

COMMISSION IMPLEMENTING REGULATION (EU) 2021/854**of 27 May 2021****imposing a provisional anti-dumping duty on imports of stainless steel cold-rolled flat products originating in India and Indonesia**

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 7 thereof,

After consulting the Member States,

Whereas:

1. PROCEDURE**1.1. Initiation**

- (1) On 30 September 2020, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports of stainless steel cold-rolled flat products ('SSCR' or 'the product under investigation') originating in India and Indonesia ('the countries concerned'), on the basis of Article 5 of Regulation (EU) 2016/1036 of the European Parliament and of the Council. It published a Notice of Initiation in the Official Journal of the European Union ⁽²⁾ ('Notice of Initiation').
- (2) The Commission initiated the investigation following a complaint lodged on 17 August 2020 by the European Steel Association ('Eurofer' or 'the complainant') on behalf of producers representing more than 25 % of the total Union production of stainless steel cold-rolled flat products. The complaint contained evidence of dumping from the countries concerned and resulting material injury that was sufficient to justify the initiation of the investigation.

1.2. Registration

- (3) Following a request by the complainant supported by the required evidence, the Commission made imports of the product concerned subject to registration under Article 14(5) of the basic Regulation by Commission Implementing Regulation (EU) 2021/370 ⁽³⁾.

1.3. Interested parties

- (4) 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, known exporting producers in the countries concerned and the authorities of the countries concerned, known importers and users in the Union about the initiation of the investigation, and invited them to participate.
- (5) 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 the complainant, one exporting producer and one Union user. The Commission received comments that are addressed in Sections 2.3 and 5.2 and 7.2.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Notice of Initiation of an anti-dumping proceeding concerning imports of stainless steel cold-rolled flat products originating in India and Indonesia, OJ C 322, 30.9.2020, p. 17.

⁽³⁾ Commission Implementing Regulation (EU) 2021/370 of 1 March 2021 making imports of stainless steel cold-rolled flat products originating in India and Indonesia subject to registration, OJ L 71, 2.3.2021, p. 18.

1.4. Sampling

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

1.4.1. Sampling of Union producers

- (7) In the Notice of Initiation, the Commission stated that it had decided to limit to a reasonable number the Union producers that would be investigated by applying sampling, and that it had provisionally selected a sample of Union producers. The Commission selected the provisional 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. The provisional sample thus established consisted of three Union producers accounting for more than 60 % of production and around 70 % of sales in the Union of the like product, and located in four different Member States. Details of this provisional sample were made available in the file for inspection by interested parties, with the possibility for them to make comments. No comments were made.

- (8) As a result of the above, the provisional sample of Union producers was confirmed. It consisted of Aperam Stainless Europe ('Aperam'), Acciai Speciali Terni S.p.A. ('AST') and Outokumpu Stainless Oy ('OTK'). The definitive sample is representative of the Union industry.

1.4.2. Sampling of importers

- (9) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known unrelated importers to provide the information specified in the Notice of Initiation.
- (10) Three unrelated importers made themselves known as interested parties and provided the requested information. In view of the low number of replies received, sampling was not necessary. No comments were made to this decision. The importers were invited to complete a questionnaire.

1.4.3. Sampling of exporting producers in the countries concerned

- (11) In view of the potentially large number of exporting producers in the countries concerned, the Notice of Initiation provided for sampling in India and Indonesia and therefore, the Commission asked all known exporting producers in India and Indonesia to provide the information specified in the Notice of Initiation to decide whether sampling was necessary and, if so, to select a sample.
- (12) In addition, the Commission asked the Mission of India to the European Union and the Embassy of the Republic of Indonesia in Brussels to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.

1.4.3.1. India

- (13) Upon initiation, seven potential exporting producers in India were contacted by the Commission. Two exporting producers in India provided the information required for sampling and they represented all exports of the product concerned to the Union. The Commission therefore abandoned sampling with regard to exporting producers in India.

1.4.3.2. Indonesia

- (14) Upon initiation, 14 potential exporting producers in Indonesia were contacted by the Commission. Three exporting producers replied to the sampling questions and reported sales to the Union. According to the information provided in the sampling returns, their sales represented 72 % of Indonesian exports to the Union. On that basis, sampling was abandoned also for Indonesia.

1.5. Questionnaire replies

- (15) The complaint provided sufficient *prima facie* evidence of raw material distortions in India and Indonesia regarding the product concerned. Therefore, as announced in the Notice of Initiation, the investigation covered those raw material distortions to determine whether to apply the provisions of Article 7(2a) and 7(2b) of the basic Regulation with regard to India and Indonesia. For this reason, the Commission sent questionnaires in this regard to the Governments of India ('GOI') and Indonesia ('GOIS').
- (16) The Commission sent questionnaires to the three sampled Union producers, the complainant, the three unrelated importers, and the five exporting producers in the countries concerned. The same questionnaires had also been made available online ⁽⁴⁾ on the day of initiation.
- (17) Questionnaire replies were received from the three sampled Union producers, the complainant, two unrelated importers, the two exporting producers from India and three exporting producers from Indonesia. Questionnaire replies were also received from the GOI and the GOIS.

1.6. Verification visits

- (18) In view of the outbreak of COVID-19 and the confinement measures put in place by various Member States as well as by various third countries, the Commission could not carry out verification visits pursuant to Article 16 of the basic Regulation at provisional stage. The Commission instead cross-checked remotely all the information deemed necessary for its provisional determinations in line with its Notice on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations ⁽⁵⁾.
- (19) The Commission carried out remote crosschecks ('RCC') of the following companies / parties:
- (a) Union producers and their association:
- Acciai Speciali Terni S.p.A., Terni, Italy ('AST')
 - Aperam Stainless Europe, consisting of Aperam France, La Plaine Saint-Denis Cedex, France and Aperam Belgium, Châtelet and Genk, Belgium ('Aperam')
 - Outokumpu Stainless Oy, Tornio, Finland ('OTK')
 - Eurofer, Brussels, Belgium
- (b) Importers in the Union:
- Gual Stainless S.L., Berga, Spain
 - Nova Trading S.A., Torun, Poland
- (c) Exporting producers:
- Exporting producers in India:
- Chromeni Steels Private Limited, India
 - Jindal Stainless Limited, Jindal Stainless Hisar Limited and Jindal Stainless Steelways Limited, India; Iberjindal S.L., Spain; and JSL Global Commodities Pte. Ltd., Singapore (jointly referred to as 'the Jindal Group')
- Exporting producers in Indonesia:
- PT Indonesia Ruipu Nickel and Chrome alloy ('IRNC'), PT Ekasa Yad Resources ('EYR') and PT Hanwa ('Hanwa'), Indonesia; Cantostar Limited ('Cantostar') and Eternal Tsingshan Group Co., Ltd. ('Eternal Tsingshan'), Hong Kong; and Recheer Resources Pte. Ltd. ('Recheer'), Singapore (jointly referred to as 'the IRNC Group')
 - PT Jindal Stainless Indonesia Limited ('PTJ'), Indonesia; JSL Global Commodities Pte. Ltd. ('JGC'), Singapore; and Iberjindal S.L. ('IBJ'), Spain (jointly referred to as 'the Jindal Indonesia Group')

⁽⁴⁾ Available at https://trade.ec.europa.eu/tdi/case_details.cfm?id=2484.

⁽⁵⁾ Notice on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations (OJ C 86, 16.3.2020, p. 6).

- (20) With regard to the procedure of Articles 7(2a) and 7(2b) of the basic Regulation, RCCs with the GOI and with the GOIS took place.

1.7. Investigation period and period considered

- (21) The investigation of dumping and injury covered the period from 1 July 2019 to 30 June 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').

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

- (22) The product concerned by this investigation is flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced), currently falling under CN codes 7219 31 00, 7219 32 10, 7219 32 90, 7219 33 10, 7219 33 90, 7219 34 10, 7219 34 90, 7219 35 10, 7219 35 90, 7219 90 20, 7219 90 80, 7220 20 21, 7220 20 29, 7220 20 41, 7220 20 49, 7220 20 81, 7220 20 89, 7220 90 20 and 7220 90 80 and originating in India and Indonesia. The CN codes are given for information only.

2.2. Like product

- (23) 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 markets of the countries concerned;
 - the product produced and sold in the Union by the Union industry.
- (24) The Commission decided at this stage that those products are therefore like products within the meaning of Article 1(4) of the basic Regulation.

2.3. Claims regarding product scope

- (25) At a very late stage of the provisional part of the investigation, one Union user came forward as an interested party and sent a submission concerning the product scope. The company requested the exclusion of products with steel grade 200 ('200 SSCRP') from the product scope as, according to the company, those products have no or very limited production in the Union and such products have a specific and niche end use. According to the company, the exclusion of 200 SSCRP on the basis of their steel grade and end use would not risk circumvention of other types of products.
- (26) The above claim was opposed by the complainant. Eurofer insisted that the 200 SSCRPs are produced by at least two of the Union producers. Moreover, Eurofer submitted that they can be easily replaced by other steel grades in end use, and are as such in direct competition with these product types. Furthermore, the 200 SSCRPs have the same basic physical, chemical and technical characteristics as well as distribution channels as other steel grades and cannot be easily identified without specialist tests – which, according to the complainant, clearly opens the possibility of circumvention. Considering the claims made by Eurofer, the Commission provisionally concluded that the product types are interchangeable.
- (27) Taking into account the very late submission of the product scope request, the fact that there is Union production of the 200 SSCRPs and the interchangeability of 200 SSCRPs with other product types, the product exclusion request is provisionally rejected.

3. DUMPING

3.1. Preliminary remark

- (28) Given the limited number of parties cooperating both in India and Indonesia, the details of certain findings on dumping are confidential and therefore only contained in the bilateral disclosures.

3.2. India

3.2.1. Cooperation and partial application of Article 18 of the basic Regulation

- (29) The two co-operating exporting producers in India were Chromeni Steels Private Limited and the Jindal Group.
- (30) Chromeni Steels Private Limited produced the product concerned in India and sold it on the domestic market mainly to unrelated and to a few related customers. All exports to the Union were made directly to unrelated customers.
- (31) The following companies that were expressly named by the Jindal Group as being involved in the production and sales of the product concerned were involved in the investigation and RCC:
- Jindal Stainless Limited ('JSL'), an integrated exporting producer processing stainless steel scrap into the product under investigation;
 - Jindal Stainless Hisar Limited ('JSHL'), an integrated exporting producer processing stainless steel scrap into the product under investigation;
 - Jindal Stainless Steelways Limited ('JSS'), a party which cold-rolls hot rolled coils purchased from JSL and JSHL and sells them on the domestic market of India;
 - Iberjindal S.L. ('IBJ'), a related trader located in Spain, which buys the product under investigation from JSL and JSHL and resells it to unrelated and related customers in the Union; and
 - JSL Global Commodities Pte. Ltd. ('JGC'), a related trader located in Singapore, which buys the product under investigation from JSL and JSHL and resells it to unrelated customers in the Union.
- (32) The RCC revealed that a related company of the Jindal Group in a third country was involved in the sales of the product concerned to the Union. Yet the relevant role of this party with regard to the product under investigation had not been reported as such in the correspondence by the Jindal Group, including in the questionnaire replies. Consequently, the Commission informed the Jindal Group, by letter of 23 March 2021, that it intended to apply the provisions of Article 18 of the basic Regulation and use facts available with regard to the information that had not been disclosed relating to the role of the related company. Following that letter, the related company located in a third country submitted comments on 29 March 2021. With their comments, the Jindal group also provided the related company's reply to the annex to the questionnaire.
- (33) These comments were reiterated during a hearing with the Hearing Officer on 16 April 2021.
- (34) The comments of the Jindal Group on the March 23 letter were duly assessed but they did not alter the Commission's appreciation of the facts. In particular, the reply to the annex to the questionnaire which was submitted in reply to the Commission's letter of 23 March 2021 could not be remotely cross-checked and therefore, the Commission could not assess the completeness of the information provided on behalf of that party.
- (35) Consequently, the Commission confirmed its intention to apply the provisions of Article 18 of the basic Regulation at this stage.

3.2.2. Normal value

- (36) 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.
- (37) On this basis, the total sales volume by each cooperating exporting producer of the like product on the domestic market were found to be representative.
- (38) The Commission subsequently identified the product types sold domestically that were identical or comparable with the product types sold for export to the Union.

- (39) The Commission then examined whether the product types sold by each of the cooperating exporting producers on their domestic market compared with product types 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.
- (40) 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 or whether to disregard the sales outside of the ordinary course of trade by reason of price, in accordance with Article 2(4) of the basic Regulation.
- (41) 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.
- (42) In this case, the normal value is the weighted average of the prices of all domestic sales of that product type during the investigation period.
- (43) 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.
- (44) Where more than 80% of the domestic sales per product type during the investigation period were profitable, and where the weighted average sales price was equal to or higher than the weighted average unit cost of production, the normal value was calculated as a weighted average of the prices of all actual domestic sales during the investigation period in the situation described in recital (42). Alternatively, the normal value was calculated as a weighted average of the profitable sales in the situation described in recital (43).
- (45) When a product type was not sold in representative quantities or not sold at all on the domestic market, and when there were no or insufficient sales of a product type of the like product in the ordinary course of trade, as provided for in Article 2 (2) and (4) of the basic Regulation, the Commission constructed the normal value in accordance with Article 2 (3) and (6) of the basic Regulation.
- (46) Normal value was constructed per product type by adding the following to the average cost of production of the like product of the investigated exporting producers during the investigation period:
- (a) the weighted average selling, general and administrative ('SG&A') expenses incurred by the investigated 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 investigated exporting producers on domestic sales of the like product, in the ordinary course of trade, during the investigation period.
- (47) 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, or where no sales were found in the ordinary course of trade, the weighted average SG&A expenses and profit of all transactions made in the ordinary course of trade on the domestic market were added.

3.2.3. *Export price*

- (48) The exporting producers exported to the Union either directly to independent customers or through related companies.
- (49) For the exporting producers that exported the product concerned directly to independent customers in the Union and for exporting producers that exported the product concerned to the Union through related companies located in a third country, the 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.
- (50) For the exporting producers that exported the product concerned to the Union through related companies acting as an importer, 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 and a reasonable profit.

3.2.4. *Comparison*

- (51) The Commission compared the normal value and the export price of the exporting producers on an ex-works basis.
- (52) 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 to the export price were made for commission of the related trader in a third country (see recital(49)). Adjustments to the normal value and the export price were made for transport, insurance, packing, handling, loading and ancillary costs, credit cost, bank charges and conversion costs when applicable and discounts, including deferred discounts, where they affected price comparability.
- (53) The Jindal Group made a claim under Article 2(10)(b) of the basic Regulation for a duty drawback adjustment to the normal value, arguing that the existence of a flat rate 'Duty Drawback Scheme' implies that all their domestic sales would incorporate an indirect tax compared to the export sales. However, the Jindal Group failed to establish that the claimed amounts were linked to the imports of incorporated raw materials or to the duties paid on them. The claim was therefore rejected.
- (54) In view of the RCC findings with regard to Jindal's related company located in third country, as explained in recitals (32) to (35) above, the Commission replaced certain information with regard to the allowances applicable to Jindal Group's sales prices to the Union by facts available under Article 18 of the basic Regulation.

3.2.5. *Dumping margins*

- (55) For the 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.
- (56) The level of cooperation in this case was considered high as the exports of the cooperating exporting producers constitute 100% of the total exports to the EU during the IP. No other exporting producers than the cooperating two could be identified. Consequently, the Commission found it appropriate to set the residual dumping margin at the level of the exporting producer with the highest dumping margin.
- (57) The provisional dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are therefore as follows:

Company	Provisional dumping margin
Jindal Group	13,6 %
Chromeni	36,9 %
All other companies	36,9 %

3.3. Indonesia

3.3.1. Cooperation and application of Article 18 of the basic Regulation

- (58) As mentioned under recital (17) above, three Indonesian exporting producers provided the Commission with a questionnaire reply within the set deadline. However, one of these exporting producers, PT Bina Niaga Multiusaha, had not replied to most of the questions in the questionnaire. Indeed, the questionnaire reply received had most of its key sections empty (including T-by-T sales listings, cost of production table, profitability table), and the company only replied to some of the questions. The submission was found so substantially deficient that it was tantamount to a lack of reply altogether. Therefore, the Commission informed the party concerned by a letter of 20 November 2020 of the reasons for the Commission's intention to disregard the information provided, and to consider the company as non-cooperating. PT Bina Niaga Multiusaha was granted the opportunity to submit further comments, but it did not react to that letter by the set deadline.
- (59) As a result of the above, only the two remaining Indonesian exporting producers, the IRNC Group and the Jindal Indonesia Group, were eventually considered as cooperating with the investigation. The investigation established that these two parties covered more than 90 % of the volume of the Indonesian exports of the product concerned to the Union in the investigation period.
- (60) The following companies that were expressly named by the IRNC Group as being involved in the production and sales of the product concerned were involved in the investigation and RCC:
- PT Indonesia Guang Ching Nickel and Stainless Steel Industry ("GCNS"), which produces and provides hot-rolled coils (inputs, not the product concerned) to IRNC, for the production of the product concerned;
 - PT Indonesia Tsingshan Stainless Steel ("ITSS"), which produces and provides hot-rolled coils (inputs, not the product concerned) to IRNC, for the production of product concerned.;
 - PT Sulawesi Mining Investment ("SMI"), which produces and provides stainless slab to GCNS for the production of hot-rolled coils; and
 - PT Tsingshan Steel Indonesia ("TSI"), which produces and provides ferro-nickel to ITSS and SMI for the production of slabs.
- (61) During the RCC, the Commission discovered that the IRNC Group had failed to inform the Commission of the involvement of a related company, the Tsingshan Holding Group Co. located in China, in the activities related to the product under investigation. The information which the company failed to provide was considered crucial for the determination of both normal value and export price of the IRNC Group.
- (62) In accordance with Article 18 of the basic Regulation and by letter of 23 March 2021, the company was therefore informed of the reasons of the Commission's intention to make certain adjustments to correct the normal value and export price by using facts available and the IRNC Group was granted the opportunity to provide comments.
- (63) The company replied to the Commission's letter on 29 March 2021. In its reply, the company did not contest the fact that the deficiencies listed in the Commission's letter had existed. However the company replied that it would reserve the right to provide comments at a later stage.
- (64) The following companies that were expressly named by the Jindal Indonesia Group, cooperated with the investigation by providing questionnaire replies and as being involved in the production and sales of the product concerned were involved in the investigation and RCC:
- PT Jindal Indonesia ("PTJ"), produced the product concerned in Indonesia and sold it on the domestic market to unrelated customers. PTJ exported either directly to EU customers or through related companies;
 - Iberjindal S.L. ("IBJ"), a related trader located in Spain, which buys the product under investigation from PTJ and resells it to unrelated and related customers in the Union; and

— JSL Global Commodities Pte. Ltd. ("JGC"), a related trader located in Singapore, which buys the product under investigation from PTJ and resells it to unrelated customers in the Union.

3.3.2. Normal value

- (65) 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.
- (66) On this basis, the total sales volume by each exporting producer of the like product on the domestic market were found to be representative.
- (67) The Commission subsequently identified the product types sold domestically that were identical or comparable with the product types sold for export to the Union.
- (68) 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.
- (69) 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 all actual domestic sales for the calculation of the normal value or whether to disregard the sales outside of the ordinary course of trade by reason of price, in accordance with Article 2(4) of the basic Regulation.
- (70) 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 weighted average unit cost of production.
- (71) In this case, the normal value is the weighted average of the prices of all domestic sales of that product type during the investigation period.
- (72) 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 weighted average unit cost of production.
- (73) Where more than 80% of the domestic sales per product type during the investigation period were profitable, and where the weighted average sales price was higher than the weighted average unit cost of production, the normal value was calculated as a weighted average of the prices of all domestic sales during the investigation period in the situation described in recital (71) or as a weighted average of the profitable sales only in the situation described in recital (72).
- (74) When a product type was not sold in representative quantities or not sold at all on the domestic market, and when there were no or insufficient sales of a product type of the like product in the ordinary course of trade, and when sales of a product type were made at prices below unit production costs plus selling, general and administrative costs, as provided for in Article 2 (2) and (4) of the basic Regulation, the Commission constructed the normal value in accordance with Article 2 (3) and (6) of the basic Regulation.

- (75) Normal value was constructed per product type 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.
- (76) 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, or where no sales were found in the ordinary course of trade, the weighted average SG&A expenses and profit of all transactions made in the ordinary course of trade on the domestic market were added.

3.3.3. *Export price*

- (77) The exporting producers exported to the Union either directly to independent customers or through related companies.
- (78) For the exporting producers that exported the product concerned directly to independent customers in the Union and for exporting producers that exported the product concerned to the Union through related companies located in a third country, the 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.
- (79) For the exporting producers that exported the product concerned to the Union through related companies acting as an importer, 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 and a reasonable profit.

3.3.4. *Comparison*

- (80) The Commission compared the normal value and the export price of the cooperating exporting producers on an ex-works basis.
- (81) 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 to the export price were made for commission of the related trader in a third country (see recital (78)).
- (82) Adjustments to the normal value and the export price were made for transport, insurance, handling, loading and ancillary costs, credit cost, bank charges and conversion costs when applicable and discounts, including deferred discounts, where they affected price comparability.
- (83) On the basis of an RCC exhibit it was established that the RCC findings with regard to Jindal India's related company located in a third country, as explained in recitals (32) to (35) above, also affected certain Union sales from the Jindal Indonesia Group. As provided in Article 18 of the basic Regulation facts available were used to complete the information related to this company. The same applies for the missing information with regard to the IRNC Group as referred to in recitals (61) to (63) above.

3.3.5. *Dumping margins*

- (84) 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.

- (85) The level of cooperation in this case was considered high because the exports of the cooperating exporting producers constituted more than 90% of the total volume of imports from Indonesia during the investigation period. Consequently, the Commission set the residual dumping margin at the level of the cooperating exporting producer with the highest dumping margin.
- (86) The provisional dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are therefore as follows:

Company	Provisional dumping margin
Jindal Group	20,2 %
IRNC group	19,9 %
All other companies	20,2 %

4. INJURY

4.1. Definition of the Union industry and Union production

- (87) The like product was manufactured by 13 known producers in the Union during the investigation period. They constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.
- (88) The total Union production during the investigation period was established at around 3.1 million tonnes. The Commission established this figure on the basis of all the available information concerning the Union industry, namely the remotely cross-checked questionnaire replies received from Eurofer and the sampled Union producers.
- (89) As indicated in recital (8), three Union producers were selected in the sample, representing over 60 % of total Union production of the like product. They are all vertically integrated producers.

4.2. Union consumption

- (90) The Commission established the Union consumption on the basis of: (a) the cross-checked Eurofer data concerning Union industry's sales of the like product to unrelated customers, whether direct or indirect sales, partially cross-checked with the sampled Union producers; and (b) imports of the product under investigation into the Union from all third countries as reported in Eurostat.
- (91) The Union consumption over the period considered developed as follows:

Table 1

Union consumption (tonnes)

	2017	2018	2019	IP
Union consumption	3 873 092	3 717 114	3 442 541	3 206 766
Index	100	96	89	83

Source: Eurofer, sampled Union producers and Eurostat

- (92) During the period considered, the Union consumption decreased by 17 %.

4.3. Imports from the countries concerned

4.3.1. Cumulative assessment of the effects of imports from the countries concerned

- (93) The Commission examined whether imports of SSCR originating in the countries concerned should be assessed cumulatively, in accordance with Article 3(4) of the basic Regulation.
- (94) That provision stipulates that the imports from more than one country shall be cumulatively assessed only if it is determined that:
- 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
 - 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.
- (95) The margins of dumping established in relation to the imports from each of the two countries concerned are summarised under recitals (57) and (86). They are all above the *de minimis* threshold laid down in Article 9(3) of the basic Regulation.
- (96) The volume of imports from each of the two countries concerned was not negligible. Imports market shares in the investigation period were 3,4 % for India and 2,8 % for Indonesia.
- (97) The conditions of competition between the dumped imports from each of the two countries concerned and between them and the Union like product were similar. Indeed, SSCR originating in India and Indonesia competed with each other when imported for sale on the Union market, and with the like product produced by the Union industry, as all of them are sold to similar categories of customers.
- (98) Therefore, all criteria set out in Article 3(4) of the basic Regulation were met and imports from the countries concerned were examined cumulatively for the purposes of injury determination.

4.3.2. Volume and market share of imports from the countries concerned

- (99) The Commission established the volume of imports on the basis of Eurostat data. The market share of imports was established by comparing the volume of imports with the Union consumption.
- (100) Imports from the countries concerned over the period concerned developed as follows:

Table 2

Import volumes (tonnes) and market share

	2017	2018	2019	IP
India	114 865	120 729	105 359	108 885
<i>Index</i>	100	105	92	95
Market share	3,0 %	3,2 %	3,1 %	3,4 %
<i>Index</i>	100	110	103	114
Indonesia	13 830	34 648	72 739	89 131
<i>Index</i>	100	251	526	644
Market share	0,4 %	0,9 %	2,1 %	2,8 %
<i>Index</i>	100	261	592	778
Total countries concerned	128 695	155 377	178 098	198 016

<i>Index</i>	100	121	138	154
Market share	3,3 %	4,2 %	5,2 %	6,2 %
<i>Index</i>	100	126	156	186

Source: Eurostat

- (101) Imports from the countries concerned increased by 54 % over the period considered, which allowed them to increase their joint market share from 3,3 % in 2017 to 6,2 % in the IP. This increase, both in volume of imports and in market share, can be attributed to the imports coming from Indonesia – it increased its import volumes almost 6 ½ times in the period considered and its market share increased from 0,4 % to 2,8 %. The imports from India increased from 2017 to 2018, but showed a drop afterwards. This resulted in an overall drop in absolute terms during the period considered. On 1 February 2019, the Commission published a Regulation imposing definitive safeguard measures against imports of certain steel products. ⁽⁶⁾ India received a country-specific tariff quota for the product under investigation, limiting imports subject to the in-quota duty to a lower level than the 2018 level. As Indonesia was not subject to a country-specific tariff quota, but to the quota for all other countries, its imports were not as restricted as the Indian ones. However, the drop in Indian imports was less severe as the overall drop in Union consumption and thus India's market share still increased slightly from 3 % in 2017 to 3,4 % in the IP.

4.3.3. Prices of the imports from the countries concerned and price undercutting

- (102) The Commission established the prices of imports on the basis of Eurostat data. The weighted average price of imports from the countries concerned during the period concerned developed as follows:

Table 3

Prices of the imports from the countries concerned (EUR/tonne)

	2017	2018	2019	IP
India	2 080	2 173	2 075	2 073
<i>Index</i>	100	104	100	100
Indonesia	1 818	1 923	1 917	1 962
<i>Index</i>	100	106	105	108
Average of the countries concerned	2 052	2 117	2 010	2 023
<i>Index</i>	100	103	98	99

Source: Eurostat

- (103) In case of India, the average import prices went up from 2017 to 2018 by 4 %, but remained stable in the overall period considered, while for Indonesia they increased by 8 %. Nevertheless, throughout the whole period considered, the average import prices from both countries concerned were consistently lower than Union producers' prices (see Table 7).
- (104) The Commission determined price undercutting during the investigation period by comparing:
- the weighted average sales prices per product type of the three sampled Union producers charged to unrelated customers on the Union market, adjusted to an ex-works level; and
 - the corresponding weighted average prices per product type of imports from the cooperating exporting producers in the countries concerned to the first independent customer on the Union market, established on a cost, insurance, freight (CIF) basis, with appropriate adjustments for post-importation costs.

⁽⁶⁾ OJ L 31, 1.2.2019, p. 27.

- (105) 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' turnover during the investigation period. It showed undercutting margins of 4,8 % and 13,4 % for the Indian exporting producers and 12,0 % and 12,4 % for the Indonesian exporting producers.

4.4. Economic situation of the Union industry

4.4.1. General remarks

- (106) 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.
- (107) As mentioned in recital (8), sampling was used for the determination of possible injury suffered by the Union industry.
- (108) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators on the basis of data from 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 of the sampled Union producers. Both sets of data were cross-checked remotely and found to be representative of the economic situation of the Union industry.
- (109) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity and magnitude of the dumping margin.
- (110) The microeconomic indicators are: average unit prices, unit cost, labour costs, stocks, profitability, cash flow, investments and return on investments.

4.4.2. Macroeconomic indicators

4.4.2.1. Production, production capacity and capacity utilisation

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

Table 4

Production, production capacity and capacity utilisation

	2017	2018	2019	IP
Total Union production (tonnes)	3 708 262	3 640 429	3 379 817	3 111 804
<i>Index</i>	100	98	91	84
Production capacity (tonnes)	4 405 623	4 517 379	4 530 146	4 572 365
<i>Index</i>	100	103	103	104
Capacity utilisation	84%	81%	75%	68%
<i>Index</i>	100	96	89	81

Source: Eurofer

- (112) The Union industry's production volume decreased sharply by 16 % in the period considered. The reported capacity figures refer to actual capacity, which implies that adjustments considered as standard by the industry – for set-up time, maintenance, bottle necks and other normal stoppages – have been taken into account. After the imposition of anti-dumping measures on imports of SSCR from the People's Republic of China (PRC) and Taiwan in 2015 ⁽⁷⁾, some Union producers initiated the modernisation of their production capacity. This modernisation has led to a slight production capacity increase of 4 % over the period considered.
- (113) As a result of decreased production and slightly increased capacity, capacity utilisation decreased by 19 % over the period considered and dropped below 70 % in the IP.

4.4.2.2. Sales volume and market share

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

Table 5

Sales volume and market share

	2017	2018	2019	IP
Union industry sales volumes (tonnes)	2 735 448	2 711 044	2 530 259	2 330 537
<i>Index</i>	100	99	92	85
Market share	70,6 %	72,9 %	73,5 %	72,7 %
<i>Index</i>	100	103	104	103

Source: Eurofer and Eurostat

- (115) The Union industry's sales volume decreased by 15 % over the period concerned.
- (116) The Union industry managed however to maintain and even slightly increase by 2,1 percentage points its market share over the period considered as the decline in consumption was even larger than the decline in the Union industry's sales volume, as Union sales partially replaced imports from other countries than the countries concerned.

4.4.2.3. Growth

- (117) The above figures in respect of production and sales volume in absolute terms, which show a clear decreasing trend over the period considered, demonstrate that the Union industry was not able to grow in absolute terms. A slight growth in relation to consumption was possible only because the Union industry chose to respond to the price pressure of the dumped imports by lowering its sales prices.

4.4.2.4. Employment and productivity

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

Table 6

Employment and productivity

	2017	2018	2019	IP
Number of employees	13 411	13 495	13 968	13 660
<i>Index</i>	100	101	104	102

⁽⁷⁾ Commission Implementing Regulation (EU) 2015/1429 of 26 August 2015 imposing a definitive anti-dumping duty on imports of stainless steel cold-rolled flat products originating in the People's Republic of China and Taiwan (OJ L 224, 27.08.2015, p. 10).

Productivity (tonnes per staff)	277	270	242	228
Index	100	98	88	82

Source: Eurofer

- (119) The level of Union industry employment related to the production of SSCR increased by 4 % between 2017 and 2019 and showed a decrease of 2 percentage points between 2019 and IP, resulting in an increase of 2 % over the period considered. In view of the sharp decrease in production, the productivity of the Union industry's workforce, measured as tonnes per employee (in full time equivalent) produced per year, decreased significantly by 18 % over the period considered.

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

- (120) All dumping margins were significantly above the *de minimis* level. The impact of the magnitude of the actual margins of dumping on the Union industry was not negligible, given the volume and prices of imports from the countries concerned.
- (121) Imports of SSCR have already been subject to an anti-dumping investigation. The Commission found that the situation of the Union industry during 2013 was significantly affected by dumped imports from the PRC and Taiwan, resulting in the imposition of definitive anti-dumping measures on imports from these countries in October 2015 ⁽⁸⁾. The Union industry's situation was therefore unlikely to be more than marginally affected by the mentioned dumping practices throughout the period considered. An expiry review of the anti-dumping measures of imports originating in the PRC and Taiwan is currently ongoing ⁽⁹⁾.

4.4.3. Microeconomic indicators

4.4.3.1. Prices and factors affecting prices

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

Table 7

Sales prices in the Union

	2017	2018	2019	IP
Average unit sales price (EUR/tonne)	2 252	2 312	2 206	2 175
Index	100	103	98	97
Unit cost of production (EUR/tonne)	1 958	2 064	2 019	2 013
Index	100	105	103	103

Source: Sampled Union producers

⁽⁸⁾ Commission Implementing Regulation (EU) 2015/1429 of 26 August 2015 imposing a definitive anti-dumping duty on imports of stainless steel cold-rolled flat products originating in the People's Republic of China and Taiwan (OJ L 224, 27.08.2015, p. 10).

⁽⁹⁾ Notice of Initiation of an expiry review of the anti-dumping measures applicable to imports of stainless steel cold-rolled flat products originating in the People's Republic of China and Taiwan (OJ C 280, 25.8.2020, p. 6).

- (123) After showing a slight increase of 3 % from 2017 to 2018, average unit sales prices decreased by 6 % from 2018 to the IP, resulting in a decrease of 3 % over the period considered. Over the same period, the costs of production showed a simultaneous increase of 5 %, after which they stabilised at a cost level which was 3 % higher than at the start of the period considered. To a large extent the cost evolution was driven by important raw material price increases, such as nickel and ferrochromium. Due to the price suppression from the dumped imports, the Union industry was not able to pass on this cost increase to its sales prices and was even forced to lower its sales prices.

4.4.3.2. Labour costs

- (124) 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 FTE (EUR)	72 366	70 663	71 659	70 324
Index	100	98	99	97

Source: Sampled Union producers

- (125) The average labour costs per employee of the sampled Union producers fell by 3 % in the period considered. This shows that Union producers were able to lower labour costs as a reaction to the the deteriorating market circumstances in an attempt to limit its injury.

4.4.3.3. Inventories

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

Table 9

Inventories

	2017	2018	2019	IP
Closing stocks (tonnes)	125 626	148 777	125 480	98 835
Index	100	118	100	79
Closing stocks as a percentage of production	5,54 %	6,53 %	6,09 %	5,13 %
Index	100	118	110	93

Source: Sampled Union producers

- (127) During the period considered the level of closing stocks decreased by 21 %. This trend followed the decrease in production volume. Most types of the like product are produced by the Union industry based on specific orders of the users. 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 fluctuated between 5 and 7 % of the production volume of the sampled Union producers over the period considered.

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

Table 10

Profitability, cash flow, investments, return on investments

	2017	2018	2019	IP
Profitability of sales in the Union to unrelated customers (% of sales turnover)	7,6 %	6,0 %	1,5 %	0,4 %
<i>Index</i>	100	79	19	6
Cash flow (EUR)	387 200 359	273 674 277	237 840 311	184 024 688
<i>Index</i>	100	71	61	48
Investments (EUR)	111 578 442	111 637 871	96 541 925	96 585 152
<i>Index</i>	100	100	87	87
Return on investments	20 %	15 %	6 %	4 %
<i>Index</i>	100	75	31	20

Source: Sampled Union producers

- (128) 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.
- (129) Overall profitability fell from 7,6 % in 2017 to 0,4 % in the IP. As set out in section 4.3.3, this drop coincided with the increase of import volumes from the countries concerned and their market share at undercutting prices.
- (130) All other financial indicators, i.e. cash flow, investments, and return on assets, clearly followed the same downward trend.
- (131) The net cash flow is the ability of the Union producers to self-finance their activities. The cash flow showed a continuous decrease over the period considered, resulting in the IP at a level 52 % lower than the start of the investigation period.
- (132) Investments are the net book value of assets. After staying stable from 2017 to 2018, a sharp drop of 13 percentage points can be seen from 2018 to 2019. 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 significantly by 80 % over the period considered.
- (133) The poor financial performance of the Union industry between 2017 and the investigation period limited its ability to raise capital. The Union industry is capital intensive and is characterised by substantial investments. The return on investment during the period considered is not sufficient to cover for such substantial investments.

4.5. Conclusion on injury

- (134) The investigation indicated that the Union industry could only respond to the price pressure of the dumped imports from India and Indonesia by lowering its sales prices to maintain (and even slightly increase) its market share in the period considered. The effect of the dumped imports caused price suppression within the meaning of Article 3(3) of the basic Regulation, on the Union market during the investigation period. Prices of the Union industry decreased by 3 % during the period considered, while, under conditions of fair competition, they would have been expected to increase at a ratio comparable to rise of the cost of production, which increased by 3 %. This situation severely impacted the Union industry's profitability, which fell by 94 % over the period considered to end in a very low and unsustainable level during the IP.

- (135) The Union consumption decreased significantly during the period considered and both sales volumes and production volumes on the Union industry followed this trend. Production capacity increased marginally, caused by a positive outlook for the Union industry following the imposition of anti-dumping measures against imports of the product under investigation originating in the PRC and Taiwan in 2015.
- (136) However, Union producers experienced a sharp decrease in productivity and capacity utilisation in the period considered. These deteriorating figures can only be explained to a small degree by the small increase in employment and capacity and was mainly caused by the decrease in Union consumption and the simultaneous increase in imports from the countries concerned.
- (137) However, it is the financial indicators of the Union producers which fully show the injury suffered. The Union industry experienced an increase in its costs of production in the period considered which, accompanied by a decrease in sales prices, resulted in a profitability drop from 7,6 % in 2017 to 0,4 % in the IP. A similar negative development can be seen in relation to the other financial indicators: investments (-13%), return on investments (-80%) and cash flow (-52%).
- (138) Accordingly, the injury indicators show that the Union industry was suffering material injury in the IP, as it decreased its sales prices in spite of rising production costs, resulting in a collapse of its profitability, which negatively affected investments, return on investments and cash flow.
- (139) On the basis of the above, the Commission concluded at this stage that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.

5. CAUSATION

- (140) 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 third countries, a decrease in consumption, the export performance of the Union industry, an increase in the cost of raw materials, and the competitive price behaviour of the Union industry.

5.1. Effects of the dumped imports

- (141) Imports from the countries concerned increased by more than 50 % in the period considered and their market share almost doubled. This increase in market share was at the detriment of imports from third countries. However, the low priced dumped imports from the countries concerned created a price pressure on the Union industry. Prices of imports from India and Indonesia have been, during the period considered, between 5 and 19 % below prices of the Union industry. Due to these imports prices, the Union producers were not only unable to reflect raw material cost increases in their prices, they were even forced to decrease their sales prices in order to maintain their market share.
- (142) As a result, the profitability of the Union producers, at a relatively high level in 2017, dropped down to almost zero in the IP, which had a further adverse effect on all the financial indicators of the companies in question.
- (143) There is thus a strong causal link between the dumped imports from India and Indonesia and the injury suffered by the Union industry.

5.2. Effects of other factors

5.2.1. Imports from third countries

- (144) The volume and prices of imports from other third countries developed over the period considered as follows:

Table 11

Country		2017	2018	2019	IP
Taiwan	Volume (tonnes)	199 553	223 110	185 618	165 540
	<i>Index</i>	100	112	93	83
	Market share	5,2 %	6,0 %	5,4 %	5,2 %
	<i>Index</i>	100	116	105	100
	Average price (EUR/tonne)	1 668	1 749	1 684	1 655
	<i>Index</i>	100	105	101	99
Republic of Korea	Volume (tonnes)	147 696	165 812	160 947	164 882
	<i>Index</i>	100	112	109	112
	Market share	3,8 %	4,5 %	4,7 %	5,1 %
	<i>Index</i>	100	117	123	135
	Average price (EUR/tonne)	1 859	1 944	1 860	1 853
	<i>Index</i>	100	105	100	100
South Africa	Volume (tonnes)	98 063	88 913	94 567	81 537
	<i>Index</i>	100	91	96	83
	Market share	2,5 %	2,4 %	2,7 %	2,5 %
	<i>Index</i>	100	94	108	100
	Average price (EUR/tonne)	2 004	2 013	1 831	1 785
	<i>Index</i>	100	100	91	89
Other third countries	Volume (tonnes)	563 637	372 858	293 052	266 255
	<i>Index</i>	100	66	52	47
	Market share	14,6 %	10,0 %	8,5 %	8,3 %
	<i>Index</i>	100	69	58	57
	Average price (EUR/tonne)	2 051	2 345	2 319	2 407
	<i>Index</i>	100	114	113	117
Total of all third countries except the countries concerned	Volume (tonnes)	1 008 949	850 693	734 184	678 213
	<i>Index</i>	100	84	73	67
	Market share	26,1 %	22,9 %	21,3 %	21,1 %
	<i>Index</i>	100	88	82	81
	Average price (EUR/tonne)	1 942	2 076	1 995	2 014
	<i>Index</i>	100	107	103	104

Source: Eurostat

(145) In the period considered, imports from third countries decreased significantly in terms of absolute volumes (by 33 %) and market share (from 26 % in 2017 to 21 % in the IP).

- (146) As far as individual countries are concerned, only imports from Korea increased in the period considered, resulting in a slight increase in its market share. However, this absolute increase in market share during the period considered was marginal (from 4,7 % to 5,1 %). Although prices of Korean imports are below those of the countries concerned, they are likely to be affected by the existence of transfer prices, as a result of the relationship between the Korean stainless steel manufacturer Samsung STS and the EU cold roller Otelinox in Romania. No conclusion can be drawn as to whether these imports also undercut the Union industry prices, also in view of the unknown product mix of these imports.
- (147) As set out in recital (121) above, the imports from Taiwan are currently subject to an anti-dumping duty of 6,8 % ⁽¹⁰⁾. An expiry review of the anti-dumping measures of imports originating in the PRC and Taiwan is currently ongoing ⁽¹¹⁾.
- (148) Imports from the PRC were very low throughout the period considered. Imports from Taiwan showed an increase of 12 % from 2017 to 2018, but decreased from 2018 to the IP with 26 %, keeping a market share of around 5 % during the period considered. The average price of imports from Taiwan were below the average prices of imports from the countries concerned. As the Commission did not receive any cooperation from the producers in Taiwan in the expiry review, it did not have any further details on Taiwanese import prices. Therefore, it cannot be excluded that these imports caused additional injury to the Union industry. However, even if imports from Taiwan contributed to injury caused to the Union industry, the imports from Taiwan decreased by 17 % over the the period considered and could therefore not have been the cause of the increasing negative trends found in the injury analysis.
- (149) The Commission therefore provisionally concluded that imports from other countries do not attenuate the causal link between dumped Indian and Indonesian imports and material injury suffered by Union producers.

5.2.2. *Decrease in consumption*

- (150) A significant decrease in consumption during the period considered has had an adverse effect on some of the injury indicators, especially on sales and production volumes. However, as explained in recital (134), the Union industry was suffering price injury rather than volume injury. Despite a shrinking market, the Union producers managed to slightly increase their market share through severe price competition with unfairly priced dumped imports which resulted in the deterioration of the profitability and financial indicators of the Union industry such as profitability, cash flow, investments, and return on investments.
- (151) Therefore, the Commission provisionally concluded that the decrease in consumption did not attenuate the causal link between the dumped imports from countries concerned and the material injury suffered by the Union industry.

5.2.3. *Export performance of the Union industry*

- (152) The volumes and prices of exports of the Union industry developed over the period considered as follows:

Table 12

	2017	2018	2019	IP
Export volume (tonnes)	450 587	450 687	410 840	374 378
<i>Index</i>	100	100	91	83

⁽¹⁰⁾ Commission Implementing Regulation (EU) 2015/1429 of 26 Augustus 2015 imposing a definitive anti-dumping duty on imports of stainless steel cold-rolled flat products originating in the People's Republic of China and Taiwan (OJ L 224, 27.8.2015, p. 10). One company, Cia Far Industrial Factory Co., Ltd, got a 0 % anti-dumping duty imposed.

⁽¹¹⁾ Notice of Initiation of an expiry review of the anti-dumping measures applicable to imports of stainless steel cold-rolled flat products originating in the People's Republic of China and Taiwan (OJ C 280, 25.8.2020, p. 6).

Average price (EUR/tonne)	2 369	2 524	2 428	2 394
<i>Index</i>	100	107	102	101

Source: Sampled Union producers, Eurofer

- (153) Export sales of the Union producers decreased by 17 % in the period considered, mainly caused by measures imposed by the United States on the product under investigation and increased competition on third markets with Chinese sales and sales from the countries concerned. However, the volumes exported were limited as compared to the total Union sales volumes, representing around 13 % of its total sales volume, and average price of export sales was in the period considered constantly higher than prices on the Union market.
- (154) On that basis, the Commission provisionally concluded that the impact of the export performance of the Union industry on the injury suffered was, if any, marginal.

5.2.4. Impact of raw material prices

- (155) Unrelated importers pointed at the issue of increasing costs of raw materials (nickel, ferrochrome) as a reason of the injurious situation of the Union industry.
- (156) An increase in raw material prices is not per se a source of injury because it is generally accompanied by a subsequent price increase in selling prices. However, the decrease in the Union producers' profitability and all their financial indicators is more than just a reflection of the increasing costs of production. Low-priced imports suppressed prices in the Union market and not only did not allow Union producers to increase prices to cover the increase in costs, but forced them to even lower their prices, to avoid an imminent loss of market share. This resulted in a steep decrease in their profitability figures, declining to break even during the investigation period.
- (157) On that basis, it is provisionally concluded that the increase in prices of certain raw materials as such did not cause injury to the Union industry.

5.2.5. Price behaviour of the Union producers

- (158) One of the unrelated importers claimed that internal competition and price behaviour of the Union producers caused their deteriorating financial situation.
- (159) However, the investigation did not confirm this claim. The imports from the countries concerned were consistently sold at prices undercutting the Union industry and thus the main reason why the Union producers are not able to raise their prices and cover their increasing costs is the price pressure from dumped imports. Therefore, this claim was rejected.

5.3. Conclusion on causation

- (160) A causal link was established between the dumped imports from India and Indonesia on the one hand and the injury suffered by the Union industry on the other hand. There was a coincidence in time between the increase in the volume of the dumped imports from the countries concerned and the worsening of the Union's performance during the period considered. The Union industry had no other choice but to follow the price level set by the dumped imports in order to avoid losing market share. This resulted in a situation where the Union industry made an unsustainable level of profit.
- (161) The Commission has found that other factors that may have had an impact on the situation of the Union industry were: imports from third countries, the decrease in consumption, the export performance of the Union industry, the impact of raw material prices, and the price behaviour of the Union producers.

- (162) 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. The effect of imports from third countries, the decrease in consumption, the export performance of the Union industry, the impact of raw material prices, and the price behaviour of the Union producers on the Union industry's negative developments in terms of especially profitability and financial indicators was only limited.
- (163) In light of the above considerations, the Commission provisionally established a causal link between the injury suffered by the Union industry and the dumped imports from the countries concerned. The dumped imports from the countries concerned have had a major determining impact on the material injury suffered by the Union industry. Other factors, individually or collectively, did not attenuate the causal link.

6. LEVEL OF MEASURES

- (164) 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. Underselling margin

- (165) The Commission first established the amount of duty necessary to eliminate the injury suffered by the Union industry in the absence of distortions under Article 7(2a) of the basic Regulation. In this case, the injury would be eliminated if the Union industry was able to cover its costs of production, including those costs resulting from multilateral environmental agreements, and protocols thereunder, to which the Union is a party, and of International Labour Organisation ('ILO') Conventions listed in Annex Ia, and was able to obtain a reasonable profit ('target profit').
- (166) 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 concerned, 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 %.
- (167) The complainant considered that a reasonable target profit should be 8,7 %, as used in a previous investigation into the imports of the same product from the People's Republic of China and Taiwan ⁽¹²⁾.
- (168) In accordance with Article 7(2c) of the basic Regulation, the Commission assessed a claim made by 3 sampled Union producers on planned investments which were not implemented during the period considered. Based on the documentary evidence received, which could be reconciled with the companies' accounting systems, the Commission provisionally accepted these claims and added the corresponding amounts to the profit of those Union producers. The final target profit margins consequently ranged between 8,82 % and 9,12 %.
- (169) 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, that the Union industry will incur during the period of the application of the measure pursuant to Article 11(2). Based on the submitted information, which was supported by the companies' reporting tools and forecasts, the Commission established a cost in a range between 14,53 EUR /tonne and 28,90 EUR/tonne, in addition to the actual cost of compliance with such conventions during the investigation period. This difference was added to the non-injurious price.
- (170) On this basis, the Commission calculated a non-injurious price of the like product for the Union industry by applying the above-mentioned target profit margin 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.

⁽¹²⁾ Commission Implementing Regulation (EU) 2015/1429 of 26 Augustus 2015 imposing a definitive anti-dumping duty on imports of stainless steel cold-rolled flat products originating in the People's Republic of China and Taiwan (OJ L 224, 27.8.2015, p. 10).

- (171) The Commission then determined the injury elimination level on the basis of a comparison of the weighted average export price of the sampled exporting producers in the countries concerned on a type-by-type basis, 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 free Union market during the investigation period. Any difference resulting from this comparison was expressed as a percentage of the weighted average import CIF value.
- (172) In view of the high level of cooperation in India and Indonesia (100 % and above 90 % respectively), the residual underselling margin for countries concerned was established at the level of the highest individual underselling margin of the Indian or Indonesian exporting producer, i.e. 34,6 % and 32,3 % respectively.
- (173) The result of these calculations is shown in the table below.

Country	Company	Dumping margin	Underselling margin
India	Jindal Stainless Limited and Jindal Stainless Hisar Limited	13,6 %	23,2 %
	Chromeni Steels Private Limited	36,9 %	34,6 %
	All other companies	36,9 %	34,6 %
Indonesia	IRNC	19,9 %	32,3 %
	Jindal Stainless Indonesia	20,2 %	31,8 %
	All other companies	20,2 %	32,3 %

6.2. Examination of the margin adequate to remove the injury to the Union industry

- (174) As explained in the Notice of Initiation, the complainant provided the Commission sufficient evidence that there are raw material distortions in India and Indonesia regarding the product under investigation. Therefore, in accordance with Article 7(2a) of the basic Regulation, this investigation examined the alleged distortions to assess whether, if relevant, a duty lower than the margin of dumping would be sufficient to remove injury.
- (175) The existence of raw material distortions in both India and Indonesia was confirmed by the information provided in the questionnaire reply by and during the RCC with the GOI and GOIS respectively.
- (176) Since the underselling margin calculated for the Indian exporting producer Chromeni was lower than the dumping margin, the Commission considered whether there were distortions on raw materials with regard to the product concerned pursuant to Article 7(2a) of the basic Regulation. The investigation established that Chromeni did not use the raw material subject to the distortion. Therefore, a further analysis as to the application of Article 7(2a) and 7(2b) of the basic regulation was not required. The duty level for Chromeni will thus be established on the basis of Article 7(2) of the basic Regulation.
- (177) With regard also to India, for the Jindal Group, the margin adequate to remove injury is higher than the dumping margin and the examination according to Article 7(2a) is therefore not further addressed.
- (178) With regard to Indonesia, as the margins adequate to remove injury are higher than the dumping margins, the Commission considered that, at this stage, it was not necessary to address this aspect.

6.3. Conclusion

- (179) Following the above assessment the Commission concluded that it is appropriate to determine the amount of provisional duties in accordance with Article 7(2) of the basic Regulation. As a consequence, provisional anti-dumping duties should be set as below:

Country	Company	Provisional anti-dumping duty
India	Jindal Stainless Limited and Jindal Stainless Hisar Limited	13,6 %
	Chromeni Steels Private Limited	34,6 %
	All other companies	34,6 %
Indonesia	IRNC	19,9 %
	Jindal Stainless Indonesia	20,2 %
	All other companies	20,2 %

7. UNION INTEREST

(180) In accordance with Article 21 of the basic Regulation, 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. 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

(181) The Union industry consists of 13 producers located in several Member States and it employs directly 13 660 employees in relation to the product under investigation. None of the Union producers opposed the initiation of the investigation. As shown in section 4 above when analysing the injury indicators, the whole Union industry experienced a deterioration of its situation and was negatively affected by the dumped imports.

(182) It is expected that the imposition of provisional anti-dumping duties will restore fair trading conditions on the Union market, end the price suppression and enable the Union industry to cover their increasing costs of production and improve their financial situation despite lost sales due to a shrinking market. This would result in an improvement of the Union industry's profitability towards levels considered necessary for this capital intensive industry. The Union industry has suffered material injury caused by imports at dumped prices from the countries concerned. It is recalled that a number of key injury indicators showed a negative trend during the period considered. In particular, indicators pertaining to the financial performance of Union producers were seriously affected. It is therefore important to restore prices to a non-dumped or at least a non-injurious level in order to allow all producers to operate on the Union market under fair trading conditions.

(183) It is therefore provisionally concluded that the imposition of anti-dumping duties would be in the interest of the Union industry as it would allow it to recover from the effects of injurious dumping found.

7.2. Interest of unrelated importers and users

(184) Three parties made themselves known as unrelated importers. However, only two of them replied to the relevant questionnaire and further cooperated in the procedure.

(185) Subsequently, the complainant claimed that one of the two parties mentioned above should not have been considered as unrelated importer as it works as an agent for some of the exporting producers of the product under investigation.

(186) In this regard, the Commission established that the company in question indeed worked partially in the capacity of an agent for the Jindal Group. However, it was also involved in regular import purchases of the product under investigation which it later re-sold to the customers in the Union. Therefore, Eurofer's claim was provisionally rejected.

- (187) Both cooperating importers pointed out potential negative impacts of having anti-dumping measures in place, such as a lack of supply, worse service, increasing prices, and a worse quality of material which in their opinion would result from limited competition on the Union market.
- (188) Additionally, one of the importers claimed that Jindal products have a superior quality which cannot be replaced or matched by Union producers.
- (189) Notwithstanding potential anti-dumping measures the Commission provisionally concluded that there will remain a healthy level of competition in the Union given that there are 13 Union producers of the product under investigation, some of them not taking part in the complaint. Furthermore, imports from third countries still account for more than 20 % of the market. Therefore, the potential negative impacts indicated by the importers are not likely to occur.
- (190) Anti-dumping measures are not aimed at closing the Union market for the countries concerned, but are aimed at raising the prices to a fair level. Therefore, it is expected that access to allegedly superior-quality products remains in place.
- (191) Measures would also allow importers to pass-on prices to their customers and therefore the profitability of importers is not expected to be adversely affected. The product range and service quality is not expected to be reduced – to the contrary, protection against dumped imports allows the Union industry to have new investments and improve its quality.
- (192) The importers also claimed that anti-dumping measures would overprotect Union producers as the product under investigation is already subject to safeguard measures.
- (193) However, the safeguard measures on steel ⁽¹³⁾ are temporary and provide a different type of protection than anti-dumping measures, the latter being aimed at unfair pricing. The Commission's provisional findings confirmed that the main cause of injury to the Union industry is not a massive increase of imports volumes but their undercutting prices, resulting in price suppression on the Union market.
- (194) The only user which came forward in the procedure did not comment on the Union interest. The company had only claims concerning the product scope of the measures as described in section 2 above.
- (195) At the provisional stage, the Commission therefore concluded that the effects of a potential imposition of duties on importers and users do not outweigh the positive effects of measures on the Union industry.

7.3. Conclusion on Union interest

- (196) On the basis of the above, the Commission provisionally concluded that there were no compelling reasons to conclude that it was not in the Union interest to impose measures on imports of the product under investigation originating in the countries concerned at this stage of the investigation.

8. PROVISIONAL ANTI-DUMPING MEASURES

- (197) On the basis of the conclusions reached by the Commission on dumping, injury, causation and Union interest, provisional measures should be imposed on imports of flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced) originating in India and Indonesia, to prevent further injury being caused to the Union industry by the dumped imports.
- (198) Provisional anti-dumping measures should be imposed on imports of stainless steel cold-rolled flat products originating in India and Indonesia, in accordance with the lesser duty rule in Article 7(2) of the basic Regulation. The Commission compared the injury margins and the dumping margins (recital (173) above). The amount of the duties was set at the level of the lower of the dumping and the injury margins.

⁽¹³⁾ 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).

- (199) On the basis of the above, the provisional anti-dumping duty rates, expressed on the CIF Union border price, customs duty unpaid, should be as follows:

Country	Company	Provisional anti-dumping duty
India	Jindal Stainless Limited and Jindal Stainless Hisar Limited	13,6 %
	Chromeni Steels Private Limited	34,6 %
	All other companies	34,6 %
Indonesia	IRNC	19,9 %
	Jindal Stainless Indonesia	20,2 %
	All other companies	20,2 %

- (200) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the provisional findings of this investigation. Therefore, they reflected 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 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.
- (201) 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 ⁽¹⁴⁾. The request must contain all the relevant information 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*.
- (202) 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.
- (203) To minimise the risks of circumvention due to the high difference in duty rates, special measures are needed to ensure the proper 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'.
- (204) 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 should 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 rate of duty is justified, in compliance with customs law.
- (205) Should the exports by one of the companies benefiting from lower individual duty rates increase significantly in volume, in particular 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, an anti-circumvention investigation may be initiated, provided the conditions for so doing are met. 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.

⁽¹⁴⁾ European Commission, Directorate-General for Trade, Directorate H, Rue de la Loi 170, 1040 Brussels, Belgium

9. REGISTRATION

- (206) As mentioned in recital (3), the Commission made imports of stainless steel cold-rolled flat products originating in India and Indonesia subject to registration. Registration took place with a view to possibly collecting duties retroactively under Article 10(4) of the basic Regulation.
- (207) In view of the findings at provisional stage, the registration of imports should be discontinued.
- (208) No decision on a possible retroactive application of anti-dumping measures has been taken at this stage of the proceeding. Such a decision will be taken at definitive stage.

10. INFORMATION AT PROVISIONAL STAGE

- (209) In accordance with Article 19a of the basic Regulation, the Commission informed interested parties about the planned imposition of provisional duties. This information was also made available to the general public via DG TRADE's website. Interested parties were given three working days to provide comments on the accuracy of the calculations specifically disclosed to them.
- (210) The Government of India, one exporting producer in India and two exporting producers in Indonesia submitted comments. The Commission took into account comments that were considered of a clerical nature and, if necessary, corrected the margins accordingly.

11. FINAL PROVISIONS

- (211) In the interests of sound administration, the Commission will invite the interested parties to submit written comments and/or to request a hearing with the Commission and/or the Hearing Officer in trade proceedings within a fixed deadline.
- (212) The findings concerning the imposition of provisional duties are provisional and may be amended at the definitive stage of the investigation,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is imposed on imports of flat-rolled products of stainless steel, not further worked than cold-rolled, currently falling under CN codes 7219 31 00, 7219 32 10, 7219 32 90, 7219 33 10, 7219 33 90, 7219 34 10, 7219 34 90, 7219 35 10, 7219 35 90, 7219 90 20, 7219 90 80, 7220 20 21, 7220 20 29, 7220 20 41, 7220 20 49, 7220 20 81, 7220 20 89, 7220 90 20 and 7220 90 80 and originating in India or Indonesia.
2. The rates of the provisional anti-dumping duty applicable to the net, free-at-Union-frontier price, before duty, of the product described in paragraph 1 and produced by the companies listed below, shall be as follows:

Country	Company	Provisional anti-dumping duty	TARIC additional code
India	Jindal Stainless Limited	13,6 %	C654
	Jindal Stainless Hisar Limited	13,6 %	C655
	Chromeni Steels Private Limited	34,6 %	C656
	All other Indian companies	34,6 %	C999
Indonesia	IRNC	19,9 %	C657
	Jindal Stainless Indonesia	20,2 %	C658
	All other Indonesian companies	20,2 %	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 (the 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. The release for free circulation in the Union of the product referred to in paragraph 1 shall be subject to the provision of a security deposit equivalent to the amount of the provisional duty.
5. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

1. Interested parties shall submit their written comments on this regulation to the Commission within 15 calendar days of the date of entry into force of this Regulation.
2. Interested parties wishing to request a hearing with the Commission shall do so within 5 calendar days of the date of entry into force of this Regulation.
3. Interested parties wishing to request a hearing with the Hearing Officer in trade proceedings are invited to do so within 5 calendar days of the date of entry into force of this Regulation. The Hearing Officer shall examine requests submitted outside this time limit and may decide whether to accept to such requests if appropriate.

Article 3

1. Customs authorities are hereby directed to discontinue the registration of imports established in accordance with Article 1(1) of Commission Implementing Regulation (EU) 2021/370 of 1 March 2021.
2. Data collected regarding products which entered the EU for consumption not more than 90 days prior to the date of the entry into force of this regulation shall be kept until the entry into force of possible definitive measures, or the termination of this proceeding.

Article 4

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

Article 1 shall apply for a period of six months.

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

Done at Brussels, 27 May 2021.

For the Commission
The President
Ursula VON DER LEYEN
