (of around 40 000 tonnes in the investigation period as compared to the beginning of the period considered) are limited compared to the loss of over 93 000 tonnes of sales in the Union market during the same period. Except for the higher prices in 2018, Union producers enjoyed rather stable export prices over the same period. The products which are exported by the Union industry are generally cheaper CRS and they therefore have significantly lower average prices than the products sold in the Union. The export sales of the Union industry could for a very small part compensate the negative developments both in terms of volumes and prices on the Union market by diluting fixed costs and other costs.

- (291) Some exporting producers attributed any loss of market share of Union producers in the CRS Union market to the increased focus of the Union industry on export markets, which, for some parties, were non-profitable. The Commission dismissed the claim. The volumes exported by Union producers were limited as compared to total Union sales volumes, representing around 12 % of their total sales volume. As noted in recital (290), in absolute terms the additional export sales were limited, while prices were rather stable and in line with the product mix.
- (292) The Commission concluded that the impact of the export performance of the Union industry on the injury suffered by Union producers was, if any, marginal.

5.2.3. *Evolution of demand in general*

- (293) As shown in Section 4.3, free market consumption decreased during the period considered. On that basis, the Commission concluded that the evolution of free market consumption could have contributed to the injury suffered by the Union industry.
- (294) After final disclosure, GOR claimed that the decrease of consumption was the main reason for the decrease in the Union industry's production. However, the Commission reiterated that decrease of consumption was not found to attenuate the causal link between dumped imports from Russia and Turkey and the injurious situation of the Union industry in the investigation period, in view of the increase in volumes and market shares of imports from the countries concerned and their effect on the Union industry's prices. Moreover, whereas consumption decreased by 467 000 tonnes over the period considered, imports from the countries concerned increased by almost the double.

5.2.4. *Evolution of demand in the automotive sector*

- (295) Some parties claimed that the Union industry was performing badly due to problems and lower demand in the automotive sector. The claim was not confirmed by the current investigation. To the contrary, the investigation showed that Union producers were supplying CRS to various industry sectors that are not in the automotive sector. Given that hot dipped galvanised products typically used in the automotive sector fall outside the scope of the investigation if a part of the Union industry was negatively affected by a downturn in the automotive industry, this derived from products that are not a like product and hence not accounted for in the current analysis. The claim was rejected.
- (296) After final disclosure, CIB and several exporting producers submitted that the lower demand in that sector, which is produced on the same production lines, would have increased the fixed cost and thus have negatively affected the profitability of the Union industry.
- (297) The Commission acknowledged that certain Union producers manufacture, on the CRS product lines, also products used in the automotive sector. However, it clarified that the analysis in the current investigation, including the cost analysis, is made only on the product group covered by it. The micro-indicators have been collected at the level of the sampled producers only. The verified production costs of these parties, and in particular their fixed costs, have not been subject to such reallocation. Indeed, this reallocation of production capacity only applied to a small number of non-sampled producers. Therefore, none of the micro-indicators and as mentioned in the disclosure document and also in this regulation, only 2 macro-indicators, namely production capacity (Table 4) and employment (Table 6), were affected by the development in product groups other than CRS.
- (298) The claim was therefore rejected.

5.2.5. *Captive use*

- (299) Union producers use the product under investigation for the production of organic coated steel.
- (300) As shown in Table 1 above, captive consumption fell by 13 % over the period considered. The drop took place mainly in the second part of the period considered as a consequence of the negative growth in some steel-using sectors. Nevertheless, captive use remained rather stable in relative terms, i.e., as a percentage of Union production.

- (301) The Commission concluded that the evolution of captive consumption on the injury suffered by the Union industry, if any, was marginal.

5.2.6. *Self-inflicted injury*

- (302) Some parties pointed at ill-timed investments for the production of hot dipped galvanised products for the automotive sector as a source of the injury suffered by Union producers. As discussed in recital (295), the claim concerns investments on a product that is not covered by this investigation. The Commission thus dismissed the claim.
- (303) Some parties pointed at ill-timed investments leading to a production capacity much higher than consumption in the Union as a source of the injury suffered by Union producers. The Commission dismissed the claim. As noted in recital (263), Union producers did not invest in order to increase CRS production capacities as such. Also, recital (235) notes that the production capacity increases for CRS were theoretical and therefore were not considered an indication of material injury in this particular case. This claim was reiterated after final disclosure, however without any new evidence or reasoning and therefore was rejected.
- (304) Some parties pointed at self-inflicted injury within the Union industry because SSCs related to Union producers import of the product under investigation. The claim was unsubstantiated and, thus, rejected. It is noted that many Union producers do not have related steel service centres with importing functions. The bulk of Union producers in the sample do not have related steel service centres of the kind. Imports by steel service centres related to Union producers, if any, were not found to attenuate the causal link between dumped imports from Russia and Turkey and the injurious situation of the Union industry in the investigation period, in view of the increase in volumes of imports from the countries concerned, their effect on the Union Industry's prices and the impact of other factors analysed in this section.

5.2.7. *COVID-19 pandemic*

- (305) Some parties attributed injury to COVID-mandated shutdowns in the Union which would have increased fixed costs of the Union steelmakers in view of lower production volumes. The claim, which was reiterated after final disclosure, was dismissed. COVID-mandated shutdowns in the 14 Member States where Union producers are located varied in terms of periods and scope. Indeed, there were Union steel producers barely affected by shutdowns, which served essential businesses during the pandemic and which overall output in 2020 did not vary significantly as compared to 2019 ⁽⁴⁷⁾.
- (306) Those parties considered that the reason why the Union industry lost market shares was the lower volumes available for sale as a result of lower capacity utilisation rates and reduced production due to COVID-19 pandemic plant shutdowns or idled capacities. The Commission disagreed. In a context of falling consumption (see Table 1), dumped imports gained more market shares than the Union industry, which, overall, was in a position to serve the market further.
- (307) Several parties stated that Turkish and Russian imports filled in a gap in the Union market resulting from COVID-19 mandated production shutdowns in the Union, causing shortages. The Commission rejected the claim. The Commission noted that most of the increase of imports from the countries concerned, in terms of volumes as well as market shares, took place in 2018 and 2019, i.e. before the COVID-19 pandemic. Furthermore, the impact of COVID-19 mandated production shutdowns was overall limited as explained in recital (305) and varied amongst Union producers. In any case, COVID-19 related shutdowns could never justify dumping practices by the countries concerned. These comments were reiterated after final disclosure, however without any new evidence or reasoning and therefore were rejected.
- (308) CIB and several exporting producers also submitted that the quarterly analysis it had made of prices and costs in the complaint (see recital (260)) would demonstrate that, in particular in the first quarter of 2020, the Union industry was severely lossmaking. This would corroborate the claim that mandatory plant shutdowns in the Union were the cause of the poor profitability in the investigation period (rather than the dumped imports).

⁽⁴⁷⁾ For an example, see the non-confidential files in t21.005684 (Marcegaglia Carbon Steel Spa).

- (309) The Commission noted that the findings of these parties' own analysis of these specific complaint data already showed a dramatic deterioration of profit between the third and fourth quarter of 2019 (from 1,22 % to -1,96 %), i. e. before the COVID-19 pandemic, and also a very pronounced improvement of the Union industry's profitability in the second quarter of 2020 to a level (-0,45 %) comparable to that supposedly achieved in the third quarter of 2020 – whereas the parties highlighted that the shutdowns started from March 2020 ⁽⁴⁸⁾. It considered that both the strong decrease of profitability in the last quarter of 2019, i.e. prior to any mandatory plant shutdown due to the COVID-19 pandemic, and the strong profitability improvement in the second quarter of 2020 are at odds with the claim that this analysis would corroborate the claim on the impact of the mandatory shutdowns. The claim was therefore not found to be convincingly substantiated.
- (310) GOR stated that certain COVID-related findings summarised in a study were the cause of the deterioration of the Union industry in the investigation period ⁽⁴⁹⁾. Those findings relate to the slow recovery of the euro area as compared to China, the impact of short-term supply shortages on manufacturing industries and the differences amongst sector as regards rebounding after COVID-19. The claim is dismissed on the grounds explained in recital (306) and the nature of the study, which focuses on sectors unrelated to CRS.

5.2.8. *Hot-rolled coils prices*

- (311) Some parties stated that Union producers suffered from a 'cost-price squeeze' due to the price fluctuations of hot-rolled coils, which became more expensive in the second part of 2020 according to market intelligence. Most Union producers are vertically integrated and the price of hot-rolled coils in the free market had no impact on their cost of production of CRS. The Commission dismissed the claim.

5.2.9. *Competitive state of the Union industry*

- (312) After final disclosure, GOR claimed that the increase in market shares achieved by the Republic of Korea and Taiwan showed that the Union industry was not sufficiently competitive.
- (313) The Commission noted that an increased presence of imports is not indicative of the competitive state of a domestic industry. It also noted that the absolute volume of imports from these two countries and, even more so, their increase over the period considered was limited in comparison with that of the countries concerned. The claim was therefore rejected.

5.3. **Conclusion on causation**

- (314) In light of the above considerations, the Commission established a causal link between the injury suffered by the Union industry and the dumped imports from Russia and Turkey. The increase of dumped imports from the countries concerned coincided with a deterioration of the Union industry's situation. Low priced imports from Turkey and Russia increased exponentially and prevented the Union industry from increasing sales prices and volumes following the anti-circumvention investigation concerning Chinese imports. In terms of prices, the dumped imports from the countries concerned continuously undercut those of the Union industry sales prices in the Union market, and in any event created substantial price pressure preventing the Union industry from setting prices at sustainable levels necessary to achieve reasonable profit margins.
- (315) The Commission 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 found that factors such as the development of captive use and certain investments did not contribute to the injury suffered. The effect of factors such as imports from other third countries, exports by Union producers, the evolution of demand, COVID-19 pandemic and hot-rolled coils prices was limited overall.

⁽⁴⁸⁾ CIB submission t21.006224, table under point 34.

⁽⁴⁹⁾ The findings can be found in the study 'Impacts of the COVID-19 pandemic on EU industries', requested by the European Parliament's committee on Industry, Research and Energy (ITRE) and available at [https://www.europarl.europa.eu/RegData/etudes/STUD/2021/662903/IPOL_STU\(2021\)662903_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/662903/IPOL_STU(2021)662903_EN.pdf)

- (316) On the basis of the above, the Commission concluded that the dumped imports from the countries concerned caused material injury to the Union industry and that the other factors, considered individually or collectively, did not attenuate the causal link between the dumped imports and the material injury.

6. LEVEL OF MEASURES

- (317) To determine the level of the measures, the Commission examined whether a duty lower than the margin of dumping would be sufficient to remove the injury caused by dumped imports to the Union industry.

6.1. Injury margin

- (318) The injury would be removed if the Union industry were able to obtain a target profit by selling at a target price in the sense of Articles 7(2c) and 7(2d) of the basic regulation.
- (319) In accordance with Article 7(2c) of the basic Regulation, for establishing the target profit, the Commission took into account the following factors: the level of profitability before the increase of imports from the country under investigation, the level of profitability needed to cover full costs and investments, research and development (R & D) and innovation, and the level of profitability to be expected under normal conditions of competition. Such profit margin should not be lower than 6 %.
- (320) The complainant stated that the target profit should be at least the same as in the previous (China) CRS case (7,4 %). A Union producer proposed 15 %. Some parties claimed that the level of profit put forth by the complainant was too high.
- (321) The Commission found that in 2017 the Union industry was able to achieve a 6,2 % profit on average. Although anti-dumping measures had not been imposed on imports of CRS from the PRC yet, the volume of Chinese dumped imports had already decreased in 2017 as a result of the initiation of the anti-dumping investigation in December 2016. In addition, in that year the level of imports from Russia and Turkey was still relatively low (see Table 2).
- (322) The Commission also assessed the years prior to the period considered but those were not found appropriate because of the influx of dumped imports from China affecting the Union industry. The Commission took note of the target profit used in the previous (China) CRS case, which however dates from 2008.
- (323) Therefore, the Commission decided to use the average weighted profit of 6,2 % achieved in 2017 was the most appropriate basis for the target profit calculation in the present case.
- (324) In accordance with Article 7(2c) of the basic Regulation, two Union producers provided evidence that their level of investments, research and development (R & D) and innovation during the period considered would have been higher under normal conditions of competition. Based on the companies' documentary evidence, which could be reconciled with the companies' reporting tools and accounting systems, the Commission accepted the claims. To reflect this in the target profit, the Commission calculated the difference between investments, R & D and innovation ('IRI') expenses under normal conditions of competition as provided by the Union Industry and verified by the Commission with actual IRI expenses over the period considered. Such differences, expressed as a percentage of turnover, were 0,02 % and 0,35 %. Such percentages were added to the basic profit of 6,2 %, leading to a final target profit ranging between 6,20 % and 6,55 %.
- (325) In accordance with Article 7(2d) of the basic Regulation, as a final step, the Commission assessed the future costs resulting from Multilateral Environmental Agreements, and protocols thereunder, to which the Union is a party, and of ILO Conventions listed in Annex Ia that the Union industry will incur during the period of the application of the measure pursuant to Article 11(2). Based on the evidence available (based on the companies' accounting systems, their reporting tools and forecasts), the Commission established an additional cost in a range between 3,05 and 38,78 euros per tonne.

- (326) These costs comprised the additional future costs to ensure compliance with the EU Emissions Trading System (EU ETS). The EU ETS is a cornerstone of the EU's policy to comply with Multilateral Environmental Agreements. Such additional costs were calculated on the basis of the estimated EU Allowances (EUAs) which will have to be purchased during the period of the application of the measures (2022 to 2026). The additional costs also took account of indirect CO₂ costs stemming from an increase in electricity prices over the period 2022 to 2026 linked to the EU ETS and the forecasted prices of EUAs.
- (327) On this basis, the Commission calculated a non-injurious price for the like product of the Union industry by applying the target profit margin (see recital (324)) to the cost of production of the sampled Union producers during the investigation period and then adding the adjustments under Article 7(2d) on a type-by-type basis.
- (328) After final disclosure, CIB and several exporting producers claimed that the production costs used as a basis to calculate a non-injurious price would be inflated due to reallocation of production lines for certain producers as referred to in recital (235). This claim was unsubstantiated. In any event, as mentioned in recital (295), the cost data used in this investigation, including for calculating a non-injurious Union industry price, only concern the costs associated with the production of the like product and the micro-indicators have been collected and used at the level of the sampled producers only. The Commission confirmed that the reallocation referred to in recitals (235) and (244) concerns a small number of non-sampled producers and it therefore only affects the macro-indicators in question as duly explained. The claim is therefore rejected.
- (329) The Commission then determined the injury margin level on the basis of a comparison of the weighted average import price of the Russian exporting producers and the sampled cooperating exporting producers in Turkey, as established for the price undercutting calculations, with the weighted average non-injurious price of the like product sold by the sampled Union producers on the Union market during the investigation period. Any difference resulting from this comparison was expressed as a percentage of the weighted average import CIF value.
- (330) After final disclosure, Severstal contested the adjustments for SG&A and profit made to the sales prices of its related traders in the Union by analogy to Article 2(9), for the same reasons as mentioned in recital (220).
- (331) As noted in recital (221), the Court of Justice has confirmed the legality of using Article 2(9) by analogy to establish the export price for the purpose of calculating undercutting and underselling⁽⁵⁰⁾. Therefore, this claim was dismissed.
- (332) The injury elimination level for 'other cooperating companies' and for 'all other companies' is defined in the same manner as the dumping margin for these companies (see recitals (138) and (182)).

6.2. Conclusion on the level of measures

- (333) Following the above assessment, definitive anti-dumping duties should be set as below in accordance with Article 9(4) of the basic Regulation:

Country	Company	Dumping margin (%)	Injury margin (%)	Definitive anti-dumping duty
Russia	PJSC Magnitogorsk Iron and Steel Works	36,6 %	37,4 %	36,6 %
	Novolipetsk Steel	12,7 %	10,3 %	10,3 %

⁽⁵⁰⁾ See also judgment of 22 September 2021, T-753/16, PAO Severstal, EU:T:2021:612, para. 272.

	PAO Severstal	39,8 %	31,3 %	31,3 %
	All other companies	39,8 %	37,4 %	37,4 %
Turkey	MMK Turkey	10,5 %	13,8 %	10,5 %
	Tatmetal	2,4 %	10,1 %	2,4 %
	Tezcan	11,0 %	13,7 %	11,0 %
	Other cooperating companies	8,0 %	12,5 %	8,0 %
	All other companies	11,0 %	13,8 %	11,0 %

7. UNION INTEREST

- (334) The Commission examined whether it could clearly conclude that it was not in the Union interest to adopt measures in this case, despite the determination of injurious dumping, in accordance with Article 21 of the basic Regulation. The determination of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, importers and users.

7.1. Interest of the Union industry

- (335) The Union industry is composed of 20 producers in 14 Member States and employs 9 237 people. The majority of Union producers supported the complaint. No producer opposed the initiation of the investigation.
- (336) As concluded in Sections 4.5.4 and 5.3, the situation of the whole Union industry deteriorated as a result of dumped imports from Russia and Turkey.
- (337) Anti-dumping measures against imports from Russia and Turkey are expected to restore fair trade conditions on the Union market and enable the Union industry to reach sustainable profit levels for such a capital-intensive industry. As a result, Union producers are expected to recover from the injurious situation, further invest and fulfil their commitments, including social and environmental ones.
- (338) The non-imposition of measures would entail heavy losses within the Union industry, endanger its viability and possibly trigger the closure of production facilities and dismissals. The absence of measures might lead to dependency on supplies from third countries.
- (339) The exporting producer Tezcan stated that steel imports are already controlled via steel safeguard measures and will also be controlled by the CBAM ⁽³¹⁾ monitoring starting in 2023. Other parties, including GOT, echoed the protective measures Union producers benefit from already. All these claims are dismissed: the current anti-dumping investigation addresses a distinct issue not yet covered by any existing measure.
- (340) The Commission therefore concluded that the imposition of measures was in the interest of the Union industry.

7.2. Interest of unrelated importers

- (341) No importers cooperated with the investigation.

⁽³¹⁾ A Carbon Border Adjustment Mechanism ('CBAM') seeks to impose new obligations on foreign producers exporting certain products (including steel) to the EU as of 2023.

- (342) The Turkish association CIB pointed at shortages of supply that could negatively affect importers in the Union. The Commission found the claim unjustified because, apart from the abundant Union production, importers and supply chains can avail themselves from imports from numerous countries. In addition, the imposition of anti-dumping measures does not mean that imports from the countries concerned are banned. The level of the measures should not prevent Turkish and Russian steelmakers from selling their CRS in the Union and to the Union importers at fair prices. The claim was dismissed.
- (343) CIB also submitted that measures would negatively affect importers in the Union because importers were still struggling to recover from the COVID-19 pandemic. It did not present any evidence to support the claim and therefore it was dismissed. The lack of cooperation of importers did not allow the Commission to analyse whether importers were performing badly or unable to pass on price increases, if any.

7.3. Interest of users

- (344) No users cooperated with the investigation.
- (345) The European Association of Automobile Manufacturers made a submission requesting car manufacturers in the Union to be exempted from any measures that would negatively affect their competitiveness. The Commission found that the product covered by this investigation is virtually not used by the car industry and therefore any impact that measures would have in that sector could only be immaterial.
- (346) Parties representing the interests of exporting producers pointed at shortages of supply that could negatively affect users in the Union. The parties alleged that Union producers were struggling with the restart of their operations and unable to supply a growing demand from customers, particularly as regards thin materials, narrow materials, galvalume materials and coils lighter than 10 tonnes, which Union producers would traditionally be unwilling to supply. The claim was unsubstantiated and dismissed on the grounds explained in recital (342) above.
- (347) The Turkish association CIB called for no measures on the grounds that in the 2007 investigation on synthetic staple fibres of polyesters ⁽⁵²⁾ the Commission found measures not to be in the Union interest, inter alia, because of the low profits of users and their difficulties to pass on price increases and supply problems. The claim was dismissed. The part of the claim relating to supply problems is dismissed on the grounds explained in recital (342) above.
- (348) After final disclosure, CIB and several exporting producers submitted that using alternative sources of supply, which as mentioned in that recital are widely available, would entail increased CRS purchase prices for users. The Commission recalled that the objective of anti-dumping measures is to eliminate unfairly priced imports from the Union market in order to re-establish a level playing field for all market participants. The same parties also questioned the availability of the alternative sources mentioned in recital (342) on the account of US importers being the highest bidders at a global level. The Commission noted that in the investigation period imports from countries other than the countries concerned had a market share of 9,9 %, in spite of the unfair competition in the Union market from the countries concerned which had a market share of 12,9 %. On that basis, the claim was rejected.
- (349) As mentioned, users did not reply to the users' questionnaire and therefore, no information regarding profitability of users could be collected from them. In Annex U-1 to the complaint, the complainants provided a calculation demonstrating that, for a construction application, CRS represented a negligible part of the cost of the final product. According to Eurofer, the same would be true for other downstream segments ⁽⁵³⁾.

⁽⁵²⁾ Commission Decision 2007/430/EC of 19 June 2007 terminating the anti-dumping proceeding concerning imports of synthetic staple fibres of polyesters (PSF) originating in Malaysia and Taiwan and releasing the amounts secured by way of the provisional duties imposed (OJ L 160, 21.6.2007, p. 30).

⁽⁵³⁾ See Eurofer's submission in t21.007474, inter alia.

- (350) After final disclosure, CIB and several exporting producers submitted that this information was inadequate but they failed to provide a meaningful alternative cost impact assessment for users. It also submitted, as did GOR, that after the investigation period prices of CRS would have surged and that these most recent increase in prices would 'necessarily' heavily impact users.
- (351) The Commission recalled that in the Union interest analysis, the relevant impact assessment for the users should be the assessment of the impact, if any, of the anti-dumping duty on them – not the impact of price hikes, if any, for other reasons. Users did not cooperate with the investigation and therefore the Commission was not in a position to analyse the impact of developments after the investigation period on the situation of users. On that basis, the claim was rejected.

7.4. Other factors

- (352) Some parties stated that Union steelmakers were consistently trying to keep their oligopoly in the Union market and remove international competition. They noted that Union producers served already a significant share of the free market, while such a percentage did not include captive volumes, and feared a monopoly.
- (353) The Commission found the oligopoly claim unjustified, since, as stated in recital (335), there are 20 known producers belonging to more than 10 different groups and significant imports from third countries. In the absence of evidence of uncompetitive practices, the market share the Union industry currently holds is irrelevant to support these claims of oligopoly, let alone a monopoly. The Commission refers to its recent Staff Working Document ⁽⁵⁴⁾, where it noted that '[i]n the recent consolidation wave, merger control enforcement contributed to keeping vibrant competition in the European steel markets to the benefit of the many downstream industries that use steel, rely on affordable materials to compete globally and employ millions of Europeans. By prohibiting anti-competitive mergers (e.g. Tata Steel/ThyssenKrupp) or approving mergers subject to conditions, such as structural divestitures (e.g. ArcelorMittal/Ilva), merger enforcement ensured that European steel customers are not left with less choice, higher prices, or less innovation.'. Therefore, the claim was rejected.

7.5. Conclusion on Union interest

- (354) On the basis of the above, the Commission concluded that there were no compelling reasons that it was not in the Union interest to impose measures on imports of CRS originating in Russia and Turkey.

8. DEFINITIVE ANTI-DUMPING MEASURES

- (355) In view of the conclusions reached with regard to dumping, injury, causation and Union interest, and in accordance with Article 9(4) of the basic Regulation, definitive anti-dumping measures should be imposed in order to prevent further injury being caused to the Union industry by the dumped imports of the product concerned. Anti-dumping duties should be set in accordance with the lesser duty rule.
- (356) The Commission noted that after the initiation of the investigation, due to the military aggression by the Russian Federation against Ukraine, the EU imposed successive packages of sanctions against Russia which also affected steel products and/or the steel companies producing and exporting the product under investigation after the investigation period. The latest package of sanctions covering the product under investigation and/or the exporting producers contains an import ban of CRS. This ban entered into force on 16 March 2022 ⁽⁵⁵⁾. Given that these sanctions are linked to the military aggression and the underlying geopolitical situation, their scope, modulation, and/or duration

⁽⁵⁴⁾ Commission's Staff Working Document 'Towards Competitive and Clean European Steel', SWD(2021) 353 final, 5.5.2021, p. 4-5.

⁽⁵⁵⁾ Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ L 229, 31.7.2014, p. 1) as amended by Regulation (EU) 2022/428 (OJ L 87 I, 15.3.2022, p. 13). Please refer to <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02014R0833-20220413> for the consolidated version of Regulation (EU) No 833/2014, containing all amendments relating to the package of sanctions.

are unpredictable. Furthermore, anti-dumping measures have a lifetime of five years. Considering the abovementioned uncertainties and the fact that the Council may further amend the precise scope and duration of sanctions at any moment, the Commission found that they cannot have a bearing in its conclusions in this proceeding.

- (357) On the basis of the above, the definitive anti-dumping duty rates, expressed on the CIF Union border price, customs duty unpaid, should be as follows:

Country	Company	Definitive anti-dumping duty
Russia	PJSC Magnitogorsk Iron and Steel Works	36,6 %
	Novolipetsk Steel	10,3 %
	PAO Severstal	31,3 %
	All other companies	37,4 %
Turkey	MMK Metalurji Sanayi Ticaret ve Liman İşletmeciliği A.Ş.	10,5 %
	TatMetal Çelik Sanayi ve Ticaret A.Ş.	2,4 %
	Tezcan Galvanizli Yapi Elemanlari Sanayi ve Ticaret A.Ş.	11,0 %
	Other cooperating companies	8,0 %
	All other companies	11,0 %

- (358) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of this investigation. Therefore, they reflect the situation found during this investigation with respect to these companies. These duty rates are exclusively applicable to imports of the product concerned originating in the countries concerned and produced by the named legal entities. Imports of the product concerned produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other companies'. They should not be subject to any of the individual anti-dumping duty rates.

- (359) A company, among these specifically mentioned in this Regulation, may request the application of these individual anti-dumping duty rates if it changes subsequently the name of its entity. The request must be addressed to the Commission ⁽⁵⁶⁾. The request must contain all the relevant information enabling to demonstrate that the change does not affect the right of the company to benefit from the duty rate which applies to it. If the change of name of the company does not affect its right to benefit from the duty rate which applies to it, a regulation about the change of name will be published in the *Official Journal of the European Union*.

- (360) To ensure a proper enforcement of the anti-dumping duties, the anti-dumping duty for all other companies should apply not only to the non-cooperating exporting producers in this investigation, but to the producers which did not have exports to the Union during the investigation period.

- (361) To minimise the risks of circumvention due to the difference in duty rates, special measures are needed to ensure the application of the individual anti-dumping duties. The companies with individual anti-dumping duties must present a valid commercial invoice to the customs authorities of the Member States. The invoice must conform to the requirements set out in Article 1(3) of this regulation. Imports not accompanied by that invoice should be subject to the anti-dumping duty applicable to 'all other companies'.

⁽⁵⁶⁾ European Commission, Directorate-General for Trade, Directorate G, Wetstraat 170 Rue de la Loi, 1040 Brussels, Belgium.

- (362) While presentation of this invoice is necessary for the customs authorities of the Member States to apply the individual rates of anti-dumping duty to imports, it is not the only element to be taken into account by the customs authorities. Indeed, even if presented with an invoice meeting all the requirements set out in Article 1(3) of this regulation, the customs authorities of Member States must carry out their usual checks and may, like in all other cases, require additional documents (shipping documents, etc.) for the purpose of verifying the accuracy of the particulars contained in the declaration and ensure that the subsequent application of the lower rate of duty is justified, in compliance with customs law.
- (363) Should the exports by one of the companies benefiting from lower individual duty rates increase significantly in volume after the imposition of the measures concerned, such an increase in volume could be considered as constituting in itself a change in the pattern of trade due to the imposition of measures within the meaning of Article 13(1) of the basic Regulation. In such circumstances and provided the conditions are met an anti-circumvention investigation may be initiated. This investigation may, inter alia, examine the need for the removal of individual duty rate(s) and the consequent imposition of a country-wide duty.

9. FINAL PROVISIONS

- (364) In view of Article 109 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽⁵⁷⁾, when an amount is to be reimbursed following a judgment of the Court of Justice of the European Union, the interest to be paid should be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union* on the first calendar day of each month.
- (365) By Commission Implementing Regulation (EU) 2019/159 ⁽⁵⁸⁾, the Commission imposed a safeguard measure with respect to certain steel products for a period of three years. By Commission Implementing Regulation (EU) 2021/1029 ⁽⁵⁹⁾, the safeguard measure was prolonged until 30 June 2024. The product concerned is one of the product categories covered by the safeguard measure. Consequently, once the tariff quotas established under the safeguard measure are exceeded, both the above-quota tariff duty and the anti-dumping duty would become payable on the same imports. As such cumulation of anti-dumping measures with safeguard measures may lead to an effect on trade greater than desirable, the Commission decided to prevent the concurrent application of the anti-dumping duty with the above-quota tariff duty for the product concerned for the duration of the imposition of the safeguard duty.
- (366) This means that where the above-quota tariff duty referred to in Article 1(6) of Regulation (EU) 2019/159 becomes applicable to the product concerned and exceeds the level of the anti-dumping duties pursuant to this Regulation, only the above-quota tariff duty referred to in Article 1(6) of Regulation (EU) 2019/159 shall be collected. During the period of concurrent application of the safeguard and anti-dumping duties, the collection of the duties imposed pursuant to this Regulation shall be suspended. Where the above-quota tariff duty referred to in Article 1(6) of Regulation (EU) 2019/159 becomes applicable to the product concerned and is set at a level lower than the level of the anti-dumping duties in this Regulation, the above-quota tariff duty referred to in Article 1(6) of Regulation (EU) 2019/159 shall be collected in addition to the difference between that duty and the higher anti-dumping duties imposed pursuant to this Regulation. The part of the amount of anti-dumping duties not collected shall be suspended.
- (367) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036,

⁽⁵⁷⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

⁽⁵⁸⁾ Commission Implementing Regulation (EU) 2019/159 of 31 January 2019 imposing definitive safeguard measures against imports of certain steel products (OJ L 31, 1.2.2019, p. 27).

⁽⁵⁹⁾ Commission Implementing Regulation (EU) 2021/1029 of 24 June 2021 amending Commission Implementing Regulation (EU) 2019/159 to prolong the safeguard measure on imports of certain steel products (OJ L 225 I, 25.6.2021, p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is imposed on imports of flat-rolled products of iron or alloy steel or non-alloy steel; plated or coated by hot dip galvanisation with zinc and/or aluminium and/or magnesium, whether or not alloyed with silicon; chemically passivated; with or without any additional surface treatment such as oiling or sealing; containing by weight: not more than 0,5 % of carbon, not more than 1,1 % of aluminium, not more than 0,12 % of niobium, not more than 0,17 % of titanium and not more than 0,15 % of vanadium; presented in coils, cut-to-length sheets and narrow strips originating in Russia and Turkey, currently falling under CN codes ex 7210 41 00, ex 7210 49 00, ex 7210 61 00, ex 7210 69 00, ex 7210 90 80, ex 7212 30 00, ex 7212 50 61, ex 7212 50 69, ex 7212 50 90, ex 7225 92 00, ex 7225 99 00, ex 7226 99 30, ex 7226 99 70 (TARIC codes: 7210 41 00 20, 7210 41 00 30, 7210 49 00 20, 7210 49 00 30, 7210 61 00 20, 7210 61 00 30, 7210 69 00 20, 7210 69 00 30, 7210 90 80 92, 7212 30 00 20, 7212 30 00 30, 7212 50 61 20, 7212 50 61 30, 7212 50 69 20, 7212 50 69 30, 7212 50 90 14, 7212 50 90 92, 7225 92 00 20, 7225 92 00 30, 7225 99 00 22, 7225 99 00 23, 7225 99 00 41, 7225 99 00 92, 7225 99 00 93, 7226 99 30 10, 7226 99 30 30, 7226 99 70 13, 7226 99 70 93, 7226 99 70 94).

The following products are excluded:

- (i) of stainless steel, of silicon-electrical steel, and of high-speed steel;
- (ii) not further worked than hot-rolled or cold-rolled (cold-reduced).

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

Country	Company	Definitive anti-dumping duty	TARIC additional code
Russia	PJSC Magnitogorsk Iron and Steel Works	36,6 %	C217
	Novolipetsk Steel	10,3 %	C216
	PAO Severstal	31,3 %	C218
	All other companies	37,4 %	C999
Turkey	MMK Metalurji Sanayi Ticaret ve Liman İşletmeciliği A.Ş.	10,5 %	C865
	TatMetal Çelik Sanayi ve Ticaret A.Ş.	2,4 %	C866
	Tezcan Galvanizli Yapi Elemanlari Sanayi ve Ticaret A.Ş.	11,0 %	C867
	Other cooperating companies listed in Annex	8,0 %	
	All other companies	11,0 %	C999

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

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

Article 2

1. Where the above-quota tariff duty referred to in Article 1(6) of Regulation (EU) 2019/159 becomes applicable to flat-rolled products of iron or alloy steel or non-alloy steel; plated or coated by hot dip galvanisation with zinc and/or aluminium and/or magnesium, whether or not alloyed with silicon; chemically passivated; with or without any additional surface treatment such as oiling or sealing; containing by weight: not more than 0,5 % of carbon, not more than 1,1 % of aluminium, not more than 0,12 % of niobium, not more than 0,17 % of titanium and not more than 0,15 % of vanadium; presented in coils, cut-to-length sheets and narrow strips, referred to in Article 1(1), and exceeds the equivalent ad valorem level of the anti-dumping duty set out in Article 1(2), only the above-quota tariff duty referred to in Article 1(6) of Regulation (EU) 2019/159 shall be collected.
2. During the period of application of paragraph 1, the collection of the duties imposed pursuant to this Regulation shall be suspended.
3. Where the above-quota tariff duty referred to in Article 1(6) of Regulation (EU) 2019/159 becomes applicable to flat-rolled products of iron or alloy steel or non-alloy steel; plated or coated by hot dip galvanisation with zinc and/or aluminium and/or magnesium, whether or not alloyed with silicon; chemically passivated; with or without any additional surface treatment such as oiling or sealing; containing by weight: not more than 0,5 % of carbon, not more than 1,1 % of aluminium, not more than 0,12 % of niobium, not more than 0,17 % of titanium and not more than 0,15 % of vanadium; presented in coils, cut-to-length sheets and narrow strips, referred to in Article 1(1), and is set at a level lower than the anti-dumping duty set out in Article 1(2), the above-quota tariff duty referred to in Article 1(6) of Regulation (EU) 2019/159 shall be collected in addition to the difference between that duty and the higher anti-dumping duty set out in Article 1(2).
4. The part of the amount of anti-dumping duty not collected pursuant to paragraph 3 shall be suspended.
5. The suspensions referred to in paragraphs 2 and 4 shall be limited in time to the period of application of the above-quota tariff duty referred to in Article 1(6) of Regulation (EU) 2019/159.

Article 3

Article 1(2) may be amended to add new exporting producers from Turkey and make them subject to the appropriate weighted average anti-dumping duty rate for cooperating companies not included in the sample. A new exporting producer shall provide evidence that:

- (a) it did not export the goods described in Article 1(1) originating in Turkey during the period of investigation (1 January 2020 to 31 December 2020);
- (b) it is not related to an exporter or producer subject to the measures imposed by this Regulation; and
- (c) it has either actually exported the product concerned or has entered into an irrevocable contractual obligation to export a significant quantity to the Union after the end of the period of investigation.

Article 4

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

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

Done at Brussels, 11 August 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Turkish cooperating exporting producers not sampled

Country	Name	TARIC additional code
Turkey	Ataşehir Çelik Sanayi Ve Ticaret A.Ş.	C868
Turkey	Borçelik Çelik Sanayii Ticaret A.Ş.	C606
Turkey	Ereğli Demir ve Çelik Fabrikaları T.A.Ş.	C869
Turkey	Erdemir Çelik Servis Merkezi San. ve T. A.Ş.	C870
Turkey	Tosyalı Toyo Çelik A.Ş.	C871
Turkey	Yıldızdemir Çelik San.A.Ş.	C872

COMMISSION REGULATION (EU) 2022/1396**of 11 August 2022****amending the Annex to Regulation (EU) No 231/2012 laying down specifications for food additives listed in Annexes II and III to Regulation (EC) No 1333/2008 of the European Parliament and of the Council as regards the presence of ethylene oxide in food additives****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives ⁽¹⁾, and in particular Article 14 thereof,

Having regard to Regulation (EC) No 1331/2008 of the European Parliament and of the Council of 16 December 2008 establishing a common authorisation procedure for food additives, food enzymes and food flavourings ⁽²⁾, and in particular Article 7(5) thereof,

Whereas:

- (1) Commission Regulation (EU) No 231/2012 ⁽³⁾ lays down specifications for food additives listed in Annexes II and III to Regulation (EC) No 1333/2008.
- (2) The specifications for food additives may be updated in accordance with the common procedure referred to in Article 3(1) of Regulation (EC) No 1331/2008, either on the initiative of the Commission or following an application from a Member State or an interested party.
- (3) Ethylene oxide is an important chemical substance having multiple uses, including the use as a sterilising agent and as a raw material in the manufacture of various products. Ethylene oxide, however, is a substance of concern classified as carcinogenic, mutagenic and toxic for reproduction in accordance with Regulation (EC) No 1272/2008 of the European Parliament and of the Council ⁽⁴⁾. It is neither approved as a biocidal product under Regulation (EU) No 528/2012 of the European Parliament and of the Council ⁽⁵⁾ nor as an active substance for use in plant protection products in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council ⁽⁶⁾.
- (4) Regulation (EU) No 231/2012 provides that ethylene oxide may not be used for sterilising purposes in food additives. However, there is no quantified limit for the presence of ethylene oxide regarding all food additives. In accordance with that Regulation a limit of not more than 0,2 mg/kg of ethylene oxide is set out only for those food additives, in the production of which ethylene oxide is used. That limit was first established by Commission Directive 2003/95/EC ⁽⁷⁾, based on the opinion of the Scientific Committee on Food of 6 May 2002 ⁽⁸⁾, which concluded that whilst estimated intakes from the few food additives manufactured using ethylene oxide are very low, intakes from food sources should be as low as possible since ethylene oxide is both genotoxic and carcinogenic.

⁽¹⁾ OJ L 354, 31.12.2008, p. 16.

⁽²⁾ OJ L 354, 31.12.2008, p. 1.

⁽³⁾ Commission Regulation (EU) No 231/2012 of 9 March 2012 laying down specifications for food additives listed in Annexes II and III to Regulation (EC) No 1333/2008 of the European Parliament and of the Council (OJ L 83, 22.3.2012, p. 1).

⁽⁴⁾ Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).

⁽⁵⁾ Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ L 167, 27.6.2012, p. 1).

⁽⁶⁾ Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p. 1).

⁽⁷⁾ Commission Directive 2003/95/EC of 27 October 2003 amending Directive 96/77/EC laying down specific purity criteria on food additives other than colours and sweeteners (OJ L 283, 31.10.2003, p. 71).

⁽⁸⁾ Opinion of the Scientific Committee on Food on impurities of ethylene oxide in food additives, 17 April 2002.

- (5) Recently, there have been several RASFF notifications concerning findings of ethylene oxide in a number of foodstuffs, and in particular in a number of food additives used for the manufacture of a variety of foodstuffs. On the basis of those notifications and information regarding official controls performed by Member States, Commission Implementing Regulation (EU) 2021/2246 ⁽⁹⁾ established measures as regards goods of non-animal origin entering the Union from certain third countries in order to protect human health in relation to the possible risk of contamination with ethylene oxide. However, as regards food additives, the enforcement of Union law may raise difficulties, because of it is difficult to establish whether the presence of ethylene oxide results from its use in the sterilisation of the food additives in breach of Regulation (EU) No 231/2012 or from any other reason.
- (6) In order to avoid those difficulties and to ensure a high level of protection of human health, it is therefore appropriate to lay down that the presence of ethylene oxide, irrespective of its origin, is not authorised for all food additives. For this purpose, a maximum limit for residues of ethylene oxide specific for food additives should be set out at the limit of quantification in those products, that is, at the validated lowest residue concentration, which can be currently quantified and reported by routine monitoring with validated control methods. In order to ensure consistency with Regulation (EC) No 396/2005 of the European Parliament and of the Council ⁽¹⁰⁾, in particular, with the limits it sets out for the raw materials used for the production of food additives, the residues of ethylene oxide should be defined in the same terms as in that Regulation.
- (7) Bearing in mind that the amendment of the specifications is not liable to have any negative effect on human health, a safety evaluation by the European Food Safety Authority in accordance with Article 3(2) of Regulation (EC) No 1331/2008 is not necessary.
- (8) The Annex to Regulation (EU) No 231/2012 should therefore be amended accordingly.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EU) No 231/2012 is amended in accordance with the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 11 August 2022.

For the Commission
The President
Ursula VON DER LEYEN

⁽⁹⁾ Commission Implementing Regulation (EU) 2021/2246 of 15 December 2021 amending Implementing Regulation (EU) 2019/1793 on the temporary increase of official controls and emergency measures governing the entry into the Union of certain goods from certain third countries implementing Regulations (EU) 2017/625 and (EC) No 178/2002 of the European Parliament and of the Council (OJ L 453, 17.12.2021, p. 5).

⁽¹⁰⁾ Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC (OJ L 70, 16.3.2005, p. 1).

ANNEX

The Annex to Regulation (EU) No 231/2012 is amended as follows:

- (1) the introductory text 'Note: Ethylene oxide may not be used for sterilising purposes in food additives' is replaced by the following:

'Ethylene oxide may not be used for sterilising purposes in food additives.

No residue above 0,1 mg/kg, irrespective of its origin, of ethylene oxide (sum of ethylene oxide and 2-chloro-ethanol expressed as ethylene oxide (*)) shall be present in food additives listed in Annexes II and III to Regulation (EC) No 1333/2008, including mixtures of food additives.

(*) i.e. ethylene oxide + 0,55* 2-chloroethanol.;

- (2) in the entries for E 431 polyoxyethylene (40) stearate, E 432 polyoxyethylene sorbitan monolaurate (polysorbate 20), E 433 polyoxyethylene sorbitan monooleate (polysorbate 80), E 434 polyoxyethylene sorbitan monopalmitate (polysorbate 40), E 435 polyoxyethylene sorbitan monostearate (polysorbate 60), E 436 polyoxyethylene sorbitan tristearate (polysorbate 65), E 1209 polyvinyl alcohol-polyethylene glycol-graft-copolymer and E 1521 polyethylene glycol, under the specification 'Purity', the row 'Ethylene oxide' is deleted.
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DECISIONS

COMMISSION IMPLEMENTING DECISION (EU) 2022/1397

of 11 August 2022

not to suspend the definitive anti-dumping duties on imports of certain Polyvinyl Alcohol originating in the People's Republic of China imposed by Implementing Regulation (EU) 2020/1336

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 the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾, and in particular Article 14(4) thereof,

After consulting the Committee established by Article 15(2) of Regulation (EU) 2016/1036,

Whereas,

1. PROCEDURE

- (1) On 29 September 2020, the European Commission ('the Commission') imposed a definitive anti-dumping duty on imports into the Union of certain Polyvinyl Alcohol (PVA) originating in the People's Republic of China ('the product concerned') by Commission Implementing Regulation (EU) 2020/1336 ⁽²⁾ ('the original Regulation').
- (2) Following the imposition of the measures, ten parties ⁽³⁾ alleged that a temporary change of market conditions had occurred after the investigation period ('IP') (1 July 2018 to 30 June 2019) and claimed that the definitive measures should be suspended pursuant to Article 14(4) of Regulation (EU) 2016/1036 ('the basic Regulation'), in light of those changes.
- (3) On 3 September 2021, the Commission decided to further examine the claims for suspension and requested interested parties in the Union to provide information pertaining to the so-called 'suspension IP' (i.e. the period after the IP from July 2020 to June 2021) to examine and assess the impact, if any, of the alleged changed circumstances on the Union market.
- (4) Following the final disclosure four interested parties, Carbochem, Far Polymers, Gamma Chimica and Jeniuschem, contested the choice of the suspension IP made by the Commission.
- (5) In their view, the suspension IP should have started from October 2020 and should have covered also the months of July and August 2021 since the Commission requested such data in the questionnaire.
- (6) The Commission received the first claim for suspension on 17 June 2021 and initiated the suspension investigation on 3 September 2021, selecting the 12 months period preceding the lodging of the claim, when the alleged changes of market condition allegedly occurred.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Commission Implementing Regulation (EU) 2020/1336 of 25 September 2020 imposing definitive anti-dumping duties on imports of certain polyvinyl alcohols originating in the People's Republic of China (OJ L 315, 29.9.2020, p. 1).

⁽³⁾ Carbochem Srl, Cordial Adhesives B.V., EOC Belgium NV, FAR Polymers Srl, Gamma Chimica SpA, Grünig KG, Jeniuschem SpA, Solutia Europe SPRL, Wacker Chemie AG, Wegochem Europe B.V..

- (7) As regards the months of July and August 2021 the Commission requested data pertaining to these months in order to gather information on the market evolution also after the suspension IP. However, not all the cooperating parties had such data available. Nevertheless, when available the Commission took data for July and August 2021 into consideration, as mentioned in recital (53).
- (8) The claim was therefore rejected.
- (9) Information on the alleged temporary change in circumstances on the market was received from 2 Union producers and 10 interested parties including users, importers and associations. The Union producers also provided the requested information relating to certain injury indicators.
- (10) On 20 May 2022, the Commission disclosed its intention not to suspend the measures under Article 14(4) of the basic Regulation. All parties were granted a period within which they could make comments.

2. EXAMINATION OF CHANGED MARKET CONDITIONS

- (11) 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 suspension. It follows that anti-dumping measures can only be suspended in a situation where the circumstances have changed to such an extent that the Union industry is no longer materially injured, and that such injury is unlikely to recur.

2.1. Findings of the original anti-dumping investigation

- (12) The investigation leading to the definitive Regulation showed that, during the period considered (2016 – June 2019) Chinese imports increased by 53 %, reaching a market share of [30 % – 35 %] in the IP (July 2018 – June 2019), up from 22 % in 2016. In parallel, the Union industry's economic situation worsened presenting a negative trend in all major indicators: Production (-12 %), EU sales (-27 %), market share (from [35 % – 40 %] to [25 % – 30 %]) and Profitability (from [-0,5 % to -5 %] to [-10 % to -15 %] in the IP). On this basis, the Commission concluded that the Union industry suffered material injury caused by dumped imports from China.

2.2. Analysis of changes of market conditions during the suspension IP

- (13) The alleged temporary changes of the market conditions post-IP consisted of disruptions in the supply chain of the principal raw material vinyl acetate monomer (VAM), coupled with a significant increase in shipping costs, which led to a global scarcity of the product concerned and to significant price increases.
- (14) Based on the analysis of the comments received by the various parties following the Commission's request for further information, cross-checked with the data collected during the investigation, the Commission concluded that there have indeed been temporary disruptions in the global supply chain concerning VAM. These disruptions were mainly caused by the winter storms in February 2021 in Texas. This event forced every major US producer of VAM to temporarily stop production and to invoke force majeure for its deliveries, creating a global shortage of VAM and hence of PVA in the first half of 2021. The analysis revealed that the main issue for the supply of PVA was indeed the disappearance of alternative sources of supply (mainly the USA and Japan), as explained in section 2.3.2. However, the situation has normalized in the meantime and a return to normal production volumes is expected in the course of 2022.
- (15) Following the final disclosure, Ahlstrom-Munksjö, Carbochem, Cepi, Far Polymers, Gamma Chimica and Jeniuschem contested the Commission's conclusion as regards the return to normal production volumes of VAM.
- (16) The parties argued that the VAM shortage persists to date since, according to some publications, US producers continue to invoke force majeure on VAM deliveries and therefore it cannot be concluded that there will be a return to normal production volumes.

- (17) This argument had to be dismissed. First, the Commission analysed the impact of the winter storms in Texas as one of the main reasons of the changed market conditions cited in the claims for suspension. The investigation showed that the effect of winter storms in 2021 is now almost completely gone. Data provided by one of the major US VAM producers showed that its production returned to a normal level in the 2nd quarter of 2021 and surpassed the pre-storm level in the 3rd quarter of 2021. Second, the force majeure declaration mentioned by the parties refers to events that happened after the suspension IP and affected single producers for specific events and do not constitute an overall change in market conditions.
- (18) Users also claimed that following the imposition of measures China reduced its PVA production. This reduction was allegedly because VAM was in short supply in China due to policy changes of the Chinese Government, including dual energy control policies and pollution minimization and energy savings policies for the 2022 Winter Olympic Games. VAM is not only used for the production of PVA, but is a standard chemical product that is used in many applications. Users claimed that because of the shortage, VAM prices increased to the point that it was more profitable for the Chinese producers to focus on the production and sales of VAM rather than to convert VAM to PVA.
- (19) However, the data collected in the investigation did not confirm this allegation. The Chinese export prices to the EU did not change significantly during the suspension IP as compared with the IP of the original investigation, as explained in section 2.3.2. In addition, when analysing the global export volumes of PVA from China, the Commission noted that the exported quantities remained the same during the suspension IP as compared to the IP of the original investigation (see Table 1). Only the exports to the Union declined, but this decrease was compensated by an equal increase of exports to Korea, Malaysia, Singapore and Vietnam. Therefore, the alleged VAM shortage did not affect the Chinese producers' production capacity of PVA and the reduced export volumes to the Union were mainly the consequence of the anti-dumping duties on the imports of PVA from China.

Table 1

Exports of PVA from China (tonnes)

<i>Destination country</i>	<i>IP</i>	<i>Suspension IP</i>
EU 27	53 602	31 300
Brazil	6 075	6 097
Canada	2 626	2 903
India	16 421	19 651
Indonesia	8 412	7 472
Korea, South	5 957	13 788
Malaysia	5 304	12 950
Pakistan	9 106	11 095
Singapore	3 828	5 120
Thailand	3 557	3 071
Turkey	8 111	7 984
United States	3 973	3 589
Vietnam	4 416	6 293
TOTAL	131 388	131 313

Source: Global Trade Atlas.

- (20) The users mentioned supply chain issues linked to the COVID-19 pandemic. Indeed, the lack of shipping containers led to increased rates for shipping, in particular from China and across the Atlantic Ocean, which partially disrupted the global transport chains.
- (21) Finally, importers and users argued that the Union industry is still not in a position to meet the full Union demand for PVA. The Commission noted that while the Union industry started increasing its production after the imposition of the measures, it has indeed not been in a position to meet the full Union demand over the suspension IP, partially because of its previous downsizing of capacity and because of the global shortage of VAM. This is in any event not a new circumstance, as during the IP of the original investigation the Union industry was already not in a position to supply the entire PVA consumption in the Union. However, the capacity of supply of the Union is not a market condition for the suspension of the measures.
- (22) Following the definitive disclosure, Ahlstrom-Munksjö, Carbochem, Cepi, Far Polymers, Gamma Chimica and Jeniuschem, argued that the Commission refused to take into account the inability of the Union industry to supply European demand as a changed circumstance, even though the Commission explicitly accepted that this inability to supply was a direct consequence of the VAM shortage.
- (23) As explained in recital (21), the Union industry was not in the capacity of supplying the full Union demand even before the VAM shortage and it did not significantly reduce its production levels during the suspension IP, as explained in recitals (36) and (37). On the contrary, table 2 clearly shows that the reduced supply on the Union market was in fact due to a substantial decrease in imports, not due to a lack of production by the Union industry. It cannot be therefore considered as a change in market circumstances justifying a suspension of the existing measures. This claim was therefore rejected.

2.3. Situation of the Union industry during the suspension IP

- (24) The assessment of the economic situation of the Union industry during the suspension IP included an evaluation of the main economic indicators having an impact on the state of the Union industry during the period considered.
- (25) In its comments to the final disclosure Ahlstrom-Munksjö argued that the Commission compared the situation during the suspension IP with the situation in 2016, while it should have compared it with the IP of the original investigation.
- (26) This claim had to be dismissed. The Commission clearly compared the situation during the suspension IP with the situation in the IP of the original investigation. In addition, it also compared some indicators with the situation of the Union industry in 2016, before the increase of injurious dumped imports from China.

2.3.1. Union consumption

- (27) Consumption on the free market was 52 % lower during the suspension IP as compared to the IP of the original investigation. This reduction can be ascribed to the reduction of imports since, as explained in section 2.3.4, Union industry sales remained stable. Consumption for captive use was not affected by these developments and remained stable.

2.3.2. Imports from the country concerned and from third countries

Table 2

Imports from China and third countries

	IP	Q3 2020	Q4 2020	Q1 2021	Q2 2021	H2 2020	H1 2021	Suspension IP
Imports from China (tonnes)	53 930	6 668	650	6 250	6 994	7 318	13 244	20 562

Index IP original investigation = 100 ⁽⁴⁾	100	49	5	46	52	27	49	38
Imports from other third countries (tonnes)	60 623	2 186	1 217	6 292	3 956	3 403	10 248	13 651
Index IP = 100	100	14	8	42	26	11	34	23

Source: Comext database.

- (28) Imports from the main exporting countries, namely China, Taiwan, Japan and the USA, decreased significantly during the suspension IP compared to the IP of the original investigation. In terms of volumes, the decrease of imports from the USA was the most significant one.
- (29) The analysis of the situation revealed that this major decrease in imports was due to a combination of factors. On a global level, the decrease in imports coincided with the global supply chain issues linked to the COVID-19 pandemic. However, for China, the drop in imports coincided with the imposition of measures on imports of PVA from China, as the total volume of Chinese exports to all other destinations remained stable, as explained in section 2.2. As regards the USA, the drop of imports was exacerbated by the shortage of VAM due to the winter storms.
- (30) All of these factors resulted in limited PVA production available for export, with the major decrease occurring in the second half of 2020. The initial recovery of the first half of 2021 was then impacted again by the winter storms in USA. However, since the damage suffered during the winter storm in the USA in 2021 was of a very limited duration, the resulting VAM shortage is already disappearing. According to information provided by Union producers, VAM production in the US, after the winter storm, is recovering as from the first half of 2022.
- (31) Despite the significant drop (by 62 %), the import quantities from China remained significant post IP. Moreover, Chinese average import prices were just 2 % higher as compared with the IP of the original investigation. They are on average still 4 % lower than the Union Industry's non-injurious price ⁽⁵⁾, as established in the original investigation. Moreover, the average import prices of the Chinese imports without the anti-dumping duties are on average 38 % lower than the non-injurious price.

Table 3

Chinese import prices

	IP	Q3 2020	Q4 2020	Q1 2021	Q2 2021	H2 2020	H1 2021	Suspension IP
Chinese import price (EUR/tonne)	1 498	1 370	1 346	1 393	1 835	1 368	1 627	1 535
Index IP original investigation = 100	100	91	90	93	122	91	109	102

Source: Comext database.

- (32) After disclosure Ahlstrom-Munksjö argued that imports from China almost completely stopped after the imposition of the measures, and only when issues in the VAM supply caused a PVA shortage, were Union PVA users forced to buy product originating in the PRC again. Therefore, in its view, the Union industry could not be in a precarious state as a result of PVA imports from China.

⁽⁴⁾ For a meaningful comparison the quarterly index is calculated on ¼ of the yearly volume in the IP, and the half-year indexes are calculated on ½ of the same volume.

⁽⁵⁾ After adjustments for customs duties, anti-dumping duties and post-importation costs.

- (33) First, the Commission clarified that establishing whether there is causation between the injurious situation found and the imports at issue is not a relevant factor as such in the current proceeding. If the Union industry is not in a state to face the resumption of low price imports, it is unlikely that the current measures would be suspended since such suspension could only aggravate the situation of the Union industry. Accordingly, the Commission did not conclude that the Union industry is in a precarious situation due to the current imports from China.
- (34) Second, the decrease of imports from China was an expected consequence of the anti-dumping duties. However, Chinese production capacity is still available and there is still demand in the Union for Chinese imports. Union users of PVA are still buying PVA from China in significant quantities, as highlighted in recital (31), but at fair prices. Furthermore, despite the anti-dumping duties, users are still profitable, as explained in recital (66). This suggests the anti-dumping duties are having their intended effect. This claim was therefore rejected.

2.3.3. Production and production capacity

- (35) The total Union production, production capacity and capacity utilisation developed during the suspension IP as follows:

Table 4

Production, production capacity and capacity utilisation

	IP	Q3 2020	Q4 2020	Q1 2021	Q2 2021	H2 2020	H1 2021	Suspension IP
Production volume (tonnes)	[80 000 – 90 000]	[15 000 – 20 000]	[15 000 – 20 000]	[20 000 – 25 000]	[20 000 – 25 000]	[30 000 – 40 000]	[40 000 – 50 000]	[80 000 – 90 000]
Index IP original investigation = 100	100	75	90	102	113	83	108	95
Production capacity (tonnes)	[100 000 – 120 000]	[20 000 – 30 000]	[20 000 – 30 000]	[20 000 – 30 000]	[20 000 – 30 000]	[50 000 – 60 000]	[50 000 – 60 000]	[100 000 – 120 000]
Index IP = 100	100	100	100	100	100	100	100	100

Source: Questionnaire replies.

- (36) Production volume of the union industry overall decreased by 5 % in the suspension IP as compared to the IP of the original investigation, while capacity did not change. However, a quarterly analysis reveals a more nuanced picture.
- (37) The production volume of the Union industry was still decreasing in the first quarter of the suspension IP as it coincided with the last quarter before the imposition of the measures, therefore the Union industry was still suffering the pressure of the dumped imports from China. As of October 2020, after the imposition of the anti-dumping duties, the production volumes started to increase again reaching, in the second half of the suspension IP, a level that was 8 % higher than the volume during the IP of the original investigation.

2.3.4. Sales volume

- (38) The Union industry's sales volume developed as follows during the suspension IP period.

Table 5

Sales volume and sales prices

	IP	Q3 2020	Q4 2020	Q1 2021	Q2 2021	H2 2020	H1 2021	Suspension IP
Total sales volume on the Union market (tonnes)	[40 000 – 50 000]	[5 000 – 10 000]	[5 000 – 10 000]	[10 000 – 15 000]	[10 000 – 15 000]	[15 000 – 20 000]	[25 000 – 30 000]	[40 000 – 50 000]
Index IP original investigation = 100	100	77	80	119	118	79	118	99
Sales prices of Union producers (EUR/tonne)	1,5 – 2,5	1,5 – 2,5	1,5 – 2,5	1,5 – 2,5	1,5 – 2,5	1,5 – 2,5	1,5 – 2,5	1,5 – 2,5
Index IP original investigation = 100	100	98	100	100	105	99	103	101
Unit cost of production (EUR/tonne)	1,5 – 2,5	1,5 – 2,5	1,5 – 2,5	1,5 – 2,5	1,5 – 2,5	1,5 – 2,5	1,5 – 2,5	1,5 – 2,5
Index IP original investigation = 100	100	76	74	85	92	75	88	83

Source: Questionnaire replies.

- (39) The sales volume in the EU remained relatively stable at the level of the original IP. The same is true for sales prices. The average PVA price of the Union industry during the suspension IP was 1 % higher than it was in the IP of the original investigation. However, as noted for the production volume, both quantities and prices started to trend significantly lower than in the IP of the original investigation in the first half of the suspension IP. Then again, when the anti-dumping duties came into effect, both started to increase and reached, in the last quarter, a level that was 18 % and 5 % respectively higher than in the IP of the original investigation.
- (40) The cost of production for PVA decreased during the first two quarters of the suspension IP, following the global decreasing trend of VAM prices. However, as of the third quarter, which coincided with the VAM supply issues in the US mentioned in section 2.3.2, the cost of production started to increase again by 14 % as compared with the second quarter of the suspension IP, following the upward trend of VAM prices.
- (41) Following the final disclosure Ahlstrom-Munksjö, Carbochem, Far Polymers, Gamma Chimica and Jeniuschem contested the Commission's conclusions as regards the sales prices of the Union industry.
- (42) Ahlstrom-Munksjö argued that the export prices from China have increased more than the Union industry's prices while, at the same time, the Union industry's unit cost of production has dropped significantly. This drop, in Ahlstrom-Munksjö's view, translated in an increase in the Union industry's profitability of 18 %.
- (43) This analysis is manifestly incorrect. First, the Chinese import prices in the suspension IP increased by just one percentage point more than the union industry prices and, despite this, they still undercut the Union industry's non-injurious price even with the anti-dumping duties included. Second, the analysis by quarter of the unit cost of production revealed that after an initial drop in the first two quarters of the suspension IP, it started increasing again (following the upward trend of VAM prices). Cost of production, in the last quarter of the suspension IP, was 21 % higher than in the first quarter while, in the same period, the Union industry's prices increased by just 7 %. This allowed the Union industry to return to profitability but confirms also that this upward trend was very recent (it only concerned the last quarter) and not strong enough to reach the target profit, as explained in recital (49).

- (44) The claim was therefore dismissed.
- (45) Carbochem, Far Polymers, Gamma Chimica and Jeniuschem, claimed that the Commission based its evaluation on the data provided by the Union producers in their questionnaire replies on one hand, but did not take into account the information provided by the cooperating users as regards the price applied by the Union industry on the other hand.
- (46) The average sales price of the Union industry as established by the Commission is calculated on the total sales of the Union industry during the suspension IP. The cooperating users provided information on price offers only for specific PVA grades to specific clients. These offers cannot be considered representative of the whole market and cannot therefore be used as benchmarks for the average sales price of the Union industry or the average import price from China.
- (47) Therefore this claim was rejected.

2.3.5. Profitability

- (48) Profitability of the Union producers developed as follows over the suspension-IP period:

Table 6

Profitability

	IP	Q3 2020	Q4 2020	Q1 2021	Q2 2021	H2 2020	H1 2021	Suspension IP
Profitability of sales in the Union to unrelated customers (% of sales turnover)	- 10 % to - 15 %	- 10 % to - 15 %	0% to 5 %	5 % to 10 %	0% to 5 %	- 5 % to 0 %	2% to 7 %	- 2 % to 3 %

Source: Questionnaire replies.

- (49) The Union industry became profitable during the suspension IP period. While this is a clear improvement compared to the IP of the original investigation, where the Union industry suffered a [-10 % to -15 %] loss on turnover, the profitability of the Union is still far below the target profit (6 %). The increase in sales prices was offset, to a certain extent, by the rising production costs due to the increased price of raw materials and a delayed price adjustment, as a consequence of the contractual agreements with customers.
- (50) After disclosure Ahlstrom-Munksjö and Cepi contested the Commission's conclusions as regards the profitability of the Union industry.
- (51) Ahlstrom-Munksjö argued that, despite the allegedly significant import volumes from China, the Union industry was able to significantly improve its profitability.
- (52) The Commission did not contest the fact that the Union industry increased its profitability, as a consequence of the anti-dumping duties. However, as explained in recital (49), the profit achieved by the Union industry is still far below the target profit as established in the original investigation.

2.3.6. Conclusion on the situation of the Union industry

- (53) The quarterly analysis of the suspension IP and developments thereafter do not point to a lasting improvement of the situation of the Union industry. It is true that during the second semester of the suspension IP the production volume increased by 8 % and sales volume by 18 %, as compared to the IP of the original investigation. However, this was only short-lived as the profitability of the Union industry started decreasing again as from the fourth quarter. This can be explained by the significant price increase of VAM and the resulting increase of the cost of production for PVA while PVA prices did not follow immediately the increase in production cost. From data beyond the suspension IP collected during the investigation, it is noted that in the period from April 2021 to September 2021, VAM prices increased by 57 % and the cost of production for PVA increased by 28 %, but PVA prices only increased by 26 %.

3. LIKELIHOOD OF RESUMPTION OF INJURY

- (54) During the suspension IP, Union producers' sales in the Union to unrelated parties slightly decreased by 1 % when compared to the IP, while sales prices increased by 1 %. However, when compared to the reference year of the period considered (namely, 2016), sales volumes in the EU were still 28 % lower. Capacity utilization decreased by 5 %, while capacity did not change. Yet, when compared to 2016, production volumes and capacity utilisation during the suspension IP decreased by 20 %.
- (55) At the same time, import quantities from China remained significant during the suspension IP. Moreover, despite the allegation, both the production capacity of the Chinese exporting producers and their price behaviour did not change significantly as compared with the findings of the original investigation.
- (56) As explained in sections 2.2 and 2.3, Chinese production volume remained the same during the suspension IP as compared to the IP of the original investigation, and Chinese import prices are still below the Union industry's non-injurious prices.
- (57) On the basis of the above, the Commission concluded that the Union industry benefitted from the imposition of measures on imports of PVA from China that, to some extent, allowed the Union industry to increase its selling prices on the Union market during the suspension-IP, as shown by the positive trend of certain indicators such as selling volume, selling prices and profitability. However, these signs of recovery were not strong enough and occurred, so far, only in a short period of time. The Commission also took into account the Chinese exporting producers' pricing behaviour during the suspension IP, as well as the possibility of a sudden resumption of an increase in PVA imports from China since, as explained in section 2.3, the alleged VAM shortage did not affect the Chinese production capacity and its export levels.
- (58) Therefore, it cannot be concluded that injury is unlikely to resume in the absence of measures, should the measures be suspended. Therefore, the Commission concluded that the evidence did not demonstrate that the market conditions had temporarily changed to an extent that injury would be unlikely to resume as a result of a suspension.
- (59) Following the final disclosure, Ahlstrom-Munksjö argued that the sales volume of the Union industry during the suspension IP decreased by a mere 1 % compared to the original IP, while it increased by 18 % in the first half of 2021 compared to the original IP. In its view this contradicts the Commission's conclusion that injury is likely to resume in the absence of the duties.
- (60) The Commission disagreed with this view. The first half of the suspension IP was affected by the COVID-19 pandemic and the VAM shortage. In the second half, the Union industry, while benefitting from the measures, was able to increase its production to fulfil Union demand. While this is a clear sign of recovery, the investigation demonstrated that: (i) Chinese exporting producers have significant spare capacity still available and are already exporting to the EU in significant quantities even with the duties in place, (ii) their prices still undercut the Union prices even with anti-dumping duties included, (iii) the Union market is attractive for the Chinese producers for its price levels and the significant demand, and (iv) the increase in VAM prices is negatively affecting the Union industry cost of production and its profitability. Taking into consideration all of these elements, the Commission concluded that injury, even if it were not to be present, would most likely resume as a result of the suspension.
- (61) The claim was therefore dismissed.
- (62) Cepi argued that a temporary duty suspension would not reverse the clearly positive profitability trend of the Union industry, also in view of price increases after the suspension IP. The company noted that also in the case of aluminium flat-rolled products the Union industry had not yet reached the target level of profitability but, nevertheless, the Commission proceeded with the temporary duty suspension having recognised that such a suspension would be unlikely to reverse the positive trends of the Union industry ⁽⁶⁾.

⁽⁶⁾ 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).

- (63) The Commission disagreed with this analysis. In the aluminium flat-rolled products investigation, the situation of the Union industry improved significantly after the IP so that the same material injury found during the original investigation period was no longer present in the post-IP period. Indeed, in that case, in the first semester of 2021, Union producers' sales in the Union to unrelated parties increased by over 55 % in comparison with the investigation period and a further increase was expected for 2022. In contrast, in the current proceeding the Union PVA industry is not struggling from a drop in sales quantity but from a significant price depression caused by the dumped imports from China. Any further increase of profitability could originate only from a reduction of the cost of production (which is unlikely given the upward trend of the raw materials prices) or from a return of the sales prices to non-injurious levels.
- (64) Moreover, the suspension of the anti-dumping duties would allow Chinese PVA to enter the Union market at dumped prices significantly undercutting the Union industry prices, as explained in recital (31). This price pressure would depress further the Union industry's prices and would thus have an immediate negative effect on its profitability. This claim was thus rejected.

4. CONCLUSION

- (65) The imposition of the measures on imports of PVA from China has clearly benefited the Union PVA industry selling on the free market. It has allowed the Union industry to recover, at least partially, from the injurious dumping. However, the situation of the Union industry remains fragile and, as explained above, injury is likely to resume without the measures during a potential period of suspension of the current measures.
- (66) The Commission also noted that, despite the allegations of negative impacts suffered by the users of PVA, the data collected during the suspension analysis shows that all the nine users and importers that cooperated and provided a reply to the suspension questionnaire, except one, remained profitable following the imposition of the anti-dumping measures on imports of PVA from China.
- (67) In their comments to the final disclosure, Ahlstrom-Munksjö, Carbochem, Far Polymers, Gamma Chimica and Jeniuschem contested the Commission's conclusions on the impact of the anti-dumping duties on the users of PVA.
- (68) Carbochem, Far Polymers, Gamma Chimica and Jeniuschem argued that the margins earned by the importers and users of PVA comes from the sales of stock of PVA purchased before the entry into force of the anti-dumping duties.
- (69) However, the information collected in the investigation does not support this conclusion. In the last quarter before the imposition of the measures, import quantities from China did not increase. On the contrary they dropped by 51 % (see table 2). Moreover, in their own submission, the parties confirmed that they were able to pass the increase of PVA prices through to their customers, as already established in the original investigation and confirmed in the current proceeding. Therefore the claim was rejected.
- (70) Ahlstrom-Munksjö argued that the Commission did not conduct a proper analysis of the Union interest.
- (71) This claim had to be dismissed. On one hand, the Commission concluded that the injury of the Union industry would be likely to resume if measures were suspended. On the other hand, the investigation concluded that the production of VAM (and PVA) is returning to normal levels, that the Chinese exporting producers are still exporting at competitive prices, despite the anti-dumping duties and that Union users of PVA were able to pass the price increase to their customers and remained profitable. Therefore, the Commission found that there were no reasons to conclude that it was in the Union interest to suspend the anti-dumping duties.
- (72) Therefore, the Commission concluded that the conditions listed in Article 14(4) of the basic Regulation for the suspension of the anti-dumping measures were currently not met. This decision is without prejudice to the Commission's right to take a decision pursuant to Article 14(4) of the basic Regulation in the future.

HAS ADOPTED THIS DECISION:

Article 1

The conditions to suspend the definitive anti-dumping duty imposed by Article 1 of Commission Implementing Regulation (EU) 2020/1336 on imports of certain Polyvinyl Alcohol originating in People's Republic of China in accordance with Article 14(4) of Regulation (EU) 2016/1036 are not met.

Article 2

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, 11 August 2022.

For the Commission
The President
Ursula VON DER LEYEN

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