

COMMISSION IMPLEMENTING REGULATION (EU) 2015/110**of 26 January 2015****imposing a definitive anti-dumping duty on imports of certain welded tubes and pipes of iron or non-alloy steel originating in Belarus, the People's Republic of China and Russia and terminating the proceeding for imports of certain welded tubes and pipes of iron or non-alloy steel originating in Ukraine following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community ⁽¹⁾ ('the basic Regulation'), and in particular Article 9(4) and Article 11(2) and (5) thereof,

Whereas:

A. PROCEDURE**1. Measures in force**

- (1) The Council, following an anti-dumping investigation ('the previous investigation'), by Regulation (EC) No 1256/2008 ⁽²⁾, imposed a definitive anti-dumping duty on imports of certain welded tubes and pipes of iron or non-alloy steel currently falling within CN codes ex 7306 30 41, ex 7306 30 49, ex 7306 30 72 and ex 7306 30 77 originating in Belarus, the People's Republic of China ('PRC'), Russia, Thailand and Ukraine ('the definitive anti-dumping measures'). The measures took the form of an *ad valorem* duty ranging between 10,1 % and 90,6 %.

2. Request for an expiry review

- (2) Following the publication of a notice of impending expiry ⁽³⁾ of the definitive anti-dumping measures in force, the Commission received on 18 September 2013 a request for the initiation of an expiry review of these measures pursuant to Article 11(2) of the basic Regulation. The request was lodged by the Defence Committee of the welded steel tubes industry of the European Union ('the applicant') on behalf of producers representing a major proportion of the total Union production of welded tubes and pipes, in this case more than 25 %.
- (3) The request was based on the grounds that the expiry of the measures would be likely to result in a continuation or recurrence of dumping and injury to the Union industry.

3. Initiation of an expiry review

- (4) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review, the Commission announced on 19 December 2013, by a notice published in the *Official Journal of the European Union* ⁽⁴⁾ ('the Notice of Initiation'), the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

4. Investigation**4.1. Review investigation period and period considered**

- (5) The investigation of the likelihood of continuation or recurrence of dumping and injury covered the period from 1 October 2012 to 30 September 2013 ('the review investigation period' or 'RIP'). The examination of the trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2010 to the end of the review investigation period ('the period considered').

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

⁽²⁾ OJ L 343, 19.12.2008, p. 1.

⁽³⁾ OJ C 136, 15.5.2013, p. 25.

⁽⁴⁾ OJ C 372, 19.12.2013, p. 21.

4.2. Parties concerned by the proceeding

- (6) The Commission officially advised the applicant, other known Union producers, exporting producers in Belarus, the PRC, Russia and Ukraine ('the countries concerned'), unrelated importers and users known to be concerned, as well as representatives of the countries concerned of the initiation of the expiry review. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the Notice of Initiation.
- (7) All interested parties who so requested and showed that there were particular reasons why they should be heard were granted a hearing.

4.2.1. Sampling in respect of exporting producers

- (8) In view of the apparent large number of exporting producers in the PRC, Russia and Ukraine, sampling was envisaged in the Notice of Initiation, in accordance with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, the above parties were requested to make themselves known to the Commission within 15 days of the initiation of the review and to provide the Commission with the information requested in the Notice of Initiation.
- (9) In the end, the Commission did not receive sampling replies from exporting producers in the PRC. One sampling reply was received from one exporting producer in Ukraine. Three sampling replies were received from exporting producers in Russia. Hence, the Commission considered that sampling of exporting producers was not necessary.

4.2.2. Sampling in respect of importers and Union producers

- (10) In view of the apparent large number of unrelated importers in the Union, sampling was envisaged in the Notice of Initiation, in accordance with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, the above parties were requested to make themselves known to the Commission within 15 days of the initiation of the review and to provide the Commission with the information requested in the Notice of Initiation. Given that no reply has been received from any unrelated importer, sampling was not applied to unrelated importers.
- (11) In view of the large number of Union producers involved in this proceeding, the Notice of Initiation announced that the Commission had provisionally selected a sample of Union producers for the determination of injury in accordance with Article 17 of the basic Regulation. That pre-selection had been made by using the information available to the Commission at initiation stage and it was based on the producers' sales volume, production volume and geographical location in the Union. The sample corresponded to the largest representative volume of production and sales which could be reasonably investigated within the time available, representing 52 % of the total production and sales to unrelated customers in the EU of the Union industry. In addition, the sample was representative in terms of geographical location of the companies as it covered four different Member States. EU producers were consulted about the proposed sample on the date of publication of the Notice of Initiation. Given that no additional producers came forward and no comments were received on the sample, the proposed sample was confirmed.
- (12) The Commission sought and verified all the information deemed necessary for a determination of the likelihood of continuation or recurrence of dumping, likelihood of continuation or recurrence of injury and of the Union interest. To this end, the Commission sent questionnaires to the exporting producers and Union producers selected in the sample. Verification visits were carried out at the premises of the following companies:

(a) producers in the Union:

- Arcelor Mittal Karvina, Czech Republic,
- Arcelor Mittal Krakow, Poland,
- Arvedi Tubi Acciaio s.p.A, Cremona, Italy,
- Tata Steel UK Limited, Corby, UK;

- (b) exporting producer in Belarus:
 - Mogilev Metallurgical Works, Mogilev, Belarus;
- (c) trader related to the exporting producer in Ukraine:
 - Interpipe Europe SA, Lugano, Switzerland;
- (d) producer in Russia:
 - Pervouralsk New Pipe Plant, Pervouralsk, Russia;
- (e) producer in the analogue country:
 - Robor Ltd Johannesburg, South Africa.

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

- (13) The product concerned is welded tubes and pipes, of iron or non-alloy steel, of circular cross-section and of an external diameter not exceeding 168,3 mm, excluding line pipe of a kind used for oil or gas pipelines, casing and tubing of a kind used in drilling for oil and gas, precision tubes and tubes and pipes with attached fittings suitable for conducting gases or liquids for use in civil aircraft, currently falling within CN codes ex 7306 30 41, ex 7306 30 49, ex 7306 30 72 and ex 7306 30 77, originating in Belarus, the PRC, Russia and Ukraine.
- (14) The investigation has shown that the different types of the product concerned all share the same basic physical, chemical and technical characteristics and are basically used for the same purposes.

2. Like product

- (15) The welded tubes and pipes produced and sold in the Union by the Union industry and the welded tubes and pipes produced and sold in the countries concerned and the analogue country were found to have essentially the same physical, chemical and technical characteristics and the same basic uses as the welded tubes and pipes produced in the countries concerned and sold for export to the Union. They are therefore considered to be alike within the meaning of Article 1(4) of the basic Regulation.

C. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING

- (16) In accordance with Article 11(2) of the basic Regulation, the Commission examined whether the expiry of the existing measures would be likely to lead to a continuation or recurrence of dumping from the four countries concerned.
- (17) All the four countries under investigation exported negligible quantities of the product concerned during the review investigation period. Therefore, there is no likelihood of continuation of dumping for any of the four countries under investigation. The assessment was limited to the likelihood of recurrence of dumping using export prices to other third countries. As in the previous investigation, exports to Belarus were disregarded for this purpose.

NON-MARKET ECONOMY COUNTRIES

1. Analogue Country

- (18) Pursuant to the provisions of Article 2(7)(a) of the basic Regulation, Belarus and the PRC are not considered market economy countries. In the previous investigation, the USA was used as an analogue country for the purposes of establishing the normal value. In the Notice of Initiation the USA was envisaged to be used as an analogue country in this expiry review, as suggested by the applicant.

- (19) The Commission received comments from Mogilev as well as from the Belarusian authorities. No comments were received from interested parties in the PRC.
- (20) The Belarusian parties argued USA was not an appropriate choice due to alleged links between the sole cooperating US producer and the Union industry.
- (21) The Belarusian parties suggested to use Russia as analogue country as the Russian steel industry is allegedly similar to that of Belarus due to their common ties to the former Soviet Union.
- (22) However, the investigation established that the value of natural gas was not reflected properly in the cost of production of the sole cooperating producer in Russia (see recital 69 below). Moreover, the cooperation from this producer in Russia was not sufficient (see recital 61 below). Therefore, the choice of Russia was not considered appropriate.
- (23) The Commission also identified other third countries exporting the product concerned to the Union. The Commission contacted producers in 14 known steel producing countries. These included countries such as Bosnia and Herzegovina, Brazil, the former Yugoslav Republic of Macedonia, Serbia, South Africa, South Korea and Taiwan.
- (24) In the end, the Commission did not receive any cooperation from US producers. However, it did receive full questionnaire replies from producers in the former Yugoslav Republic of Macedonia and in South Africa. Due to the significant size of its producer's domestic sales, the Commission considered South Africa to be the most appropriate choice.

BELARUS

1. **Preliminary remark**

- (25) The largest known producer in Belarus, OJSC Mogilev Metallurgical Works ('Mogilev') cooperated in the investigation. However, Mogilev did not export the product concerned to the Union during the review investigation period. Therefore, information of likely export prices to the Union was based on export prices to other third countries, as indicated in recital 27 below.

2. **Likely dumping during the review investigation period**

2.1. *Determination of the normal value*

- (26) The normal value for Belarus was established per product type for the like product on the basis of domestic sales prices to unrelated customers in the ordinary course of trade in South Africa (the analogue country). When there were no sales of a product type of the like product in the ordinary course of trade, or where a product type was not sold in representative quantities on the domestic market of South Africa, the Commission constructed the normal value by adding to the cost of production of the like product selling, general and administrative expenses and profit.

2.2. *Determination of the likely export price*

- (27) During the review investigation period, Mogilev did not export the product concerned to the Union. Thus, the likely export price was established on the basis of sales prices to other third countries.

2.3. *Comparison*

- (28) The comparison between the normal value and the likely export price was made on an ex-works basis. In order to ensure a fair comparison account was taken of differences which affect price comparability in accordance with Article 2(10) of the basic Regulation.

- (29) Allowances for differences in transport costs, rebates, discounts and level of trade were made where applicable.

2.4. *Likely dumping during the review investigation period*

- (30) On the basis of the above, the likely dumping margin within the meaning of Article 11(2) of the basic Regulation was established at 28,4 %.

3. **Development of exports should measures be repealed**

3.1. *Production capacity of the exporting producers*

- (31) The production lines of Mogilev were utilized both for the production of welded tubes and pipes and for the production of hollow sections (only a minor production step separates the production of the two products). Mogilev produced significant volumes of hollow sections and exported them to, inter alia, the Union, as there are no anti-dumping duties in force on these goods. In addition, Mogilev produced welded pipes with a diameter exceeding 168,3 mm ('large pipes'), which are not subject to anti-dumping duties in the Union.
- (32) On the basis of the current product mix, the spare capacity of Mogilev is calculated to be around 20 000 tonnes, or around 5 % of Union consumption.
- (33) Thus, should measures be repealed, there is a risk that Mogilev will sell significant quantities of welded pipes to the Union market at dumped prices.
- (34) Following disclosure, Mogilev claimed that its actual spare capacity is significantly lower due to a bottleneck in hydraulic testing. However, hydraulic testing is only a minor step in the overall production process of the product concerned, and such a bottleneck is therefore relatively easy to eliminate. The argument to establish the spare capacity of the plant on the basis of the bottleneck in hydraulic testing equipment can therefore not be accepted.

3.2. *Shifting production from other products produced on the same facilities*

- (35) As indicated in recital 31 above, it is currently more lucrative for Mogilev to produce hollow sections, as these are not subject to anti-dumping duties, while welded pipes are subject to anti-dumping duties in the Union. Indeed, during the review investigation period the production was heavily focused on products not subject to anti-dumping duties in the Union, which accounted for the large majority of products produced. In the absence of measures on welded pipes, it can be expected that Mogilev will produce a more balanced product mix, shifting capacities from products currently not subject to measures to welded pipes.
- (36) Thus, there is a substantial risk that Mogilev will at least partially shift production from products currently not subject to anti-dumping duties to welded pipes for the Union market at dumped prices should measures be repealed.
- (37) Following disclosure, Mogilev argued that it would not immediately shift its product mix from hollow sections to welded tubes and pipes, since for a number of years it has been selling hollow sections in much higher proportions than welded tubes and pipes and there would not be reasons to change such practice.
- (38) In this respect, it should be pointed out that the EU is Mogilev's biggest market for hollow sections and that Mogilev currently does not sell any welded tubes and pipes in the Union market. Mogilev did not provide any evidence that should measures be repealed, the proportion of sales to the EU between the different products would not change. Therefore, the conclusion that should the measures be repealed, Mogilev will likely produce a more balanced product mix and at least partially shift production from hollow sections to welded tubes and pipes for the Union market is maintained.

3.3. *Attractiveness of the Union market*

- (39) As mentioned in recital 27 above, there were no Belarusian exports of the product concerned to the Union during the review investigation period. Thus, the likelihood of risk for trade diversion to the Union market should measures be repealed would have to be based on the following:
- prevailing selling prices to other export markets,
 - prevailing prices on the Union market, both of the Union industry and of other sources of imports, and
 - sales behaviour by Mogilev for products not subject to anti-dumping duties.
- (40) When comparing the average sales price of Mogilev to other countries with those on the Union market, a significant level of undercutting can be found. Compared to the Union industry's average sales price, the level of undercutting ranges between 30 % and 50 %. Prices of Mogilev are also lower than other sources of imports to the Union market such as India and Turkey.
- (41) The likely attractiveness of the Union market is also reinforced by the fact that Mogilev already has existing sales channels currently used for sales of other products, which could also be used to sell the product concerned should measures be repealed.
- (42) In light of the above, the Commission concludes that, should measures be repealed, there is a significant risk of redirection of exports to the Union market at dumped prices as the Union market is much more attractive in terms of prices.
- (43) Following disclosure, Mogilev claimed that the significant increase of its sales of welded tubes and pipes on the domestic market and on the Russian market throughout the period considered had not been properly considered. In this respect, it should be noted that the increase in sales volumes on these markets has been confirmed during the investigation. In its comments after disclosure, Mogilev further confirmed that welded tubes and pipes are sold at prices which are lower than prevailing market prices on the EU market. Therefore, the fact that the sales volumes of these products in both the domestic market and the Russian market have been increasing over time does not reduce or eliminate the risk of redirection to the Union market, due to the EU more attractive prices. Mogilev's claim is therefore rejected.

4. **Conclusion on the likelihood of recurrence of dumping**

- (44) The available spare capacity in Belarus, the risk of switching production from other products to the product concerned and the attractive price level on the Union market lead to the conclusion that there is a risk of an increase in Belarusian dumped exports of the product concerned should the measures in force be allowed to lapse.

PRC

1. **Preliminary remarks**

- (45) As stated in recital 9 above, the Commission received no reply from the PRC. Thus, in the absence of cooperation from exporting producers in the PRC, the overall analysis, including the dumping calculation, is based on facts available pursuant to Article 18 of the basic Regulation. The Chinese authorities were informed of the Commission's intention to apply Article 18 of the basic Regulation and to base its findings on facts available.
- (46) Therefore, the likelihood of a continuation or recurrence of dumping was assessed by using the expiry review request, combined with other sources of information such as trade statistics on imports and exports (Eurostat and Chinese export data) and Metal Bulletin.
- (47) The absence of cooperation affected the comparison of the normal value with the export price of the various product types. It was considered appropriate to establish both the normal value and the export price on a global basis, namely based on average values, in accordance with Article 18 of the basic Regulation.

2. Likely dumping during the review investigation period

2.1. Determination of the normal value

- (48) The normal value for the PRC was established on the basis of the average domestic sales price to unrelated customers in the ordinary course of trade in South Africa (the analogue country).

2.2. Determination of the likely export price

- (49) In the absence of cooperation of any Chinese exporting producers, the export prices had to be based on facts available, in accordance with Article 18 of the basic Regulation.
- (50) The Commission first analysed the statistics from Eurostat. However, the imported quantities of the product imported from the PRC were very limited and, thus, their prices were considered unrepresentative. For this reason, the likely export price was established on the basis of Chinese trade statistics on exports to third countries.

2.3. Comparison

- (51) The comparison between the normal value and the likely export price was made on an ex-works basis. In order to ensure a fair comparison account was taken of differences which affect price comparability in accordance with Article 2(10) of the basic Regulation.
- (52) Allowances for differences in transport costs, insurance costs, non-refundable VAT, export costs, rebates and discount were made where applicable.

2.4. Likely dumping during the review investigation period

- (53) On the basis of the above, the likely dumping margin within the meaning of Article 11(2) of the basic Regulation was 39,3 %.

3. Development of exports should measures be repealed

3.1. Production capacity of the exporting producers

- (54) In the absence of cooperation from any Chinese exporting producer, the following sources have been used:

- information provided by the applicant,
- available publications (for example Metal Bulletin),
- information collected in the previous investigation.

- (55) The Chinese welded pipes industry is known as being by far the biggest in the world. Metal Bulletin has reported an annual output for welded pipes of around 35 million tonnes in 2012. The applicant estimated that the production capacity of welded pipes in the PRC exceeds by far 45 million tonnes per year. The total spare capacity would then exceed 10 million tonnes, which represents 25 times the total EU apparent consumption of welded pipes.

- (56) Thus, should measures be repealed, there is a substantial risk that Chinese exporting producers will sell significant quantities of welded pipes to the Union market at dumped prices.

3.2. Attractiveness of the Union market

- (57) In the absence of cooperation from any Chinese exporting producer, findings are based on facts available. To this end, the risk for trade diversion to the Union market should measures be repealed is based on publicly available sources.

- (58) Publicly available sources such as Metal Bulletin reported a Chinese price level far below the average sales price of the Union industry of 848 EUR/tonne and the average import prices into the Union from major exporting countries such as India and Turkey. Compared to the Union industry's average sales price, the level of undercutting ranges between 30 % and 50 %. This certainly shows the attractiveness of the Union market and the ability of the Chinese to compete by price should measures be repealed.
- (59) In light of the above, the Commission concluded that due to the substantial price difference mentioned above there is a significant risk of trade diversion from lower-priced third countries to the more lucrative Union market should measures be repealed.

4. Conclusion on the likelihood of recurrence of dumping

- (60) The available spare capacity in the PRC and the attractive price level in the Union market lead to the conclusion that there is a risk of significant increase in Chinese dumped exports of the product concerned should the measures in force be allowed to lapse.

MARKET ECONOMY COUNTRIES

RUSSIA

1. Preliminary remarks

- (61) Two Russian exporting producers representing some 75 % of Russian production that submitted sampling replies later informed the Commission that they did not intend to reply to the exporting producer's questionnaire. Only one small producer without exports to the Union and insignificant exports to other countries cooperated with the investigation by replying to the questionnaire and accepting a verification visit. Given the significant non-cooperation from exporting producers in Russia, the overall analysis, including the dumping calculation, is based on facts available pursuant to Article 18 of the basic Regulation. The non-cooperating Russian exporting producers as well as the Russian authorities were informed of the Commission's intention to apply Article 18 of the basic Regulation and to base its findings on facts available.
- (62) Therefore, the likelihood of a continuation or recurrence of dumping was assessed by using the expiry review request, combined with other sources of information such as Eurostat trade statistics on imports, Russian export statistics and Metal Bulletin.
- (63) The significant non-cooperation affected the comparison of the normal value with the export price of the various product types. It was considered appropriate to establish both the normal value and the export price on a global basis, namely based on average values, in accordance with Article 18 of the basic Regulation.
- (64) The Commission noted that statistics from Eurostat reported some imports of the product concerned from Russia. However, the quantities were very limited and thus prices of these imports were considered unrepresentative. Therefore, information of likely export prices to the Union was based on export prices to other third countries, as indicated in recital 73 below.

2. Likely dumping during the review investigation period

2.1. Determination of the normal value

- (65) As mentioned in recital 61 above, the significant non-cooperation from exporting producers in Russia forced the Commission to use facts available in establishing a normal value. To this end, the information submitted by the cooperating Russian producer was used.
- (66) Normal value was determined in accordance with Article 2(2) first sentence, of the basic Regulation. It was first established whether the total domestic sales quantity of the like product during the review investigation period was representative in comparison to Russian export sales to third countries. Domestic sales were found representative if sales volumes of the like product represented 5 % or more of Russian export sales to third countries.

- (67) It was subsequently examined whether the like product was sold in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing the proportion of profitable domestic sales to independent customers for the product type concerned.
- (68) In order to perform the ordinary course of trade test the average cost of production was considered. With regard to manufacturing costs, and in particular energy costs, as far as gas is concerned, it was examined whether the gas prices paid by the single collaborating exporting producer reasonably reflected the costs associated with the production and distribution of gas.
- (69) It was found that the domestic gas price paid by the exporting producers was around 30 % of the export price of natural gas from Russia. In this regard, all available data indicated that domestic gas prices in Russia are regulated prices, which are far below market prices paid in unregulated export markets for Russian natural gas. Since gas costs were not reasonably reflected in the exporting producer's records as provided for in Article 2(5) of the basic Regulation, they had to be adjusted accordingly. In the absence of sufficiently representative, undistorted gas prices relating to the Russian domestic market, it was considered appropriate to base the adjustment, in accordance with Article 2(5) of the basic Regulation, on the basis of information from other representative markets. The adjusted price was based on the average price of Russian gas when sold for export at the German/Czech border (Waidhaus), adjusted for local distribution costs. Waidhaus is the main hub for Russian gas sales to the EU, which is both the largest market for the Russian gas and has prices reasonably reflecting costs. It can therefore be considered to be a representative market within the meaning of Article 2(5) of the basic Regulation.
- (70) Consequently, the Commission used for the ordinary course of trade test the average cost of production after the adjustment for the gas cost.
- (71) The normal value was thus established as the average price of the profitable domestic sales during the review investigation period, since the volume of profitable sales represented 80 % or less of the total sales volume.

2.2. Determination of the likely export price

- (72) The significant non-cooperation from exporting producers in Russia forced the Commission to use facts available in establishing the export price. Information from the sole cooperating Russian producer could not be used as this producer did not export the product concerned to the EU and exported only insignificant quantities to other third countries.
- (73) For this reason, and given that the exports from Russia to the Union were insignificant, the likely export price was established on the basis of Russian export statistics, using exports to other third countries. Exports to other third countries were made in significant quantities.
- (74) Since the sole cooperating Russian producer exclusively produced so-called 'black pipes' (that means non-galvanized pipes), only information relating to black pipes was used to establish export price. According to Russian export statistics, the overwhelming majority of Russian exports also relates to black pipes.
- (75) Following disclosure, the sole cooperating Russian producer claimed that its export prices should have been used as they account for more than 10 % of its total sales. However, these sales only account for less than 2 % of the total exports reported by Russian export statistics. On this basis, the conclusion that the export prices of this producer cannot be used due to their insignificant quantity is maintained.

2.3. Comparison

- (76) The comparison between the normal value and the likely export price was made on an ex-works basis. In order to ensure a fair comparison account was taken of differences which affect price comparability in accordance with Article 2(10) of the basic Regulation.
- (77) Allowances for differences in transport costs were made where applicable.

2.4. *Likely dumping during the review investigation period*

- (78) On the basis of the above, the likely dumping margin within the meaning of Article 11(2) of the basic Regulation was at 38,7 %.

3. **Development of exports should measures be repealed**

3.1. *Production capacity of the exporting producers*

- (79) The applicant estimated that the spare capacity of the product concerned in Russia exceeds the total consumption on the EU market. The applicant based its estimate on information published in Metal Expert. Furthermore, the applicant assumed a capacity utilisation of 56 %, which is confirmed by the information submitted by the cooperating producer.
- (80) Thus, should measures be repealed, there is a substantial risk that Russian exporting producers will sell significant quantities of welded pipes to the Union market at dumped prices.
- (81) Following disclosure, the non-cooperating Russian producers referred to in recital 61 above claimed that the Commission would have disregarded information concerning an alleged attractiveness of other markets including the Russian market and spare capacities in Russia submitted by these producers.
- (82) In this respect, it should be pointed out that the information concerning spare capacities regarded a wider product range, including hollow sections and large-diameter pipes. That information is therefore less relevant than the information provided by the applicant. Furthermore, even on the basis of the 60 %-70 % capacity utilisation rate claimed by the Russian producers, the resulting spare capacity would account for most of the consumption on the EU market.
- (83) As regards the information provided by the non-cooperating Russian producers concerning an alleged attractiveness of other markets including the Russian market, it should first be stated that due to non-cooperation, this data could not be verified. Second, such information contradicts the information obtained during the investigation, as set out in recitals 84 to 86 below, which is based on official Russian export statistics and which has not been challenged by the two non-cooperating Russian producers.

3.2. *Attractiveness of the Union market*

- (84) According to the Russian trade statistics, the average Russian export price of 647 EUR/tonne is far below the average sales price of the Union industry of 848 EUR/tonne and in line with average import prices into the Union from major exporting countries such as India and Turkey.
- (85) According to the same trade statistics, 33 % of all Russian exports are sold to Azerbaijan, Russia's most important export market. The sales price to Azerbaijan is 586 EUR/tonne, and therefore significantly lower than the EU industry's sales price of 848 EUR/tonne, and even lower than prices charged by other main exporters to the Union such as India or Turkey. Moreover the Russian exports to Azerbaijan are equivalent to around 15 % of EU consumption. Hence there is a risk that these exports will be redirected to the EU should the measures be repealed.
- (86) In light of the above, the Commission concluded that there is a significant risk of trade diversion to the Union market should measures be repealed.

4. **Conclusion on the likelihood of recurrence of dumping**

- (87) The available spare capacity in Russia and the attractive price level in the Union market lead to the conclusion that there is a risk of an increase in Russian dumped exports of the product concerned to the Union should the measures in force be allowed to lapse.

- (88) Following disclosure, interested parties argued that maintaining the measures in force against Russia while terminating the measures in force against Ukraine (see below) amounts to discrimination, since Russia and Ukraine allegedly had similar spare capacities.
- (89) This claim is not supported by the findings of the investigation, which established significant spare capacities in Russia accounting for at least most of the consumption on the EU market. On the other hand, for Ukraine, it was established that the available spare capacities for exports to all countries are limited. Due to this significant difference in spare capacities, the claim of discrimination is therefore rejected.

UKRAINE

1. Preliminary remarks

- (90) Only one Ukrainian exporting producer, the 'Interpipe Group' ('Interpipe'), cooperated during the investigation. Interpipe accounts for the significant part of the Ukrainian production and for almost the totality of the very few Ukrainian exports to the Union. There are at least 4 known Ukrainian producers who do not cooperate, but according to trade statistics their exports to the EU are insignificant.
- (91) In the light of insignificant Ukrainian exports to the Union, the likely export price was established on the basis of sales prices of Interpipe to other third countries as described in recital 17 above.

2. Likely dumping during the review investigation period

2.1. Determination of the normal value

- (92) The Commission first examined whether the total volume of domestic sales for the sole cooperating exporting producer, Interpipe, 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 constituted at least 5 % of total export sales volume of the product concerned to other third countries during the review investigation period. On this basis, the total sales by Interpipe of the like product on the domestic market were representative.
- (93) The Commission subsequently identified the product types sold domestically that were identical or comparable with the product types sold for export by Interpipe.
- (94) The Commission then examined whether the domestic sales of Interpipe for each product type that is identical or comparable with a product type sold for export 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 review investigation period constituted at least 5 % of the total volume of export sales of the identical or comparable product type. The Commission established that for the majority of product types domestic sales were made in representative quantities.
- (95) The Commission next defined the proportion of profitable sales to independent customers on the domestic market for each product type during the review investigation period in order to decide whether to use actual domestic sales for the calculation of the normal value, in accordance with Article 2(4) of the basic Regulation.
- (96) The normal value is based on the actual domestic price per product type, irrespective of whether those sales are profitable or not, if:
- 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
 - the weighted average sales price of that product type is equal to or higher than the unit cost of production.
- (97) In this case, the normal value is the weighted average of the prices of all domestic sales of that product type during the review investigation period.

- (98) The normal value is the actual domestic price per product type of only the profitable domestic sales of the product types during the review 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.
- (99) The analysis of domestic sales showed that the normal value was calculated as a weighted average of the prices of all domestic sales during the review investigation period or a weighted average of the profitable sales only depending on the product type.
- (100) When there were no sales of a product type of the like product in the ordinary course of trade, or where a product type was not sold in representative quantities on the domestic market, the Commission constructed the normal value in accordance with Article 2(3) and (6) of the basic Regulation.
- (101) Normal value was constructed by adding the following to the cost of production of the like product of Interpipe during the review investigation period:
- the selling, general and administrative expenses incurred by Interpipe on domestic sales of the like product, in the ordinary course of trade, during the review investigation period, and
 - the profit realised by Interpipe on domestic sales of the like product, in the ordinary course of trade, during the review investigation period.

2.2. *Determination of the likely export price*

- (102) In the absence of any significant Ukrainian exports to the Union, the likely export price was established on the basis of sales prices of Interpipe to other third countries as described in recital 17 above, which were made in significant quantities.
- (103) All sales of Interpipe were made directly to unrelated customers in the third countries. The sales price was thus established on the basis of prices paid or payable by these independent customers.

2.3. *Comparison*

- (104) The comparison between the normal value and the likely export price was made on an ex-works basis. In order to ensure a fair comparison account was taken of differences which affect price comparability in accordance with Article 2(10) of the basic Regulation.
- (105) Allowances for differences in transport costs and credit costs were made where applicable.

2.4. *Likely dumping during the review investigation period*

- (106) On the basis of the above, the likely dumping margin within the meaning of Article 11(2) of the basic Regulation was 16 %.
- (107) Following disclosure, interested parties claimed that the Commission had established continuation of dumping for Ukraine at a level of 16 %. However, this claim is unfounded as it seems to be based on a misunderstanding. Indeed, as indicated in recital 17 above, all countries including Ukraine exported negligible quantities of the product concerned to the EU during the review investigation period. Therefore, no reasonable conclusions can be drawn from those quantities and no continuation of dumping was established in respect of Ukraine. The claim is therefore rejected.

3. Development of exports should measures be repealed

Production capacity of the exporting producers

- (108) In the previous investigation, the Commission established that the production capacity in Ukraine exceeded 400 000 tonnes per year. However, since this investigation two of the known producers stopped producing welded pipes, namely Lugansk Tube Plant and the Interpipe Nizhnedneprovsky Tube Rolling Plant, one of the facilities of the Interpipe Group. Since there are no confirmed additions of production capacity in Ukraine since that time, current capacities are significantly lower than during the previous investigation.
- (109) As regards utilisation of the capacity referred to in recital 108 above, Interpipe has shown to operate at close to full capacity utilisation during the review investigation period when taking the technical limitations of the plant into account.
- (110) Another important aspect is the geographical location of the Ukrainian plants. These are mostly located in the East of Ukraine and are either directly or indirectly affected by the present security situation in that part of the country. It is therefore uncertain to what extent these companies can fully utilize their production capacity.
- (111) Following disclosure, interested parties argued that a non-negligible part of the Ukrainian production is located outside the area affected by the present security situation. However, it should be pointed out that also companies outside this area are indirectly affected by the security situation, for example through short supply of raw materials. It is therefore concluded that most Ukrainian plants are either directly or indirectly affected by the present security situation. The claim is therefore rejected.
- (112) At the same time, given the particular situation of Ukraine after the end of the review investigation period, construction business could be expected to absorb extra capacities in the domestic market after the security situation normalizes. The like product is also used for construction purposes, for example for load-bearing, fence tubing, protection means and scaffoldings.
- (113) Given the reduction in production capacity and the expected increasing domestic demand, it is concluded that the available spare capacities for exports to all countries are limited.
- (114) Following disclosure, interested parties argued that there is substantial spare capacity in Ukraine. However, these claims were not supported by actual evidence and were therefore rejected.
- (115) Interested parties further claimed that Interpipe announced that it would substantially increase its exports to the EU by around 60 %, which contradicts the argument concerning the limited Ukrainian spare capacities available for export. However, this claim cannot be accepted. Interpipe's announcement refers to the company in general and not specifically to the product concerned. Even if it were relevant for the product concerned, the substantial increase of around 60 % would only result in a market share in the EU of around 0,5 %, which is still considered negligible. This argument does therefore not contradict the conclusion that the available spare capacities for exports to all countries are limited.
- (116) The same interested parties argued that spare capacities should not be used as an element in the dumping analysis, because capacity utilisation is not considered a meaningful indicator of injury in the injury analysis, as stated in recital 139 below.
- (117) This claim cannot be accepted. The purpose of these two assessments is different. In the injury analysis, it is assessed whether a low capacity utilisation can be considered a sign of injury of the Union industry, which is not necessarily the case when the remaining capacity can be used for the production of other products. The dumping analysis focuses on spare capacity itself, i.e. idle capacity which is not used for the production of any products and therefore readily available for the production of the product concerned.

4. Conclusion on the likelihood of recurrence of dumping

- (118) The limited available spare capacity in Ukraine and the limited risk for redirection of dumped exports leads to the conclusion that there is no risk of any significant increase in Ukrainian dumped exports of the product concerned should the measures in force be allowed to lapse. It is therefore unlikely that an expiry of the anti-dumping measures against Ukraine will lead to a recurrence of dumping in non-negligible quantities within the meaning of Article 5(7) of the basic Regulation.

D. DEFINITION OF THE UNION INDUSTRY

- (119) During the review investigation period, the like product was manufactured by around 20 producers in the Union. The output of these producers (established on the basis of the information collected from the cooperating producers and on the data from the review request for the other Union producers) is therefore deemed to constitute the total Union production. All these producers constitute the Union industry within the meaning of Article 4(1) of the basic Regulation
- (120) As explained above under recital 11, due to the large number of Union producers, a sample was selected. For the purpose of the injury analysis, the injury indicators have been established at the following two levels:
- the macroeconomic elements (production, capacity, sales volume, market share, growth, employment, productivity, average unit prices, magnitude of dumping margins and recovery from the effects of past dumping) were assessed at the level of the Union industry, on the basis of the information collected from the cooperating producers and, for the other Union producers, on an estimation based on data from the review request,
 - the analysis of microeconomic elements (stocks, wages, profitability, return on investments, cash flow, ability to raise capital and investments) was carried out for the sampled Union producers on the basis of their information.

E. SITUATION ON THE UNION MARKET

1. Union consumption

- (121) Union consumption was established on the basis of the sales volumes of the Union industry's own production destined for the Union market and the import volumes data on the Union market obtained from Eurostat statistics.
- (122) Throughout the period considered, the EU consumption has decreased by 28 %. It decreased by 6 %, in 2011, by 8 percentage points in 2012 and by another 10 percentage points during the review investigation period. The declining trend can be partly explained by a certain degree of technical substitution as for water pipes there is a tendency to substitute the steel pipe with alternative products like copper, plastic or stainless steel.

| | 2010 | 2011 | 2012 | RIP |
|------------------------------|---------|---------|---------|---------|
| Total EU consumption (tonne) | 561 955 | 528 191 | 460 847 | 404 394 |
| <i>Index (2010 = 100)</i> | 100 | 94 | 82 | 72 |

- (123) Following disclosure, interested parties claimed that the EU consumption was significantly understated. However, these parties did not provide any reliable evidence to support their claim, which therefore cannot be accepted.

2. Imports from Belarus, the PRC and Russia

- (124) Since the investigation established that there is no likelihood of continuation or recurrence of dumping from Ukraine (see recitals 17 and 118 above), the few imports from this country have not been considered together with imports from the other countries concerned in the analysis below.
- (125) In order to make an assessment as to the cumulation of the imports from Belarus, the PRC and Russia, the individual situation of the three countries was examined in the light of the conditions set out in Article 3(4) of the basic Regulation.

- (126) As regards the quantities and dumping margins and given the insignificant volume of imports during the review investigation period, the Commission carried out a prospective analysis of the likely export volumes and dumping margins by country, should measures be repealed. It revealed that volumes would likely increase to levels above those reached in the review investigation period and certainly exceed the negligibility threshold, if measures were repealed (see recitals 33, 56 and 80 above). Similarly, the Commission established that the likely dumping margins would be significant, should measures be repealed (see recitals 30, 53 and 78 above).
- (127) As regards the average import price, the negligible quantities of imports cannot be used for reaching conclusive findings.
- (128) However, the investigation also showed that the conditions of competition between the relevant operators were similar. The investigation showed that the product concerned imported from Belarus, the PRC and Russia and the like product produced and sold by the Union industry were alike in all their essential physical and technical characteristics.
- (129) On the basis of the above, the criteria set out in Article 3(4) of the basic Regulation were met with regard to Belarus, the PRC and Russia. Imports from these three countries were therefore examined cumulatively.

(a) *Volume*

- (130) The volume of imports of the product concerned from Belarus, the PRC and Russia into the Union decreased by 60 %, from around 7 000 tonnes in 2010 to around 2 900 tonnes in the review investigation period. It increased by 31 % in 2011, before decreasing by 62 percentage points in 2012 and by another 28 percentage points in the review investigation period.

| | 2010 | 2011 | 2012 | RIP |
|---|-------|-------|-------|-------|
| Volume of imports from Belarus | 25 | 55 | 0,1 | — |
| <i>Index (2010 = 100)</i> | 100 | 222 | 0 | 0 |
| Market share of imports from Belarus | 0 % | 0 % | 0 % | 0 % |
| Price imports from Belarus (EUR /tonne) | 677 | 1 246 | 600 | — |
| <i>Index (2010 = 100)</i> | 100 | 184 | 89 | — |
| Volume of imports from the PRC | 712 | 375 | 458 | 118 |
| <i>Index (2010 = 100)</i> | 100 | 53 | 64 | 17 |
| Market share of imports from the PRC | 0,1 % | 0,1 % | 0,1 % | 0,0 % |
| Price imports from the PRC (EUR /tonne) | 636 | 1 052 | 1 347 | 2 102 |
| <i>Index (2010 = 100)</i> | 100 | 165 | 212 | 330 |
| Volume of imports from Russia | 6 396 | 8 937 | 4 440 | 2 790 |
| <i>Index (2010 = 100)</i> | 100 | 140 | 69 | 44 |
| Market share of imports from Russia | 1,1 % | 1,7 % | 1,0 % | 0,7 % |
| Price imports from Russia (EUR /tonne) | 470 | 506 | 513 | 462 |

| | 2010 | 2011 | 2012 | RIP |
|---|-------|-------|-------|-------|
| <i>Index (2010 = 100)</i> | 100 | 108 | 109 | 98 |
| Volume of imports from countries concerned | 7 133 | 9 367 | 4 898 | 2 908 |
| <i>Index (2010 = 100)</i> | 100 | 131 | 69 | 41 |
| Market share of imports from countries concerned | 1,3 % | 1,8 % | 1,1 % | 0,7 % |
| Price imports from countries concerned (EUR /tonne) | 488 | 532 | 591 | 528 |
| <i>Index (2010 = 100)</i> | 100 | 109 | 121 | 111 |

Source: Comext.

(b) *Market share*

- (131) The corresponding market share held by exporters from Belarus, the PRC and Russia on the Union market decreased from 1,3 % in 2010 to 0,7 % in the review investigation period. In detail, the market share increased from 1,3 % in 2010 to 1,8 % in 2011, before decreasing to 1,1 % in 2012 and further to 0,7 % in the review investigation period.

(c) *Prices*

(i) *Price evolution*

- (132) Between 2010 and the review investigation period, the average price of imports of the product concerned originating in Belarus, the PRC and Russia increased by 11 % from 488 EUR/tonne in 2010 to 528 EUR/tonne in the review investigation period. Specifically, prices increased by 9 % in 2011 and by 12 % in 2012, before decreasing by 10 % in the review investigation period.

(ii) *Price undercutting*

- (133) The very few sales of the product concerned from the PRC and Russia to the Union during the review investigation period cannot be relied upon to draw any meaningful conclusion. A comparison was therefore made between the prices of the like product produced and sold by the Union industry and those of the product under investigation produced in Belarus, the PRC and Russia and sold to the rest of the world. Such comparison showed significant undercutting.

3. Imports from other third countries

| | 2010 | 2011 | 2012 | RIP |
|--------------------------------------|--------|--------|--------|--------|
| Volume of imports from India | 25 720 | 48 704 | 58 619 | 53 007 |
| Market share of imports from India | 4,6 % | 9,2 % | 12,7 % | 13,1 % |
| Volume of imports from Turkey | 83 654 | 83 753 | 98 742 | 69 757 |
| Market share of imports from Turkey | 14,9 % | 15,9 % | 21,4 % | 17,2 % |
| Volume of imports from Ukraine | 956 | 573 | 944 | 1 147 |
| Market share of imports from Ukraine | 0,2 % | 0,1 % | 0,2 % | 0,3 % |

| | 2010 | 2011 | 2012 | RIP |
|--|--------|--------|--------|--------|
| Volume of imports from other third countries | 34 948 | 42 714 | 38 518 | 30 374 |
| Market share of imports from other third countries | 6,2 % | 8,1 % | 8,4 % | 7,5 % |

- (134) Imports from Turkey and India increased over the period considered. The market share of imports from Ukraine remained at very low level. The market share of imports from other third countries remained relatively stable over the period considered.
- (135) Following disclosure, interested parties argued that the 12 % loss in market share of the Union industry has been almost wholly absorbed by the increasing market share of India and Turkey taken together and that low priced imports from India and Turkey are likely to be the main reasons for the fragile situation of the Union industry. In this respect, it should be pointed out that the purpose of the present investigation is to examine whether the repeal of the measures in force against the three countries for which a likelihood of recurrence of dumping has been established will likely lead to recurrence of injury to the Union industry. During the investigation, it was confirmed that there was a significant undercutting as to sales of products from Belarus, the PRC and Russia to the rest of the world. Therefore, should the measures be repealed, dumped exports from these countries to the EU would likely recur, with the likely increase of injury of the EU industry as consequence. The circumstance that imports from Turkey and India might have increased over the period considered does not affect this assessment on likelihood of recurrence of dumping and injury.

4. Situation of the Union industry

- (136) Pursuant to Article 3(5) of the basic Regulation, the Commission examined all relevant economic factors and indices having a bearing on the state of the Union industry.

4.1. Macroeconomic elements

(a) Production

- (137) From a level of around 437 000 tonnes in 2010, the Union industry's production decreased by 37 % during the period considered. Specifically, it declined by 14 % in 2011, by 19 percentage points in 2012 and by another 4 percentage points in the review investigation period. The drop in production was linked to a drop in consumption, but it was more pronounced due to increasing imports from India and Turkey.

| | 2010 | 2011 | 2012 | RIP |
|---------------------|---------|---------|---------|---------|
| Production (tonnes) | 437 492 | 376 106 | 294 260 | 277 483 |
| Index (2010 = 100) | 100 | 86 | 67 | 63 |

(b) Capacity and capacity utilisation rates

- (138) Production capacity was more than 1 700 000 tonnes in 2010 and it decreased by 16 % over the period considered. The decrease was due to the fact that some EU producers have reduced the number of daily production shifts.

| | 2010 | 2011 | 2012 | RIP |
|------------------------------|-----------|-----------|-----------|-----------|
| Production capacity (tonnes) | 1 761 677 | 1 621 386 | 1 318 459 | 1 485 339 |
| <i>Index (2010 = 100)</i> | 100 | 92 | 75 | 84 |
| Capacity utilisation | 25 % | 23 % | 22 % | 19 % |
| <i>Index (2010 = 100)</i> | 100 | 93 | 90 | 75 |

Source: Investigation

- (139) Capacity utilisation was 25 % in 2010. It declined to 23 % in 2011, to 22 % in 2012 and further to 19 % in the review investigation period. The low capacity utilisation rates are mainly explained by the fact that products outside the scope of this investigation (primarily hollow sections) can be produced on the same production equipment used for welded tubes and pipes. Therefore, the capacity utilisation rates are not necessarily a meaningful indicator of injury for this particular industry.

(c) *Sales volume*

- (140) The sales of the Union industry of its own production to unrelated customers in the EU decreased by 16 % in 2011, by 21 percentage points in 2012 and further by 3 percentage points in the review investigation period. Altogether, between 2010 and the review investigation period, these sales decreased by around 40 %. This was due to the drop in consumption and the increase of imports from India and Turkey.

| | 2010 | 2011 | 2012 | RIP |
|--|---------|---------|---------|---------|
| EU Sales volume to unrelated customers (tonne) | 409 544 | 343 080 | 259 127 | 247 201 |
| <i>Index (2010 = 100)</i> | 100 | 84 | 63 | 60 |

Source: Investigation

(d) *Market share*

- (141) The market share held by the Union industry was 73 % in 2010. It decreased to 65 % in 2011 and further to 56 % in 2012 before picking up to 61 % in the review investigation period. Altogether, the market share held by the Union industry over the period considered decreased by 12 percentage points.

| | 2010 | 2011 | 2012 | RIP |
|------------------------------------|------|------|------|------|
| Market share of the Union industry | 73 % | 65 % | 56 % | 61 % |
| <i>Index (2010 = 100)</i> | 100 | 89 | 77 | 84 |

Source: Investigation

(e) *Growth*

- (142) Between 2010 and the review investigation period, when the Union consumption decreased by 28 %, the volume of sales to unrelated customers in the EU decreased by 40 %. This has resulted in a 12 percentage points market share loss for the Union industry over the period considered. Thus, there was no growth for the Union industry during the period considered.

(f) *Employment*

- (143) The number of employees of the Union industry decreased by 13 % in 2011, by 27 percentage points in 2012 and further by 3 percentage points in the review investigation period. Overall, employment of the Union industry declined by 43 % over the period considered, that is from more than 1 600 persons to less than 1 000 persons.

| | 2010 | 2011 | 2012 | RIP |
|---------------------------|-------|-------|------|-----|
| Employment (persons) | 1 655 | 1 446 | 991 | 939 |
| <i>Index (2010 = 100)</i> | 100 | 87 | 60 | 57 |

Source: Investigation

(g) *Productivity*

- (144) Productivity of the Union industry's workforce, measured as output (tonnes) per person employed per year, starting from a level of 264 tonnes per employee, first slightly decreased by 2 % in 2011. It further increased by 14 percentage points in 2012 and remained stable in the review investigation period. Altogether, productivity of the Union industry increased by 12 % over the period considered.

| | 2010 | 2011 | 2012 | RIP |
|-----------------------------------|------|------|------|-----|
| Productivity (tonne per employee) | 264 | 260 | 297 | 296 |
| <i>Index (2010 = 100)</i> | 100 | 98 | 112 | 112 |

Source: Investigation

(h) *Factors affecting sales prices*

- (145) Unit prices for Union industry's sales to unrelated customers increased by 5 % in 2011 and by 1 percentage point in 2012 before decreasing by 4 percentage points in the review investigation period. Altogether, these prices increased by 2 % over the period considered from a level of 833 EUR/tonne to 848 EUR/tonne in the review investigation period.

| | 2010 | 2011 | 2012 | RIP |
|----------------------------------|------|------|------|-----|
| Unit price EU market (EUR/tonne) | 833 | 871 | 881 | 848 |
| <i>Index (2010 = 100)</i> | 100 | 105 | 106 | 102 |

Source: Investigation

(i) *Magnitude of dumping margin*

- (146) The investigation established a likelihood of recurrence of dumping at significant margins the magnitude of which cannot be considered to be negligible for Belarus, the PRC and Russia.

(147) As indicated above, the Commission has not found likelihood of continuation or recurrence of dumping for Ukraine.

(j) *Recovery from past dumping*

(148) The macro-indicators examined above show that, although the anti-dumping measures have partially achieved their intended result of removing injury suffered by the Union producers, the industry is still very fragile and vulnerable. Indeed, over the period considered the production volume decreased by 37 %, sales volume to unrelated customers in the EU decreased by 40 % and employment decreased by 43 %. In addition, the Union industry's share on the EU market dropped from 73 % in 2010 to 61 % in the review investigation period. Thus, no actual recovery from the past dumping could be established and it is considered that the Union industry remains very vulnerable to the injurious effects of any dumped imports in the Union market.

4.2. *Microeconomic elements*

(a) *Stocks*

(149) The level of closing stocks of the sampled Union producers has been nearly stable until 2011. It has increased by 14 percentage points in 2012 before decreasing by 10 percentage points during the review investigation period. The level of stock during the review investigation period was thus 5 % higher than during 2010.

| | 2010 | 2011 | 2012 | RIP |
|---------------------------|--------|--------|--------|--------|
| Closing stock (tonnes) | 13 892 | 14 039 | 16 012 | 14 556 |
| <i>Index (2010 = 100)</i> | 100 | 101 | 115 | 105 |

Source: Investigation

(b) *Wages*

(150) Over the period considered, the labour costs decreased by 29 %. Specifically, they decreased by 2 % in 2011, by 15 percentage points in 2012 and by another 12 percentage points during the review investigation period. The overall decrease over the period considered is driven by the decrease in employment.

| | 2010 | 2011 | 2012 | RIP |
|---------------------------|------------|------------|------------|------------|
| Annual labour cost (EUR) | 20 602 275 | 20 266 132 | 17 140 089 | 14 578 317 |
| <i>Index (2010 = 100)</i> | 100 | 98 | 83 | 71 |

Source: Investigation

(151) Over the period considered, the labour costs per employee have risen by 25 %. This is likely a temporary situation related to redundancy costs caused by the significant decrease of employees.

| | 2010 | 2011 | 2012 | RIP |
|---------------------------------------|--------|--------|--------|--------|
| Annual labour cost per employee (EUR) | 12 449 | 14 015 | 17 296 | 15 525 |
| <i>Index (2010 = 100)</i> | 100 | 113 | 139 | 125 |

(c) *Profitability and return on investments*

- (152) During the period considered, the profitability of the sampled Union producers' sales on the EU market, expressed as a percentage of net sales, improved from a loss of more than 7 % in 2010 to a profit of almost 1 % during the review investigation period. More specifically, the sampled Union producers' loss reduced from 7,3 % in 2010 to 5 % in 2011 and to 0,6 % in 2012, before turning slightly profitable at a level of 0,8 % in the review investigation period.

| | 2010 | 2011 | 2012 | RIP |
|---|----------|----------|---------|-------|
| Profitability of EU (% of net sales) | - 7,3 % | - 5,0 % | - 0,6 % | 0,8 % |
| <i>Index (2010 = 100)</i> | - 100 | - 69 | - 8 | 12 |
| ROI (profit in % of the net book value of investment) | - 19,2 % | - 11,8 % | 0,5 % | 4,3 % |
| <i>Index (2010 = 100)</i> | - 100 | - 62 | 3 | 22 |

Source: Investigation

- (153) The increase in profitability is explained by the fact that sales prices over the period considered increased by 2 % whereas production costs (predominantly hot rolled coils which account for more than 60 % of the production cost) decreased by 6 % over the same period, together with the significant decrease in annual labour costs. Hence, the sampled Union producers have been in a position to progressively apply profitable prices to their customers on the EU market.
- (154) The return on investments ('ROI'), expressed as the profit as a percentage of the net book value of investments, broadly followed the profitability trend. It improved from a loss of 19,2 % in 2010 to a loss of 11,8 % in 2011 and further to a profit of 0,5 % in 2012 and a profit of 4,3 % in the review investigation period.

(d) *Cash flow and ability to raise capital*

- (155) The net cash flow from operating activities stood at around - 44 million EUR in 2010. It increased to around - 7 million EUR in 2011, to nearly 17 million EUR in 2012 and to around 20 million EUR in the review investigation period. None of the sampled Union producers indicated that they experienced difficulties to raise capital. The improvement can be accounted for the decrease of the costs of production and labour costs and slight increase in the prices.

| | 2010 | 2011 | 2012 | RIP |
|--|--------------|-------------|------------|------------|
| Cash flow (own and retailer's brand) (EUR) | - 44 322 891 | - 7 033 547 | 16 927 597 | 20 202 074 |
| <i>Index (2010 = 100)</i> | - 100 | - 16 | 38 | 46 |

Source: Investigation

(e) *Investments*

- (156) The sampled Union producers' annual investments in the production of the like product decreased by 34 % in 2011, increased by 90 percentage points in 2012 and finally decreased by 59 percentage points in the review investigation period. Over the period considered, investment, which was intended for the maintenance and renewal of existing equipment and not for capacity increase purposes, decreased by 3 %.

| | 2010 | 2011 | 2012 | RIP |
|---------------------------|-----------|---------|-----------|-----------|
| Net investments (EUR) | 1 149 094 | 757 750 | 1 789 210 | 1 111 661 |
| <i>Index (2010 = 100)</i> | 100 | 66 | 156 | 97 |

Source: Investigation

5. Conclusion on injury

- (157) A number of indicators, in particular the financial indicators, improved significantly over the period considered. The profitability improved from a loss of more than 7 % to a profit of 0,8 % which is however still below the target profit of 5 % from the previous investigation. The return on investment improved from a loss of more than 19 % to a profit of more than 4 % and the cash flow level improved from – 44 million EUR to 20 million EUR. These factors suggest that the industry was able to partially recover.
- (158) On the other hand, some indicators experienced a negative development between 2010 and the review investigation period. The production volume decreased by 37 %, capacity utilisation decreased by 25 %, sales volume to unrelated customers in the EU decreased by 40 %, the Union industry's market share decreased by 12 percentage points and employment decreased by 43 %.
- (159) The anti-dumping measures have partially achieved their objective by removing some of the injury suffered by the Union industry as a consequence of dumped imports from the countries concerned. The Union industry has become slightly profitable again, but at the expense of its market share on the Union market. The Union industry has been able to improve its financial situation by favouring prices over volumes. Therefore it is clear that the Union industry has not yet fully recovered from the effects of past dumping, and is still in a fragile situation, thus very vulnerable to any recurrence of dumped imports.
- (160) Even if the fragile situation of the Union industry was qualified as a material injury, this cannot be attributed to the imports from the countries concerned. The three countries concerned (for Ukraine the investigation established that there is no likelihood of continuation or recurrence of dumping) represent a cumulative market share of less than 1 % on the EU market. In the absence of any price pressure from the countries concerned, the Union industry has been able to maintain prices at a level which is sufficient to be profitable, though considerably below the target profit.

F. LIKELIHOOD OF RECURRENCE OF INJURY

1. Imports from the PRC, Belarus and Russia

- (161) On the basis of the above trends indicate that the anti-dumping measures have partially achieved their intended result of removing injury suffered by the Union producers. On the other hand, as evidenced by the negative development of a number of injury indicators, the industry is still in a very fragile situation.
- (162) As mentioned above, exporters in each of the three countries concerned have the spare capacity to increase their exports very rapidly. Given the more lucrative prices on the EU market compared to some third country markets, it is likely that significant quantities currently exported to these countries will be redirected to the EU market in case the anti-dumping measures would lapse. This increase of dumped imports at prices undercutting the Union industry prices will likely increase the price pressure on the Union market, thus worsening the already fragile situation of the Union industry. Such an abrupt development was already observed in the previous investigation, when the market share of EU imports from the three countries tripled in only three and a half years, that is from 6,2 % in 2004 to 18,7 % in the IP (1 July 2006 to 30 June 2007). The exporting producers in the PRC, Belarus and Russia have thus already shown their capability to rapidly increase export volumes to the Union.

- (163) Therefore, on the basis of the above, it can be concluded that there is a likelihood of recurrence of injury in case the measures were repealed.

2. Imports from Ukraine

- (164) Bearing in mind the conclusion of non-likelihood of continuation or recurrence of dumping from Ukraine, no further analysis is required here on the likelihood of recurrence of injury.

G. UNION INTEREST

- (165) In accordance with Article 21 of the basic Regulation the Commission examined whether the maintenance of the existing anti-dumping measures would be against the interest of the Union as a whole. The determination of the Union interest was based on an appreciation of all the various interests involved. All interested parties were given the opportunity to make their views known pursuant of Article 21(2) of the basic Regulation.

1. Interest of the Union industry

- (166) The investigation has shown that the Union industry is still very fragile. The anti-dumping measures have partially achieved their objective by removing some of the injury suffered by the Union industry as a consequence of dumped imports from the countries concerned. The Union industry has become slightly profitable again, but at the expense of its market share on the Union market. The Union industry has been able to improve its financial situation by favouring prices over volumes due to the measures in force. The termination of the measures will increase the price pressure on the Union market and lead to losses again. It is therefore in the interest of the Union industry to maintain the measures.

2. Interest of the importers and users

- (167) The Commission contacted more than 100 unrelated importers and users in the Union in order to seek cooperation none of which responded. This can be explained by very small export volumes of each of the countries concerned to the Union market. In any case, there are no factors suggesting that importers or users would be disproportionately affected if measures were to be extended.

- (168) In light of the above it is therefore considered that the situation of importers and users in the Union is unlikely to be substantially affected by the extension of the measures.

3. Risk of supply shortages/competition on the EU market

- (169) The EU consumption decreased by 28 % over the period considered, reaching around 400 000 tonnes in the review investigation period. The Union industry's capacity has continuously exceeded EU demand over the period considered, reaching a level of nearly 1 500 000 tonnes in the review investigation period. There is sufficient competition between the EU producers. In addition, the Union industry is operating at a capacity utilisation rate of only 19 % during the review investigation period because it produces different products (product concerned and other products such as hollow sections) on the same production equipment. Therefore, in case of increased demand, the Union industry has the spare capacity to increase its production by altering its production mix. Imports from other third countries not subject to measures, notably India and Turkey can also satisfy part of the demand.

- (170) Given the above considerations, it cannot be concluded that maintaining the anti-dumping measures would likely result in a shortage of supply on the EU market or a restriction of competition on the EU market.

4. Conclusion on Union interest

- (171) The above indicates that the negative effects of a continuation of measures would be limited and in any case not disproportionate to the benefits of the prolongation of measures for the Union industry.

H. ANTI-DUMPING MEASURES

- (172) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend that the existing measures be maintained. They were also granted a period to submit comments subsequent to that disclosure. The submissions and comments were duly taken into consideration where warranted.
- (173) It follows from the above that, as provided for by Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of certain welded tubes and pipes of iron or non-alloy steel originating in Belarus, the People's Republic of China and Russia should be maintained. It is recalled that these measures consist of an *ad valorem* duty at different rates.
- (174) As far as Ukraine is concerned, based on the findings of no likelihood of continuation or recurrence of dumping (see recitals 17 and 118 above) the measures should be repealed and the proceeding terminated.
- (175) The individual company anti-dumping duty rates specified in this Regulation are solely applicable to imports of the product concerned produced by these companies and thus by the specific legal entities mentioned. Imports of the product concerned manufactured by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.
- (176) 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 ⁽¹⁾. The request must contain all the relevant information enabling to demonstrate that the change does not affect the right of the company to benefit from the duty rate which applies to it. If the change of name of the company does not affect its right to benefit from the duty rate which applies to it, a notice informing about the change of name will be published in the *Official Journal of the European Union*.
- (177) This Regulation is in accordance with the opinion of the Committee established by Article 15(1) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of welded tubes and pipes, of iron or non-alloy steel, of circular cross-section and of an external diameter not exceeding 168,3 mm, excluding line pipe of a kind used for oil or gas pipelines, casing and tubing of a kind used in drilling for oil or gas, precision tubes and tubes and pipes with attached fittings suitable for conducting gases or liquids for use in civil aircraft, currently falling within CN codes ex 7306 30 41, ex 7306 30 49, ex 7306 30 72 and ex 7306 30 77 (TARIC codes 7306 30 41 20, 7306 30 49 20, 7306 30 72 80 and 7306 30 77 80) and originating in Belarus, the People's Republic of China and Russia.

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

⁽¹⁾ European Commission, Directorate-General for Trade, Directorate H, Rue de la Loi 170, 1040 Brussels, Belgium.

| Country | Company | Anti-dumping duty | TARIC additional code |
|--------------------------------|---|-------------------|-----------------------|
| The People's Republic of China | All companies | 90,6 % | — |
| Russia | TMK Group (Seversky Pipe Plant Open Joint Stock Company and Joint Stock Company Taganrog Metallurgical Works) | 16,8 % | A892 |
| | OMK Group (Open Joint Stock Company Vyksa Steel Works and Joint Stock Company Almetjvesk Pipe Plant) | 10,1 % | A893 |
| | All other companies | 20,5 % | A999 |
| Belarus | All companies | 38,1 % | — |

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

Article 2

The anti-dumping proceeding concerning imports of the product mentioned in Article 1(1) originating in Ukraine is hereby terminated.

Article 3

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

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

Done at Brussels, 26 January 2015.

For the Commission
The President
 Jean-Claude JUNCKER