

Official Journal of the European Union

L 207



English edition

Legislation

Volume 60

10 August 2017

Contents

II *Non-legislative acts*

REGULATIONS

- ★ **Commission Implementing Regulation (EU) 2017/1444 of 9 August 2017 imposing a provisional anti-dumping duty on imports of certain corrosion resistant steels originating in the People's Republic of China** 1

DECISIONS

- ★ **Commission Implementing Decision (EU) 2017/1445 of 8 August 2017 on the group of products whose principal intended action, depending on proanthocyanidins (PAC) present in cranberry (*Vaccinium macrocarpon*), is to prevent or treat cystitis (notified under document C(2017) 5341)** 28

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

- ★ **Regulation No 103 of the Economic Commission for Europe of the United Nations (UNECE) — Uniform provisions concerning the approval of replacement pollution control devices for power-driven vehicles [2017/1446]** 30

EN

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

The titles of all other acts are printed in bold type and preceded by an asterisk.

II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2017/1444

of 9 August 2017

imposing a provisional anti-dumping duty on imports of certain corrosion resistant steels originating in the People's Republic of China

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⁾, and in particular Article 7 thereof,

After consulting the Member States,

Whereas:

1. PROCEDURE

1.1. Initiation

- (1) On 9 December 2016, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports into the Union of certain corrosion resistant steels ('CRS') originating in the People's Republic of China ('PRC' or 'the country concerned') on the basis of Article 5 of Regulation (EU) 2016/1036 ('the basic Regulation'). It published a Notice of Initiation in the *Official Journal of the European Union* ⁽²⁾ ('the Notice of Initiation').
- (2) The Commission initiated the investigation following a complaint lodged on 25 October 2016 by the European Steel Association ('Eurofer' or 'the complainant') on behalf of producers representing more than 53 % of the total Union production of CRS. The complaint contained evidence of dumping and of resulting material injury that was sufficient to justify the initiation of the investigation.

1.2. Registration

- (3) Following the request of 24 May 2017 by the complainant, supported by the required evidence, the Commission published on 8 July 2017 Implementing Regulation (EU) 2017/1238 ⁽³⁾ making imports of certain corrosion resistant steels products originating in the PRC subject to registration as of 9 July 2017.
- (4) The Commission had sufficient *prima facie* evidence justifying the need to register imports as imports and market shares from the country concerned had sharply increased after the investigation was initiated and concluded that the conditions pursuant to Article 14(5) of the basic Regulation had been met.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.⁽²⁾ OJ C 459, 9.12.2016, p. 17.⁽³⁾ Commission Implementing Regulation (EU) 2017/1238 of 7 July 2017 making imports of certain corrosion resistant steels originating in the People's Republic of China subject to registration (OJ L 177, 8.7.2017, p. 39).

1.3. Interested parties

- (5) In the Notice of Initiation, the Commission invited interested parties to come forward in order to participate in the investigation. In addition, the Commission specifically informed the complainants, other known Union producers, the known exporting producers, the Chinese authorities, known importers, suppliers and users, traders and associations known to be concerned about the initiation of the investigation and invited them to participate.
- (6) Interested parties were given the opportunity to make their views known in writing and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings. All interested parties who so requested and showed that there were particular reasons why they should be heard were granted a hearing.

1.4. Analogue country producers

- (7) For the purpose of selecting an analogue country, the Commission contacted producers in Brazil, Canada, India, Japan, South Korea, Taiwan, Turkey, Ukraine and the USA, informed them about the initiation and invited them to participate.
- (8) In the Notice of Initiation, the Commission informed interested parties that it provisionally chose Canada as a third market economy country ('analogue country') within the meaning of Article 2(7)(a) of the basic Regulation.

1.5. Sampling

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

1.5.1. Sampling of Union producers

- (10) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. The Commission selected the sample on the basis of the highest representative production and sales volumes whilst ensuring a geographical spread. This provisional sample consisted of four Union producers located in four different Member States and accounted for over 30 % of Union production of corrosion resistant steels. The Commission invited interested parties to comment on the provisional sample.
- (11) Two companies wrote to explain that they were unable to complete the necessary questionnaire. Whilst maintaining their support for the complaint they withdrew from the preliminary sample.
- (12) The Commission assessed the impact of the exclusion of these two companies in the sample and concluded that, with the inclusion of two other companies, the sample was still representative of the situation of the Union industry.
- (13) The largest of the two companies which asked not to be sampled submitted in its request that it was under government control and for sale by public offering under a tender procedure. Considering these facts, the Commission concluded that the company's inclusion would influence the financial micro-indicators of the sample in a significant negative manner, particularly in the light of the considerable production and sales quantities involved.
- (14) The other company explained that it was actively cooperating in other antidumping proceedings and cited a lack of resources for managing also the current case. Taking into consideration the fact that the company could be replaced without prejudice to the representativity of the sample, the Commission concluded it was reasonable and proportional to accept the company's request not to be part of the sample.
- (15) The Commission therefore notified parties that two other companies were selected to the sample and again asked for comments from interested parties.

- (16) Eurofer submitted comments and suggested adding a fifth company in order to improve the sample's geographical representativity. However, after analysing these comments, the Commission concluded that the revised sample was sufficiently representative because it accounted for 29 % of Union production of corrosion resistant steels and was located in four different Member States. Moreover, the proposed company did not diversify in terms of sampled groups of companies. Additionally, the proposed fifth company did not add sufficient volumes of production and sales in order to justify its inclusion. The Commission therefore confirmed the revised sample of four companies. Nevertheless, the company was visited in the interest of obtaining more insight in the highly competitive and changing situation of the Italian market, both in terms of competition from other Union producers and from Chinese imports.

1.5.2. *Sampling of importers*

- (17) The Commission asked unrelated importers to provide the information specified in the Notice of Initiation in order to decide whether sampling was necessary and, if so, to select a sample.
- (18) Only two importers provided the requested information and agreed to be included in the sample. Therefore, it was decided to abandon the sampling exercise and both companies were sent an importers questionnaire. Only one of them submitted a questionnaire reply.

1.5.3. *Sampling of exporting producers*

- (19) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all exporting producers in the PRC to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the People's Republic of China to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.
- (20) Sixteen (groups of) exporting producers in the country concerned provided the requested information within the time limits provided for and agreed to be included in the sample. In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of three groups on the basis of the largest representative volume of exports to the Union which could reasonably be investigated within the time available. In accordance with Article 17(2) of the basic Regulation, all known exporting producers concerned and the authorities of the country concerned were consulted on the selection of the sample. No comments were received.

1.6. **Individual treatment**

- (21) Three groups of exporting producers in the PRC, composed of several individual undertakings, requested individual treatment under Article 17(3) of the basic Regulation.
- (22) The examination of these individual treatment requests during the provisional stage of the investigation was not possible in light of the large number of companies to be examined, the number of different locations to be visited, the timeline of the investigation and the resources available on the Commission's side. Indeed, as indicated in section 1.9 below, the Commission has already verified a total of 17 individual companies which form part of the three groups selected for the sample. Due to the resulting workload, the questionnaire replies of important importers related to one of the sampled parties could also not be verified at the provisional stage and these verifications will need to be carried out at a later stage. Carrying out the assessment of three additional groups of companies at this stage would have been unduly burdensome and prevented the completion of the investigation within the strict time limits imposed by the basic Regulation.
- (23) One of the group companies requesting individual treatment claimed that their product range was not reflected in the sample selected by the Commission. However it should be noted that product range covered in the sample is representative of the imports concerned.
- (24) The Commission will decide whether to grant individual treatment at the definitive stage of the investigation.

1.7. Market economy treatment ('MET') claim forms

- (25) For the purposes of Article 2(7)(b) of the basic Regulation, the Commission sent MET claim forms to all the exporting producers in the PRC selected to be in the sample and to non-sampled cooperating exporting producers that wished to apply for an individual dumping margin. None of the three sampled groups of exporting producers returned MET claim forms. Although the requests for individual examination have been provisionally rejected, the Commission will assess the MET claim forms submitted by two groups of non-sampled cooperating exporting producers in case it decides it is possible to accept their request for an individual examination at definitive stage.

1.8. Replies to the questionnaire

- (26) The Commission sent questionnaires to the complainant, the sampled Union producers and the importers/users that came forward, the sampled exporting producers and the exporting producers that requested individual examination, as well as the potential analogue country producers.
- (27) Questionnaire replies were received from Eurofer, four Union producers, and one importer/user, three groups of exporting producers in the PRC, three non-sampled groups of cooperating exporting producers that requested individual examination and one group of producers in an analogue country.

1.9. Verification visits

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

Association:

— Eurofer, Brussels, Belgium

Union producers:

- Tata Steel IJmuiden B.V., IJmuiden, Netherlands
- ArcelorMittal Belgium N.V., Ghent, Belgium
- ArcelorMittal Atlantique et Lorraine SAS., Dunkirk, France
- ArcelorMittal Poland Group., Dabrowa Górnicza, Poland
- ArcelorMittal Piombino S.p.A., Piombino, Italy

Unrelated importer/user in the Union:

- Joris Ide N.V., Zwevezele, Belgium (part of the Kingspan Group, Kingscourt, Ireland)

Exporting producers in the PRC and related traders/importers:

Hebei Iron and Steel Group ('HBIS'):

- Hesteel Co., Ltd Handan Branch, Handan, Hebei, PRC.
- Handan Iron & Steel Group Han-Bao Co., Ltd, Handan, Hebei, PRC.
- Handan Iron And Steel Group Import And Export Co., Ltd, Handan, Hebei, PRC.
- Hesteel Hong Kong Co., Limited; Handan, Hebei, PRC.
- Hebei Iron & Steel Group (Shanghai) International Trade Co., Ltd, Handan, Hebei, PRC.
- Hesteel (Singapore) Pte. Ltd, Handan, Hebei, PRC.
- Hesteel Co., Ltd Tangshan Branch, Tangshan, Hebei, PRC.
- Tangshan Iron & Steel Group High Strength Automotive Strip Co., Ltd, Tangshan, Hebei, PRC.
- Tangshan Iron & Steel Group Co., Ltd, Tangshan, Hebei, PRC.
- Sinobiz Holdings Limited, Tangshan, Hebei, PRC.

Shagang group:

- Zhangjiagang Shagang Dongshin Galvanized Steel Sheet Co., Ltd, Zhangjiagang, Jiangsu, PRC.
- Zhangjiagang Yangtze River Cold Rolled Sheet Co., Ltd, Zhangjiagang, Jiangsu, PRC.
- Jiangsu Shagang International Trade Co., Ltd, Zhangjiagang, Jiangsu, PRC.

Shougang Group:

- Beijing Shougang Cold Rolling Co., Ltd, Beijing, PRC.
- Shougang Jingtang United Iron and Steel Co., Ltd, Beijing, PRC.
- China Shougang International Trade and Engineering Co., Ltd, Beijing, PRC.
- Shougang International (Austria) GmbH, Vienna, Austria.

Producers in the analogue country:

- ArcelorMittal Brazil S/A, São Francisco do Sul, Santa Catarina, Brazil.
- ArcelorMittal Contagem S/A, São Francisco do Sul, Santa Catarina, Brazil.

- (29) The Commission did not visit the premises of the three related exporters of the cooperating Chinese companies located in Hong Kong and Singapore, namely Xinsha International PTE, Ltd and Shagang South-Asia (Hong Kong) Trading Co., Ltd (related exporters of Shagang Group) and Shougang Holding Trade (Hong Kong) Ltd (related exporter of Shougang Group). Their files and accounts, to the extent requested by the Commission, were however made available for inspection during on spot visits at the premises of their respective related producers in the PRC.

1.10. Investigation period and period considered

- (30) The investigation of dumping and injury covered the period from 1 October 2015 to 30 September 2016 ('the investigation period'). The examination of trends relevant for the assessment of injury covered the period from 2013 to the end of the investigation period ('the period considered').

2. PRODUCT CONCERNED AND LIKE PRODUCT**2.1. Product concerned**

- (31) The product concerned is certain corrosion resistant steels. These are flat-rolled products of iron or alloy steel or non-alloy steel; aluminium killed; plated or coated by hot dip galvanisation with zinc and/or with aluminium, and no other metal; chemically passivated; containing by weight: 0,015 % or more but not more than 0,170 % of carbon, 0,015 % or more but not more than 0,100 % of aluminium, not more than 0,045 % of niobium, not more than 0,010 % of titanium and not more than 0,010 % of vanadium; presented in coils, cut-to-length sheets and narrow strips.

The following products are excluded:

- of stainless steel, of silicon-electrical steel, and of high-speed steel,
- not further worked than hot-rolled or cold-rolled (cold-reduced).

The product concerned is currently falling within CN codes ex 7210 41 00, ex 7210 49 00, ex 7210 61 00, ex 7210 69 00, ex 7212 30 00, ex 7212 50 61, ex 7212 50 69, ex 7225 92 00, ex 7225 99 00, ex 7226 99 30 and ex 7226 99 70 (TARIC codes: 7210 41 00 20, 7210 49 00 20, 7210 61 00 20, 7210 69 00 20, 7212 30 00 20, 7212 50 61 20, 7212 50 69 20, 7225 92 00 20, 7225 99 00 22, 7225 99 00 35, 7225 99 00 92, 7226 99 30 10, 7226 99 70 94) and originating in the PRC.

- (32) CRS is produced by coating flat rolled steel coils, sheets and strips by immersion in a bath of molten metal or metal alloy of zinc. The coating metal combines with the steel substrate in a metallurgical reaction to form a multiple layered structure of alloys, resulting in a coating which is metallurgically bonded to the steel. The surface of the product is further treated with chemical passivation to protect the surface against humidity and to reduce the risk of formation of corrosion products during storage and transportation.

- (33) CRS is mainly used in the construction sector for various cladding building materials but also for manufacturing domestic appliances, deep-drawing and stamping processes and small welded pipes.
- (34) Numerous clarification questions were received regarding the characteristic that the product concerned should be chemically passivated, the main consideration being that CRS that is only oiled for surface protection does not fall under the investigation and therefore cannot be subject to the measures. Certain parties indicate that this constitutes an invitation for the 'circumvention' of the measures.
- (35) The Commission confirms that oiled CRS does not fall under the scope of the investigation, in case it is merely oiled (and not chemically passivated and oiled at the same time).
- (36) With regard to the claim that the exclusion of oiled CRS would be a potential risk for circumvention, the investigation did not conclude on this assertion. Some parties state that users must de-coil CRS coils and remove the oily film before the product can be used, a process that requires specific installations, and that, if Chinese exporting producers outsourced this task, the process would become even more complicated, as the third party contractor would have to re-coil the cleaned CRS as well in order to ship it to the user. Other parties state that users can easily remove the oil while slitting the coils by using specific absorbing material.
- (37) At this stage of the investigation, the Commission assessed that, in the light of the extra logistics and costs involved, there was no risk of avoiding the payment of anti-dumping duties by omitting the chemical passivation of the CRS coils and oiling them instead. The claim is therefore provisionally rejected.

2.2. Like product

- (38) The investigation showed that the following products have the same basic physical, chemical and technical characteristics as well as the same basic uses:
 - (a) the product concerned;
 - (b) the product produced and sold on the domestic market of Brazil; and
 - (c) the product produced and sold in the Union by the Union industry.
- (39) The Commission decided at this stage that those products are therefore like products within the meaning of Article 1(4) of the basic Regulation.

3. DUMPING

3.1. Normal value

- (40) Since none of the sampled exporting producers applied for market economy treatment, normal value was determined on the basis of the prices or constructed normal value in an appropriate third market economy country (the 'analogue country') in accordance with Article 2(7)(a) of the basic Regulation.
- (41) In the Notice of Initiation, the Commission informed interested parties that it envisaged Canada as a third market economy country within the meaning of Article 2(7)(a) of the basic Regulation. Two parties contested the choice of Canada because of the alleged price difference of the like product and because of the relationship between the possible cooperating producer in Canada and one of the complainants.
- (42) The Commission sent questionnaires to all known producers in the countries mentioned in the Notice of Initiation and to other countries where there were indications of production and sales of the like product. In addition, the Commission contacted the relevant authorities in those countries. Out of the 25 producers and four associations from Canada, Australia, Brazil, India, Republic of Korea, Norway, Turkey and Taiwan that were approached, three producers from three different countries (Australia, Brazil and Canada) expressed their willingness to cooperate.

- (43) In light of the competitive situation and the size of the three markets in question, as well as the comments received from interested parties, the Commission decided to provisionally choose Brazil as the analogue country. Brazil is an open market with three producers, significant import volumes, import duties ranging from 12 % to 14 % and no anti-dumping or countervailing duties was in place on imports of CRS during the IP.
- (44) On 14 March 2017, the Commission informed interested parties that it had provisionally selected Brazil as analogue country. Interested parties were invited to comment on this selection. No party contested that Brazil was the most suitable option amongst the three countries from which cooperation could be obtained, however, both an exporting producer and the China Iron & Steel Association ('CISA') made some comments. They both pinpointed the relationship between the Brazilian cooperating producer and one of the complainants and CISA also referred to a representation dated 23 June 2008 made by another party in the context of a similar investigation ⁽¹⁾, according to which Brazilian producers of hot-dipped galvanised sheets had followed anti-competitive behaviours. With regard to these issues, there is no evidence of anti-competitive behaviour by Brazilian producers of CRS during the IP (e.g. import volumes of CRS are significant). As to the relationship between the analogue country producer and a Union producer, the parties failed to explain how the link in question could have affected the reliability of data. In the Commission's view, the relationship does not invalidate or affect the determination of the normal value which is based on duly verified data.
- (45) The Brazilian cooperating producer sent a questionnaire response in due form and time.
- (46) In accordance with Article 2(2) of the basic Regulation, the Commission first examined whether the sales of the like product in Brazil to independent customers were representative. The sales of the cooperating producer of the like product were found to be sold in representative quantities on the domestic market compared to the product concerned exported to the Union by the Chinese exporting producers included in the sample.
- (47) The Commission subsequently examined whether those sales could be considered as made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing the proportion of profitable sales to independent customers. The sales transactions were considered profitable where the unit price was equal or above the cost of production of the Brazilian producer during the investigation period.
- (48) For those product types where more than 80 % by volume of sales on the domestic market of the type in question were above cost and the weighted average sales price of that type was equal to or above the unit cost of production, normal value, by product type, was calculated as the weighted average of the actual domestic prices of all sales of the type in question, irrespective of whether those sales were profitable or not.
- (49) Where the volume of profitable sales of a product type represented 80 % or less of the total sales volume of that type, or where the weighted average price of that type was below the unit cost of production, normal value was based on the actual domestic price, which was calculated as a weighted average price of only the profitable domestic sales of that type made during the investigation period.
- (50) As regards the product types that were not profitable or not sold on domestic market in sufficient quantities, normal value was constructed pursuant to Article 2(3) of the basic Regulation using the cost of manufacturing of the Brazilian producer plus SG&A (10 %-20 %) and profit (10 %-20 %) for product types of the Brazilian producer that are profitable. The constructed normal value, was applied in the calculations for 77 %-99,6 % of sales to the Union in terms of volume, depending on the Chinese exporting producer.
- (51) Some of the product types exported by the Chinese exporting producers could not be matched with the product types sold on the Brazilian domestic market by the cooperating analogue country producer. Therefore, the normal value for the non-matching product types had to be constructed pursuant to Article 2(3) of the basic Regulation on the basis of the analogue country producer's manufacturing costs. The Commission then added a reasonable amount for SG&A (10 %-20 %) based on actual data pertaining to production and sales, as provided for in Article 2(6) of the basic Regulation. It finally added a reasonable amount of profit (10 %-20 %) by using the average profit margin of sales of the profitable products.

⁽¹⁾ Commission Decision 2009/106/EC of 6 February 2009 terminating the anti-dumping proceeding concerning imports of certain hot-dipped metallic-coated iron or steel flat-rolled products originating in the People's Republic of China (OJ L 38, 7.2.2009, p. 34).

3.2. Export price

- (52) For the transactions where the exporting producers 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. Adjustments were made for actual expenses of the related importers for EU transport, bank charges, handling and ancillary costs, credit costs, commissions as well as SGA costs and profit of the related importers. The level of adjustments was in a range of 5 %-10 %. Each of the Chinese sampled exporting producers trading via related importers in EU received detailed calculations of the adjustments made in a specific disclosure.
- (53) For the other transactions, the export prices were based on the prices actually paid or payable for the product concerned, in accordance with Article 2(8) of the basic Regulation.

3.3. Comparison

- (54) The normal value and export price were compared on an ex-works basis. The dumping margins were established by comparing the individual ex-works prices of the sampled exporting producers to the domestic sales prices of the analogue country producer or to the constructed normal value as appropriate.
- (55) Where justified by the need to ensure a fair comparison, the Commission adjusted the normal value and/or the export price for differences affecting prices and price comparability, in accordance with Article 2(10) of the basic Regulation. Adjustments were made for transport, insurance, bank charges, handling and ancillary costs, credit costs, commissions and level of trade. The level of adjustments to the domestic prices in the analogue country was in a range of 10 %-15 %. In case of export price it varied from 8,5 % to 20 % depending on the exporting producer in question and channel of distribution. Each of the Chinese sampled exporting producers received detailed calculations of the adjustments made in a specific disclosure.
- (56) China applies a policy of reimbursing VAT only partially upon export and in this case 4 % VAT is not reimbursed. To ensure that the normal value was expressed at the same level of taxation as the export price, the normal value was adjusted upward by that part of VAT charged on exports of the product concerned that was not refunded to the Chinese exporting producers ⁽¹⁾.

3.4. Dumping margins

- (57) For the sampled cooperating exporting producers, the Commission compared the weighted average normal value of each type of the like product in the analogue country 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.
- (58) For the cooperating exporting producers outside the sample, the Commission calculated the weighted average dumping margin, in accordance with Article 9(6) of the basic Regulation. This margin was calculated as a weighted average on the basis of the margins established for the sampled exporting producers.
- (59) With regard to all other exporting producers in PRC, the Commission established the dumping margins on the basis of the facts available in accordance with Article 18 of the basic Regulation. To this end, the Commission determined the level of cooperation of the exporting producers. It was measured by assessing the proportion of the volume of exports of the cooperating producers to the Union out of the total export volume from the country concerned to the Union as reported in Eurostat import statistics.
- (60) The level of cooperation is high because the imports of the cooperating exporting producers constituted around 76 % of the total exports to the Union during the IP. On this basis, the Commission decided to base the residual dumping margin at the level of the highest dumping margin of the cooperating sampled exporting producers.

⁽¹⁾ That method was accepted by the General Court in its judgment of 16 December 2011, Case T-423/09, *Dashiqiao v Council*, ECLI:EU:T:2011:764, paras 34 to 50.

- (61) The provisional dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Group & Company	Provisional dumping margin (%)
<i>HBIS:</i> — Hesteel Co., Ltd Handan Branch — Handan Iron & Steel Group Han-Bao Co., Ltd — Hesteel Co., Ltd Tangshan Branch — Tangshan Iron & Steel Group High Strength Automotive Strip Co., Ltd	62,9
<i>Shougang group:</i> — Beijing Shougang Cold Rolling Co., Ltd — Shougang Jingtang United Iron and Steel Co., Ltd	46,2
<i>Shagang group:</i> — Zhangjiagang Shagang Dongshin Galvanized Steel Sheet Co., Ltd — Zhangjiagang Yangtze River Cold Rolled Sheet Co., Ltd	56,7
Other cooperating companies listed in the Annex	58,5
All other companies	62,9

4. INJURY

4.1. Definition of the Union industry and Union production

- (62) Within the Union, 16 companies provided production and sales data in the standing exercise and indicated that they produced the like product during the investigation period. Based on the available information from the complaint, there are at least 5 other Union producers of the like product in the Union. These 21 producers constitute the Union industry within the meaning of Article 4(1) of the basic Regulation and will be thereafter referred to as the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.
- (63) The total Union production during the investigation period was established at around 9,9 Mio tonnes. The Commission established this figure on the basis of the information provided by the Union industry and by the complainant.
- (64) The cooperating Union producers represent 64 % of the total Union production of the like product.

4.2. Union consumption

- (65) As mentioned in recital (29), corrosion resistant steels products fall within a number of CN codes including certain ex codes. In order not to underestimate Union consumption, import volumes of CN ex codes have been fully taken into consideration for the purpose of calculating Union consumption.
- (66) As the Union industry is mostly vertically integrated and CRS products are regarded as a primary material for the production of organic coated steel products, captive and free market consumptions were analysed separately.
- (67) The distinction between captive and free market is relevant for the injury analysis because products destined for captive use are not exposed to direct competition from imports, and transfer prices are set within the groups according to various price policies. By contrast, production destined for the free market is in direct competition with imports of the product concerned, and prices are free market prices.

- (68) To provide a picture of the Union industry that is as complete as possible, the Commission obtained data for the entire activity of CRS and determined whether the production was destined for captive use or for the free market. The Commission found that around 32 % of the total Union producers' production was destined for the captive market in the Union.

4.2.1. Captive consumption

- (69) The Commission established the Union captive consumption on the basis of the captive use and captive sales on the Union market of all known producers in the Union. On this basis, the Union captive consumption developed as follows:

Table 1

Captive consumption (tonnes)

	2013	2014	2015	IP
Captive consumption	3 016 047	3 210 425	3 351 638	3 160 454
Index (2013 = 100)	100	106	111	105

Source: Verified Eurofer questionnaire reply.

- (70) During the period considered, the Union captive consumption increased by around 5 %. This increase is mainly due to a growth in demand in the captive markets, mainly for organic coated sheets.

4.2.2. Free market consumption

- (71) The Commission established the Union free market consumption on the basis of (a) the sales on the Union market of all known producers in the Union and (b) the imports into the Union from all third countries as reported by Eurostat. On this basis, the Union free market consumption developed as follows:

Table 2

Free market consumption (tonnes)

	2013	2014	2015	IP
Free market consumption	7 563 927	7 685 742	8 458 122	9 630 630
Index (2013 = 100)	100	102	112	127

Source: Verified Eurofer questionnaire reply.

- (72) During the period considered, the Union free market consumption increased by 27 %. The increase was mainly due to an increase of demand in the major downstream industries.

4.3. Imports from the country concerned

4.3.1. Volume and market share of the imports from the PRC

- (73) The Commission established the volume of imports on the basis of the Eurostat database. The market share of the imports was established by comparing import volumes with the Union free market consumption as reported in Table 2 above.
- (74) One interested party stated that the Eurostat figures included imports from the PRC of automotive products which are not the product concerned. The questionnaire responses of the Chinese exporting producers showed that a minor proportion of automotive products were indeed exported to the Union market and although these import volumes were indeed included in the import data for the PRC, as stated in recital (57), this had a marginal impact and, thus, did not render Eurostat figures unreliable.

- (75) Imports into the Union from the PRC developed as follows:

Table 3

Import volume (tonnes) and market share

	2013	2014	2015	IP
Volume of imports from the PRC	888 515	1 067 435	1 383 614	2 185 283
<i>Index (2013 = 100)</i>	100	120	156	246
Market share of the PRC (%)	11,7	13,9	16,4	22,7
<i>Index (2013 = 100)</i>	100	118	139	193

Source: Eurostat.

- (76) The above table shows that in absolute figures imports from the PRC increased by 146 % during the period considered. In parallel, the total market share of the dumped imports into the Union increased by 11 percentage points during the period considered.

4.3.2. Prices of the imports from the PRC and price undercutting

- (77) The Commission established the prices of imports on the basis of Eurostat data. These prices were confirmed as accurate by a crosscheck to the data received from the cooperating exporting producers. The weighted average price of imports into the Union from the country concerned developed as follows:

Table 4

Import prices (EUR/tonne)

	2013	2014	2015	IP
Import prices from the PRC	595	574	548	465
<i>Index (2013 = 100)</i>	100	96	92	78

Source: Eurostat.

- (78) The average prices of the dumped imports decreased from 595 EUR/tonne in 2013 to 465 EUR/tonne during the investigation period. During the period considered, the decrease of the average unit price of the dumped imports was 22 %.
- (79) The Commission assessed the price undercutting during the investigation period by comparing:
- the weighted average sales prices per product type of the four sampled Union producers charged to unrelated customers on the Union market, adjusted to an ex-works level; and
 - the corresponding weighted average prices at CIF Union frontier level per product type of the imports from the three sampled producers to the first independent customer on the Union market, with appropriate adjustments for post-importation costs.
- (80) The price comparison was made on a type-by-type basis for transactions, duly adjusted where necessary, and after deduction of rebates and discounts. The result of the comparison was expressed as a percentage of the Union producers' turnover during the investigation period.
- (81) On the basis of the above, the dumped imports from the PRC were found to undercut the Union industry prices by 9-15 % depending on the exporting producer.

4.4. Economic situation of the Union industry

4.4.1. General remarks

- (82) 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.
- (83) The macroeconomic indicators (production, production capacity, capacity utilisation, sales volume, inventories, growth, market share, employment, productivity and magnitude of dumping margins) were assessed at the level of the whole Union industry. The assessment was based on the information provided by the complainant, cross-checked with data provided by Union producers and available official statistics (Eurostat).
- (84) The analysis of microeconomic indicators (sales prices, profitability, cash flow, investments, return on investments, ability to raise capital, wages and cost of production) was carried out at the level of the sampled Union producers. The assessment was based on their information, duly verified.
- (85) For some injury indicators relating to the Union industry, the Commission analysed separately data related to the free and the captive market and made a comparative analysis. These factors are: sales and market share, unit prices, unit cost and profitability. However, other economic indicators can only be meaningfully examined by referring to the whole activity, including the captive use of the Union industry because they depend on the whole activity, whether the production is captive or sold on the free market. These factors are: production, capacity, capacity utilisation, cash flow, investments, return on investments, employment, productivity, stocks and labour costs. For these factors, analysis of the whole Union industry is warranted in order to establish a complete injury picture of the Union industry, as the data in question cannot be separated out between captive sales and free sales.
- (86) One interested party pointed out that the Commission should base its findings on injury on data relating solely to the product concerned. According to this interested party, this point was relevant because other corrosion resistant products were also produced by the Union industry, such as automotive products. The Commission confirms that the data provided by the Union industry did not include automotive products, but only products concerned by the investigation. As explained in recital (57), when calculating consumption, the Commission considered full CN codes data for certain CN ex codes covered by the investigation. This had a marginal impact on the estimated consumption figure and did not affect any of the other injury factors.

4.4.2. Macroeconomic indicators

4.4.2.1. Production, production capacity and capacity utilisation

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

Table 5

Production, production capacity and capacity utilisation

	2013	2014	2015	IP
Production volume (tonnes)	9 493 827	9 835 336	9 958 374	9 907 672
<i>Index (2013 = 100)</i>	100	104	105	104
Production capacity (tonnes)	12 775 103	12 777 027	12 540 479	12 592 017
<i>Index (2013 = 100)</i>	100	100	98	99
Capacity utilisation (%)	74	77	79	79

Source: Verified Eurofer questionnaire reply.

- (88) During the period considered, the Union industry's production volume increased by 4 %. The reported capacity figures refer to technical capacity, which implies that adjustments for set-up time, maintenance etc. have been taken into consideration. The capacity figures above take into account that the steel mills involved also produce other hot-dipped galvanised products on the same production lines and the analysis was limited to the product concerned. On this basis, the capacity decreased by 1 % during the period considered.
- (89) The increase in capacity utilisation rate resulted from an increase in the production volume, mainly driven by the increase in consumption, and a small capacity reduction.

4.4.2.2. Sales volume and market share

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

Table 6

Sales volume and market share (free market)

	2013	2014	2015	IP
Sales volume (tonnes)	5 958 718	5 933 646	6 164 527	6 283 967
Index (2013 = 100)	100	100	103	105
Market share (%)	78,8	77,2	72,9	65,2
Index (2013 = 100)	100	98	93	83

Source: Verified Eurofer questionnaire reply and Eurostat.

- (91) The Union industry sales volume in the free market increased by 5 % during the period considered, from about 6 million tonnes in 2013 to around 6,3 million tonnes during the investigation period.
- (92) However, the increase of the Union industry's sales volume was not enough to maintain its free market share. During the period considered, the Union industry's market share decreased from 78,8 % to 65,2 % which is a fall of 17 %.
- (93) As far as the captive market is concerned, the volume of captive sales/transfers and market share developed over the period considered as follows:

Table 7

Captive volume and market share

	2013	2014	2015	IP
Captive volume	3 016 047	3 210 425	3 351 638	3 160 454
Index (2013 = 100)	100	106	111	105
Market share (out of total captive and free markets) (%)	28,5	29,5	28,4	24,7
Index (2013 = 100)	100	103	100	87

Source: Verified Eurofer questionnaire reply and Eurostat.

- (94) The Union industry captive volume (composed of captive use and captive sales) on the Union market increased by 5 % during the period considered, from about 3,0 million tonnes in 2013 to 3,2 million tonnes during the investigation period.

- (95) However, the Union industry's captive market share expressed as a percentage of total consumption (both captive and free market) decreased by 13 % over the period considered.

4.4.2.3. Employment and productivity

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

Table 8

Employment and productivity

	2013	2014	2015	IP
Number of employees (Full time equivalent (FTE))	8 569	7 949	8 027	8 358
<i>Index (2013 = 100)</i>	100	93	94	98
Productivity (production/employee)	1 108	1 237	1 241	1 185
<i>Index (2013 = 100)</i>	100	112	112	107

Source: Verified Eurofer questionnaire reply.

- (97) The level of the Union industry employment decreased slightly with 2 % over the period considered. The years 2014 and 2015 showed a much lower FTE workforce, mainly as a consequence of non-statutory workforce not being employed in order to reduce production costs and gain efficiency in view of the increasing competition from dumped imports on the market. As a consequence and in view of the increasing production volume (+ 4 %) over the period considered, the productivity of the Union industry's workforce, measured as output per person employed per year, increased by 7 %. This shows that the Union industry was willing to adapt to the changing market conditions in order to remain competitive.

4.4.2.4. Inventories

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

Table 9

Inventories

	2013	2014	2015	IP
Closing stocks (tonnes)	665 107	754 930	683 649	607 556
<i>Index (2013 = 100)</i>	100	114	103	91
Closing stocks as a percentage of production (%)	7,0	7,7	6,9	6,1
<i>Index (2013 = 100)</i>	100	110	98	88

Source: Verified Eurofer questionnaire reply.

- (99) During the period considered the level of closing stocks decreased by 9 %. Most types of the like product are produced by the Union industry based on specific orders of the users. Therefore, stocks were not considered to be an important injury indicator for this industry. This was also confirmed by analysing the evolution of the closing stocks as a percentage of production. As can be seen from the table above, this indicator remained relatively stable at ca. 6-8 % of the production volume.

4.4.2.5. Magnitude of the dumping margin

- (100) All dumping margins were significantly above the *de minimis* level. The impact of the magnitude of the actual high margins of dumping on the Union industry was not negligible, given the important volume and low prices of imports from the PRC, exercising a considerable downward price pressure.

4.4.2.6. Growth

- (101) The Union free market consumption grew by around 27 % during the period considered, while the sales volume of the Union Industry on the Union market increased by only 5 %. The Union industry thus lost 17 % of market share, contrary to the market share of the imports from the PRC which increased during the period considered by 93 %.

4.4.3. Microeconomic indicators

4.4.3.1. Introduction on Confidentiality

- (102) The sample of the Union industry is made up of four companies within two Groups. Therefore in order to respect confidentiality requirements the microeconomic indicators are presented below in index form. The indices are based on 2013 which equals 100. However, where the 2013 figure is negative the corresponding 2013 figure equals – 100.

4.4.3.2. Prices and factors affecting prices

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

Table 10

Sales prices in the Union

	2013	2014	2015	IP
Sales price (EUR/tonne) <i>Index (2013 = 100)</i>	100	95	88	82
Unit cost of production (EUR/tonne) <i>Index (2013 = 100)</i>	100	93	86	80

Source: Verified questionnaire reply of sampled Union producers.

- (104) The table above shows the evolution of the unit sales price in the Union free market as compared to the corresponding cost of production. During the period considered, sales prices have decreased by 18 %. Moreover, sales prices have, on average, been lower than the unit cost of production throughout the period considered.
- (105) In order to limit the loss in market share, the Union producers were forced to follow the downward price spiral and reduce their sales price significantly. On the other hand, the decrease in cost of production can be mainly explained by the decrease in raw material prices. Absent the downward pressure on sales prices exercised by the dumped Chinese imports, the reduction of raw material costs would have allowed the Union industry to restore profitability.
- (106) Among the sampled producers, most CRS products for captive consumption were transferred within the same economic entity and therefore no invoice was raised. The others were sold at transfer prices using different pricing policies. Therefore, no meaningful conclusion could be drawn from captive use price evolution.

- (107) One interested party claimed that hot dipped galvanised sales prices virtually doubled in price from February 2016 to March 2017 and therefore demonstrated a lack of injury. This upward price movement allegedly implied an automatic increase of the Union industry's profit margins into positive figures.
- (108) The investigation could not support the validity of this claim because it covered a wide range of products, much of which is not part of the product concerned. In addition, the evidence provided in support of this claim included a 6 month timeframe which is not part of the period of investigation and the price comparison provided was considered inappropriate for the investigation, since it lacked sufficient detail, such as the reference to raw material costs and the impact on profitability.

4.4.3.3. Labour costs

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

Table 11

Average labour costs per FTE

	2013	2014	2015	RIP
Average labour costs per employee FTE (EUR)	100	107	116	102
<i>Index (2013 = 100)</i>				

Source: Verified questionnaire reply of sampled Union producers.

- (110) During the period considered, the average wage per employee went up by 2 %. Employment levels fell slightly as shown in Table 8. These developments demonstrate that the industry was maintaining control of its employment costs after having experienced difficulties doing so in 2014 and in particular 2015.

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

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

Table 12

Profitability, cash flow, investments and return on investments

	2013	2014	2015	IP
Profitability of sales in the Union to unrelated customers (% of sales turnover)	- 100	- 78	- 60	- 21
<i>Index (2013 = - 100)</i>				
Cash flow (EUR)	- 100	- 101	- 4	- 15
<i>Index (2013 = - 100)</i>				
Investments (EUR)	100	136	280	210
<i>Index (2013 = 100)</i>				
Return on investment (%)	- 100	- 68	- 45	- 36
<i>Index (2013 = - 100)</i>				

Source: Verified questionnaire reply of sampled Union producers.

- (112) The Commission established the profitability of the Union producers by expressing the pre-tax net loss of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales.

- (113) Profitability was negative throughout the period considered which showed that the Union industry was in a suppressed state. Slightly better market conditions meant that losses were falling but it was concluded that the profitability situation seen over the period considered was unsustainable.
- (114) Market conditions however were ideal for restoring profitability as raw material costs dropped considerably. However, the downward price pressure of Chinese imports forced the Union industry to decrease its prices to a level that only reduced the losses without eliminating them.
- (115) The losses in the year 2013 are partly linked to the European debt crisis and subsequent economic crisis. However, it was clear that the Union industry had not been able to return to a profitable situation or benefit (to a meaningful extent) from the slow recovery of the European economy.
- (116) The net cash flow is the ability of the Union producers to self-finance their activities. The trend in net cash flow followed the development of return on turnover in that it was negative throughout the period but improving slightly. Return on investment also followed this same development
- (117) The Union industry nevertheless continued to invest over the period considered. Investments were designed to maintain efficiency and productivity rather than increase output.
- (118) Although the sampled Union producers were part of large international Groups they claimed that their ability to raise capital from within Group resources was diminished. Nevertheless, during the period considered investments increased.

4.4.4. Conclusion on injury

- (119) The Union industry was in a suppressed state throughout the period considered. This situation is evident from both the captive and free markets. The captive market represented around 25 % of total sales volume in the IP.
- (120) The situation for the Union industry was worse in the free market during the IP when compared to 2013. Although the situation improved slightly in terms of production and sales volume, the Union industry lost 17 % of its market share. The performance indicators of return on turnover, return on investment and cash flow were negative throughout the period considered and although they improved, this evolution was not strong enough due to the downward price pressure from Chinese imports at dumped price levels. These developments were despite actions being taken to improve efficiency by reducing the labour force, increase productivity, increase capacity utilisation and by keeping a tight grip on costs of manufacturing.
- (121) One interested party pointed out that on the basis of data in the complaint certain injury factors appeared to show a non-injurious situation. Such factors included sales volume, capacity utilisation, employment and stocks. These developments were examined during the investigation on the basis of verified data. Indeed several indicators, including some of those mentioned in the above claim, showed a positive trend. Nevertheless as the free market grew by 27 % as explained in Table 2 it is clear that some indicators would appear to show a positive situation developing. However, for the reasons identified in the analysis of the situation of the Union industry and in this conclusion, these positive trends have to be seen in the light of the more important negative trends in, for example, market share and sales price, and against the background of negative results. When examined in their correct context i.e. together with all other injury factors it was clear that the Union industry was injured.
- (122) On the basis of the above, it can be concluded that the Union industry, analysed in its two segments and as a whole, suffered material injury over the period considered.

5. CAUSATION

- (123) In accordance with Article 3(6) of the basic Regulation, the Commission examined whether the dumped imports from the country 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 country concerned was not attributed to the dumped imports. These factors are: imports from third countries and the export sales performance of the Union producers.

5.1. Effects of the dumped imports

- (124) As mentioned above, imports from China increased by 146 % over the analysis period. Their prices per tonne fell by 22 % which even exceeded the fall in raw material prices of 20 %. In addition, these imports significantly undercut the UI's prices, by 17 % to 28 %. Bearing in mind that CRS is a price sensitive commodity these margins are substantial and have had a very injurious effect on the Union industry.
- (125) As a result, only China managed to benefit from the recovery of the market which increased by 27 % over the period analysed: Chinese imports increased their market share from 11,7 % to 22,7 % while the Union industry only increased its sales volume by 5 %, with market share falling from 78,8 % to 65,2 %.
- (126) Despite favourable market conditions over the analysis period with falling raw material prices and increased consumption, the Union industry continued to make losses throughout the period given the price suppression and increasing volume of the Chinese imports.
- (127) The progressive slowing down of the Chinese economy and the, according to the file, very significant overcapacity of the Chinese steel industry, has pushed Chinese steel producers to redirect their excess production towards export markets and the Union market is an attractive export destination.
- (128) In view of the above it is concluded that the dumped imports were responsible for the injurious situation of the Union industry.

5.2. Effects of other factors

5.2.1. Imports from third countries

- (129) The volume of imports from third countries developed over the period considered as follows:

Table 13

Imports from other countries — volume in tonnes, CIF price per tonne and market share

	2013	2014	2015	IP
Total volume of imports from third countries	716 694	684 661	909 981	1 161 380
<i>Index (2013 = 100)</i>	100	96	127	162
CIF price in EUR/tonne	698	701	641	572
Market share (%)	9,5	8,9	10,8	12,1
Volume of imports from Republic of Korea	344 542	406 685	530 377	579 712
<i>Index (2013 = 100)</i>	100	118	154	168
CIF price in EUR/tonne	716	718	665	610
Market share (%)	4,6	5,3	6,3	6,0
Volume of imports from India	81 489	42 301	61 739	157 212
<i>Index (2013 = 100)</i>	100	52	76	193
CIF price in EUR/tonne	627	696	550	471
Market share (%)	1,1	0,6	0,7	1,6

	2013	2014	2015	IP
Volume of imports from other third countries	290 663	235 676	317 866	424 457
<i>Index (2013 = 100)</i>	100	81	109	146
CIF price in EUR/tonne	698	673	618	556
Market share (%)	3,8	3,1	3,8	4,4

Source: Eurostat.

- (130) Imports from the PRC concerned constituted 65 % of all imports in the Union. Other imports (as shown above in Table 13) increased by 33 % during the period considered. The market share of such imports increased from 9,5 % in 2013 to 12,1 % in the investigation period.
- (131) Imports from the Republic of Korea increased by 68 % during the period considered. The market share of such imports increased from 4,6 % in 2013 to 6,0 % in the investigation period.
- (132) Imports from India increased by 93 % during the period considered. The market share of such imports increased from 1,1 % in 2013 to 1,6 % in the investigation period.
- (133) Bearing in mind these increases in volumes, the Commission examined whether imports from these countries had contributed to the injury suffered by the Union industry. However, the Eurostat data presented in Table 13 above showed that although the market share of Korean imports increased the CIF prices were much higher than those of either the Chinese imports or the prices of the Union industry. Indian import prices were also higher than Chinese import prices and the market share of the Indian imports was less than 2 % in each year. Imports from other third countries were also not injurious because the import price was higher than those of the Chinese imports and the Union industry.
- (134) It was therefore concluded that whether taken individually or examined separately imports from third countries did not have a major impact on the Union industry and, in any event, could not have had the impact to break the causal link between the imports from the PRC and the injury suffered by the Union industry.

5.2.2. Export sales performance of the Union industry

- (135) The volume of exports of the Union producers developed over the period considered as follows:

Table 14

Export performance

	2013	2014	2015	IP
Export volume	662 224	770 547	678 823	570 471
<i>Index (2013 = 100)</i>	100	116	103	86
Average price (EUR/t) to unrelated parties	545	547	508	477
<i>Index (2013 = 100)</i>	100	100	93	88

Source: Verified questionnaire reply of Eurofer and sampled Union producers.

- (136) The volume of exports fell by 14 % between 2013 and the investigation period. As far as prices are concerned, they dropped by 12 % over the period considered due to the fall in raw material prices.

- (137) However, bearing in mind that export volumes represented only around 6 % of production and taking into account the fall in prices, which is less pronounced than on the Union market, the Commission did not consider that the export performance of the Union industry contributed in an important way to the injury suffered.

5.3. Conclusion on causation

- (138) A causal link was provisionally established between the injury suffered by the Union producers and the dumped imports from the country concerned.
- (139) 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 other identified factors such as the imports from third countries and the export sales performance of the Union producers were provisionally found not to break the causal link, even considering their possible combined effect. The imports from third countries may have had a small impact on the injury, but the situation of the Union industry would certainly not have been affected to such a significant extent. In particular, sales prices would not have dropped to such low levels and better profitability would have been achieved.
- (140) On the basis of the above, the Commission concluded at this stage that the material injury to the Union industry was caused by the dumped imports from the country concerned and that the other factors, considered individually or collectively, did not break the causal link.

6. UNION INTEREST

- (141) 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.

6.1. Interest of the Union industry

- (142) The Union industry is located in at least 15 Member States, and employs over 8 000 employees in relation to corrosion resistant steels.
- (143) Sixteen producers cooperated during the investigation. None of the known producers opposed the initiation of the investigation. As shown above when analysing the injury indicators, the whole Union industry experienced an improvement of its situation but not as pronounced as might have been expected as it was negatively affected by the dumped imports.
- (144) It is expected that the imposition of provisional anti-dumping duties will restore fair trade conditions on the Union market, putting an end to the price suppression and enabling the Union industry to raise its prices. 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 the dumped imports from the PRC.
- (145) Although several of the volume indicators that appear positive, such as production and sales volume, the Union industry's situation did not improve in line with the increase in consumption. This fact suggests that the Union Industry was not able to benefit from the recovery of the Union market in the same way it would have in the absence of dumped Chinese imports. In particular, injury indicators related to the financial performance of the sampled Union producers, such as profitability and return on investment, were seriously affected. It is therefore important that prices be restored to a non-dumped or at least a non-injurious level in order to allow all various producers to operate on the Union market under fair trade circumstances. In the absence of measures, a further deterioration of the Union industry's economic situation appears very likely. A bad performance on the corrosion resistant segment would also impact the downstream (organic coating) and upstream (hot rolled coils) segments of many Union producers as capacity utilisation on these segments is closely linked to the production of the product investigated. The impact would also be felt at the level of other hot-dipped galvanised products such as for the automotive sector.

- (146) Hot-dipped galvanised products in general are typically the products sold for around 10 % of an integrated steelworks. The actual figure varies from producer to producer. But these products are almost at the end of the value added chain. The strategy of the Union steel industry is to maximise the sale of high value added products because they traditionally provide higher than average profit levels because the number of companies around the world which can compete in these high value added products is smaller. Therefore, the absence of profits over the analysis period demonstrates a serious problem for the Union industry in terms of jeopardising its strategy and future prospects.
- (147) It is therefore provisionally concluded that the imposition of anti-dumping duties would be in the interest of the Union industry. Any imposition of anti-dumping measures would allow the Union industry to recover from the effects of injurious dumping found.

6.2. Interest of unrelated importers and users

- (148) As indicated in recital (15), only one importer provided a questionnaire reply. This importer was part of group of companies which used the product concerned to make products used in construction. Other importers and users came forward as interested parties. Also comments on the investigation were supplied by an Association of importers.
- (149) The cooperating importer/user indicated that the product concerned was an important part of its cost of production and it feared an increase in costs which could result from the imposition of duties. Whilst the investigation supported the claim regarding the importance of the product concerned in its costs it should be noted that other sources of supply exist and were actually already used by the importer, which means that its costs and competitiveness should not be seriously impacted should measures be imposed.
- (150) Indeed in terms of importers in general there is no evidence that importers or steel service centres might be unable to pass on price increases to their customers. In addition they can also import from other countries not subject to this investigation.
- (151) The association representing importers claimed that the Union industry could not always supply its members with the product concerned due to lack of capacity. This statement was unsubstantiated. Taking into consideration that the association did not provide any evidence in support of this claim and that, as can be seen from Table 5, the Union industry's capacity utilisation did not exceed 80 % during the period considered, the Commission did not find any argument suggesting that this assertion would be true.
- (152) Another interested party commented that one Union producer had problems to supply customers because of 'cutbacks'. However, this claim related to a particular problem at one Union producer and was not therefore representative of the supply situation of the industry as a whole. Even if this situation existed at the time, alternative sources of supply existed and there was nothing on file to show that supply was a general problem for importers and traders. Furthermore, one of the reasons why Union producers are suffering problems relates to the dumping of steel products from inter alia Chinese sources as highlighted by this investigation.
- (153) The main end-user industries for corrosion resistant steels products are the construction sector for various cladding building materials but also for manufacturing domestic appliances, deep-drawing and stamping processes and small welded pipes. As explained above only one user cooperated in the proceeding.
- (154) Even if the imposition of measures would affect some users negatively in terms of higher purchase prices, nothing on the file demonstrated that users would be disproportionately affected in terms of profitability or that delocalisation of major industrial groups would be triggered. The level of duties proposed cannot be deemed prohibitive either.
- (155) It should be noted that duties should contribute to continuous security of supply for the distributors and their clients. Without duties, some of the corrosion resistant steels producers in the Union might have to close down/reduce their corrosion resistant steels production activities and leave many Union users with more limited sources of supply. Moreover the level of measures will lead to a level playing field but still allow for imports from the country concerned (at fair prices) and other sources.
- (156) In view of the above, it is provisionally concluded that the imposition of measures would not have significant negative effects on the interest of the Union importers and users.

6.3. Conclusion on Union interest

- (157) In view of the above, it was provisionally concluded that the imposition of measures would contribute to the recovery of the Union industry by allowing price increases enabling the industry as a whole to return to a profitable situation. This high value added segment is essential to the overall strategy of the Union steel industry and its future prospects and prosperity.
- (158) The impact of measures on the few other parties in the Union that came forward cannot be deemed substantive. The investigation did not show that the potential impact on other actors (that did not come forward) would outweigh the positive effect of measures on the Union industry. Measures were found to be beneficial to the upstream industries, such as suppliers of raw materials and machinery producers, which did not (or to a limited extent) supply producers in the country concerned.
- (159) The imposition of measures at the proposed level only has a limited impact on the prices of the supply chain and the performance of users. The level of measures will lead to a level playing field but still allow for imports from the country concerned, at fair prices. In terms of importers, they will be able to pass on price increases to customers or change sources of supply.
- (160) On balance, the Commission concludes at this stage of the investigation that there were no compelling reasons to conclude that it would not be in the Union interest to impose provisional measures on imports of corrosion resistant steels products originating in the PRC.

7. PROVISIONAL ANTI-DUMPING MEASURES

- (161) On the basis of the conclusions reached by the Commission on dumping, injury, causation and Union interest, provisional measures should be imposed to prevent further injury being caused to the Union industry by the dumped imports.

7.1. Injury elimination level (Injury margin)

- (162) To determine the level of the measures, the Commission first established the amount of duty necessary to eliminate the injury suffered by the Union industry.
- (163) The injury would be eliminated if the Union industry was able to cover its costs of production and to obtain a profit before tax on sales of the like product in the Union market that could be reasonably achieved under normal conditions of competition by an industry of this type in the sector, namely in the absence of dumped imports.
- (164) In order to determine the target profit, the Commission considered the profits made on unrelated sales which are used for the purpose of determining the injury elimination level. The Commission found that the profitability of the Union industry was negative during the whole period considered. Moreover, throughout this period there was a significant presence, on the Union market, of low priced imports from the PRC. Therefore, the Commission concluded the target profit could not be established on the basis of the period considered. The complainant requested the Commission, in the complaint, to use at least 10 % of turnover as reasonable non-injurious profit margin. In its assessment of this claim, the Commission made a ten year profitability analysis of the sampled Union producers in order to establish what representative profit level had been achieved in the absence of dumping. It found that the most recent profitable year was 2008, namely 7,4 %. On this basis, the Commission concluded that the most appropriate target profit was the profit actually achieved in 2008.
- (165) Thus, the Commission calculated a non-injurious price of the like product for the Union industry by adding the above-mentioned profit margin of 7,4 % to the cost of production of the sampled Union producers during the investigation period.
- (166) The Commission then determined the injury elimination level on the basis of a comparison of the weighted average import price of the cooperating exporting producers in the country concerned, duly adjusted for importation costs and customs duties, as established for the price undercutting calculations, with the weighted average non-injurious price of the like product sold by the sampled Union producers on the Union market during the investigation period. Any difference resulting from this comparison was expressed as a percentage of the weighted average import CIF value.

7.2. Provisional measures

- (167) Provisional anti-dumping measures should be imposed on imports of the product concerned originating in the country concerned, in accordance with the lesser duty rule provided for in Article 7(2) of the basic Regulation. The Commission compared the injury margins and the dumping margins. The amount of the duties should be set at the level of the lower of the dumping and the injury margins.
- (168) 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:

Company	Dumping margin (%)	Injury margin (%)	Provisional anti-dumping duty (%)
<i>HBIS:</i>			
— Hesteel Co., Ltd Handan Branch	61,2	23,5	23,5
— Handan Iron & Steel Group Han-Bao Co., Ltd			
— Hesteel Co., Ltd Tangshan Branch			
— Tangshan Iron & Steel Group High Strength Automotive Strip Co., Ltd			
<i>Shougang group:</i>			
— Beijing Shougang Cold Rolling Co., Ltd	46,2	17,2	17,2
— Shougang Jingtang United Iron and Steel Co., Ltd			
<i>Shagang group:</i>			
— Zhangjiagang Shagang Dongshin Galvanized Steel Sheet Co., Ltd	56,7	28,5	28,5
— Zhangjiagang Yangtze River Cold Rolled Sheet Co., Ltd			
Other cooperating companies listed in the Annex	57,4	23,4	23,4
All other companies	61,2	28,5	28,5

- (169) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the 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 country 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.
- (170) 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.
- (171) To minimise the risks of circumvention due to the high difference in duty rates, special measures are needed to ensure the application of the individual anti-dumping duties. The companies with individual anti-dumping duties must present a valid commercial invoice to the customs authorities of the Member States. The invoice must conform to the requirements set out in Article 1(3) hereof. Imports not accompanied by that invoice should be subject to the anti-dumping duty applicable to 'all other companies'.

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

- (172) 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.

8. REGISTRATION

- (173) As mentioned above in recital (3), the Commission made imports of the product concerned originating in and consigned from the PRC subject to registration by Implementing Regulation (EU) 2017/1238. This was in view of the possible retroactive application of the anti-dumping measures under Article 10(4) of the basic Regulation. No decision on a possible retro-active application of anti-dumping measures can be taken at this stage of the proceeding.

9. FINAL PROVISIONS

- (174) 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.
- (175) 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 iron or alloy steel or non-alloy steel; aluminium killed; plated or coated by hot dip galvanisation with zinc and/or with aluminium, and no other metal; chemically passivated; containing by weight: 0,015 % or more but not more than 0,170 % of carbon, 0,015 % or more but not more than 0,100 % of aluminium, not more than 0,045 % of niobium, not more than 0,010 % of titanium and not more than 0,010 % of vanadium; presented in coils, cut-to-length sheets and narrow strips.

The following products are excluded:

- of stainless steel, of silicon-electrical steel, and of high-speed steel,
- not further worked than hot-rolled or cold-rolled (cold-reduced).

The product concerned is currently falling within CN codes ex 7210 41 00, ex 7210 49 00, ex 7210 61 00, ex 7210 69 00, ex 7212 30 00, ex 7212 50 61, ex 7212 50 69, ex 7225 92 00, ex 7225 99 00, ex 7226 99 30 and ex 7226 99 70 (TARIC codes: 7210 41 00 20, 7210 49 00 20, 7210 61 00 20, 7210 69 00 20, 7212 30 00 20, 7212 50 61 20, 7212 50 69 20, 7225 92 00 20, 7225 99 00 22, 7225 99 00 35, 7225 99 00 92, 7226 99 30 10, 7226 99 70 94) and originating in the People's Republic of China.

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

Company	Provisional duty rate (%)	TARIC additional code
Hesteel Co., Ltd Handan Branch	23,5	C227
Handan Iron & Steel Group Han-Bao Co., Ltd	23,5	C158
Hesteel Co., Ltd Tangshan Branch	23,5	C159
Tangshan Iron & Steel Group High Strength Automotive Strip Co., Ltd	23,5	C228

Company	Provisional duty rate (%)	TARIC additional code
Beijing Shougang Cold Rolling Co., Ltd	17,2	C229
Shougang Jingtang United Iron and Steel Co., Ltd	17,2	C164
Zhangjiagang Shagang Dongshin Galvanized Steel Sheet Co., Ltd	28,5	C230
Zhangjiagang Yangtze River Cold Rolled Sheet Co., Ltd	28,5	C112
Other cooperating companies listed in the Annex	23,4	C231
All other companies	28,5	C999

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

4. 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 relevant provisions in force concerning customs duties shall apply.

Article 2

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

- (a) request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted;
- (b) submit their written comments to the Commission; and
- (c) request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

2. Within 25 calendar days of the date of entry into force of this Regulation, the parties referred to in Article 21(4) of Regulation (EU) 2016/1036 may comment on the application of the provisional measures.

Article 3

1. Customs authorities are hereby directed to discontinue the registration of imports established in accordance with Article 1 of Implementing Regulation (EU) 2017/1238.

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

Article 4

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

Article 1 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, 9 August 2017.

For the Commission

The President

Jean-Claude JUNKER

ANNEX

COOPERATING EXPORTING PRODUCERS NOT INCLUDED IN THE SAMPLE
TARIC ADDITIONAL CODE C231

Maanshan Iron & Steel Co., Ltd	Maanshan, Anhui
Angang Steel Company Limited	Anshan, Liaoning
TKAS Auto Steel Company Ltd	Dalian, Liaoning
JiangYin ZongCheng Steel CO., Ltd	Jiangyin, Jiangsu
Bengang Steel Plates Co., Ltd	Benxi, Liaoning
BX STEEL POSCO Cold Rolled Sheet Co., Ltd	Benxi, Liaoning
Wuhan Iron & Steel Co., Ltd	Wuhan, Hubei
Shandong Kerui Steel Plate Co., Ltd	Binzhou, Shandong
Inner Mongolia Baotou Steel Union Co. Ltd	Baotou, Inner Mongolia
Hunan Valin Liangang Steel Sheet Co., Ltd	Loudi, Hunan
Shandong Huifu Color Steel Co., Ltd	Linyi, Shandong
Fujian Kaijing Greentech Material Co., Ltd	Longhai, Fujian
Baoshan Iron & Steel Co., Ltd	Shanghai
Baosteel Zhanjiang Iron & Steel Co., Ltd	Zhanjiang, Guangdong
Yieh Phui (China) Technomaterial Co.	Changshu, Jiangsu
Rizhao Baohua New Materials Co., Ltd	Rizhao, Shandong
Jiangsu Gangzheng Steel Sheet Science and Technology Co., Ltd	Nantong, Jiangsu

DECISIONS

COMMISSION IMPLEMENTING DECISION (EU) 2017/1445

of 8 August 2017

on the group of products whose principal intended action, depending on proanthocyanidins (PAC) present in cranberry (*Vaccinium macrocarpon*), is to prevent or treat cystitis

(notified under document C(2017) 5341)

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 93/42/EEC of 14 June 1993 concerning medical devices ⁽¹⁾, and in particular Article 13(1) thereof,

Having regard to the request submitted by France in accordance with Article 13(1)(d) of this Directive,

Whereas:

- (1) France has requested the Commission in accordance with Article 13(1)(d) of Directive 93/42/EEC to take a decision that the group of products whose principal intended action, depending on proanthocyanidins (PAC) present in cranberry (*Vaccinium macrocarpon*) extract, is to prevent or treat cystitis, does not fall within the definition of medical devices set out in point (a) of Article 1(2) of Directive 93/42/EEC.
- (2) The definition of a medical device set out in Article 1(2)(a) of Directive 93/42/EEC provides among others that a device falls within that definition if it does not achieve its principal intended action by pharmacological, immunological or metabolic means.
- (3) The European Medicines Agency (EMA) in its opinion of 22 July 2016 ⁽²⁾ concluded that the principal intended action of the group of products mentioned in recital (1) is achieved probably by pharmacological means as metabolites of PAC and other constituents of cranberry exhibit most probably a pharmacological activity and that a mechanical mode of action of PAC is highly unlikely.
- (4) The mechanical mode of action would indicate that the group of products in question fall within the definition of medical devices. As such a mode is highly unlikely and a pharmacological mode of action is most probable, this indicates that the group of products in question should not fall within the definition of medical devices.
- (5) Results of a questionnaire circulated at the Medical Devices Expert Group in November 2014 showed that the majority of Member States, based on their scientific expertise, is of the view that this group of products should not fall within the definition of medical devices.
- (6) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 7(1) of Directive 93/42/EEC,

HAS ADOPTED THIS DECISION:

Article 1

The group of products whose principal intended action, depending on proanthocyanidins present in cranberry (*Vaccinium macrocarpon*) extract, is to prevent or treat cystitis, does not fall within the definition of medical devices set out in point (a) of Article 1(2) of Directive 93/42/EEC.

⁽¹⁾ OJ L 169, 12.7.1993, p. 1.

⁽²⁾ CHMP (Committee for Medicinal Products for Human Use) scientific opinion to DG Internal Market, Industry, Entrepreneurship and SMEs, Unit GROW D.4. 'Health Technology & Cosmetics' on the principal mode of action of proanthocyanidins intended to be used for prevention and treatment of urinary tract infections, EMA/427414/2016, http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item_id=8684&lang=en

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 8 August 2017.

For the Commission
Elżbieta BIENKOWSKA
Member of the Commission

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

Only the original UN/ECE texts have legal effect under international public law. The status and date of entry into force of this Regulation should be checked in the latest version of the UN/ECE status document TRANS/WP.29/343, available at:

<http://www.unece.org/trans/main/wp29/wp29wgs/wp29gen/wp29docstts.html>

Regulation No 103 of the Economic Commission for Europe of the United Nations (UNECE) — Uniform provisions concerning the approval of replacement pollution control devices for power- driven vehicles [2017/1446]

Incorporating all valid text up to:

Supplement 4 to the original version of the Regulation — Date of entry into force: 10 June 2014

CONTENTS

REGULATION

1. Scope
2. Definitions
3. Application for approval
4. Approval
5. Requirements
6. Modification of the replacement pollution control device type and extension of approval
7. Conformity of production
8. Penalties for non-conformity of production
9. Production definitively discontinued
10. Names and addresses of technical services responsible for conducting approval tests and of Type-Approval Authorities
11. Documentation

Appendix — Information document No ... relating to the type-approval of replacement pollution control devices

ANNEXES

1. Communication concerning the approval or extension or refusal or withdrawal of approval or production definitively discontinued of a replacement pollution control device pursuant to Regulation No 103
2. Examples of arrangements of approval marks

1. SCOPE

This Regulation applies to the type-approval, as separate technical units, of pollution control device to be fitted in one or more types of motor vehicles of categories covered by the scope of the related version of Regulation No 83 as replacement parts.

Catalytic converters and particulate filters shall be considered to be pollution control devices for the purposes of this Regulation.

2. DEFINITIONS

For the purpose of this Regulation:

- 2.1. 'Original pollution control device' means a pollution control device or an assembly of such devices covered by the type-approval delivered for the vehicle and whose types are indicated in the documents related to Annex 2 of Regulation No 83 ⁽¹⁾.
- 2.2. 'Replacement pollution control device' means a pollution control device or an assembly of such devices for which approval can be obtained according to this Regulation, other than those defined in paragraph 2.1 above.
- 2.3. 'Original replacement pollution control device' means a pollution control device or an assembly of such devices whose types are indicated in the documents related to Annex 2 of Regulation No 83 ⁽¹⁾, but are offered in the market as separate technical units by the holder of the vehicle type-approval.
- 2.4. 'Type of pollution control device' means catalytic converters and particulate filters which do not differ in any of the following essential aspects:
 - (a) number of substrates, structure and material;
 - (b) type of activity of each substrate;
 - (c) volume, ratio of frontal area and substrate length;
 - (d) catalyst material content;
 - (e) catalyst material ratio;
 - (f) cell density;
 - (g) dimensions and shape;
 - (h) thermal protection.
- 2.5. 'Vehicle type'

See paragraph 2.1 of Regulation No 83.
- 2.6. 'Approval of a replacement pollution control device' means the approval of a pollution control device intended to be fitted as a replacement part on one or more specific types of vehicles with regard to the limitation of pollutant emissions, noise level and effect on vehicle performance and, where applicable, on the on-board diagnostic (OBD).
- 2.7. 'Deteriorated replacement pollution control device' means a pollution control device that has aged or has been artificially deteriorated to such an extent that it fulfils the requirements laid out in paragraph 1 of Appendix 1 to Annex 11 of Regulation No 83.
- 2.8. 'Periodically regenerating system' means catalytic converters, particulate filters or other pollution control devices that require a periodical regeneration process in less than 4 000 km of normal vehicle operation.

3. APPLICATION FOR APPROVAL

- 3.1. The application for approval of a type of replacement pollution control device shall be submitted by its manufacturer or by his authorised representative.

⁽¹⁾ Annex 2 of Regulation No 83, 06 series of amendments, shall be corrected consequently — paragraph 3.2.12.2.1 of Annex 1 of Regulation No 83, 07 series of amendments.

- 3.2. For each type of replacement pollution control device for which type-approval is requested, the application for approval shall be accompanied by the following documents in triplicate.
 - 3.2.1. Drawings of the replacement pollution control device identifying in particular all the characteristics referred to in paragraph 2.3 of this Regulation.
 - 3.2.2. Description of the vehicle type or types for which the replacement pollution control device is intended. The number and/or symbols characterising the engine and vehicle type(s) shall be indicated.
 - 3.2.3. Description and drawings showing the position of the replacement pollution control device relative to the engine exhaust manifold(s).
 - 3.2.4. Drawings indicating the intended location of the approval mark.
 - 3.2.5. Indication if the replacement pollution control device is intended to be compatible with OBD requirements.
 - 3.2.6. A model for the information document is given in the Appendix.
- 3.3. The applicant for approval shall provide the technical service responsible for approval tests with:
 - 3.3.1. Vehicle(s) of a type approved in accordance with Regulation No 83 equipped with a new original pollution control device. This (these) vehicle(s) shall be selected by the applicant with the agreement of the technical service. It (they) shall comply with the requirements of paragraph 3.1 of Annex 4 or paragraph 3.2 of Annex 4a of Regulation No 83, whichever was in force at the time of the approval of the vehicle.

The test vehicle(s) shall have no emission control system defects; any excessively worn out or malfunctioning emission related original part shall be repaired or replaced. The test vehicle(s) shall be tuned properly and set to the manufacturer's specification prior to emission testing.
 - 3.3.2. One sample of the type of the replacement pollution control device. This sample shall be clearly and indelibly marked with the applicant's trade name or mark and its commercial designation.
 - 3.3.3. An additional sample of the type of the replacement pollution control device, in the case of a replacement pollution control device intended to be fitted to a vehicle equipped with an OBD system. This sample shall be clearly and indelibly marked with the applicant's trade name or mark and its commercial designation. It shall have been deteriorated as defined in paragraph 2.7 above.

4. APPROVAL

- 4.1. If the replacement pollution control device submitted for approval pursuant to this Regulation meets the requirements of paragraph 5 below, approval of that type of replacement pollution control device shall be granted.
- 4.2. Original replacement pollution control devices, which are indicated in Annex 2 of Regulation No 83 ⁽¹⁾ and are intended for fitment to a vehicle to which the relevant type-approval document refers, do not need to be approved according to this Regulation provided they fulfil the requirements of paragraphs 4.2.1 and 4.2.2.

4.2.1. Marking

Original replacement pollution control devices shall bear at least the following identifications:

- 4.2.1.1. The vehicle manufacturer's name or trademark.
- 4.2.1.2. The make and identifying part number of the original replacement pollution control device as recorded in the information mentioned in paragraph 4.2.3.

⁽¹⁾ Annex 2 of Regulation No 83, 06 series of amendments, shall be corrected consequently — paragraph 3.2.12.2.1 of Annex 1 of Regulation No 83, 07 series of amendments.

4.2.2. Documentation

Original replacement pollution control devices shall be accompanied by the following information:

4.2.2.1. The vehicle manufacturer's name or trade mark.

4.2.2.2. Make and identifying part number of the original replacement pollution control device as recorded in the information mentioned in paragraph 4.2.3.

4.2.2.3. The vehicles for which the original replacement pollution control device is of a type indicated in Annex 2 of Regulation No 83 ⁽¹⁾, including, where applicable, a marking to identify if the original replacement pollution control device is suitable for fitting to a vehicle that is equipped with an on-board diagnostic (OBD) system.

4.2.2.4. Installation instructions, where necessary.

4.2.2.5. This information shall be provided either:

- (a) as a leaflet accompanying the original replacement pollution control device; or
- (b) on the packaging in which the original replacement pollution control device is sold; or
- (c) by any other applicable means.

In any case, the information shall be available in the product catalogue distributed to points of sale by the vehicle manufacturer.

4.2.3. The vehicle manufacturer shall provide to the technical service and/or approval authority the necessary information in electronic format which makes the link between the relevant part numbers and the type-approval documentation.

This information shall contain:

- (a) make(s) and type(s) of vehicle;
- (b) make(s) and type(s) of original replacement pollution control device;
- (c) part number(s) of original replacement pollution control device;
- (d) type-approval number of the relevant vehicle type(s).

4.3. An approval number shall be assigned to each replacement pollution control device type-approved. Its first two digits (00 for the Regulation in its present form) shall indicate the series of amendments incorporating the most recent major technical amendments made to the Regulation at the time of issue of the approval. The same Contracting Party may not assign the same number to another type of replacement pollution control device. The same approval number may cover the use of that replacement pollution control device type on a number of different vehicle types.

4.4. When the applicant for type-approval can demonstrate to the type-approval authority or technical service that the replacement pollution control device is of a type indicated in Annex 2 to the 05 or later series of amendments to Regulation No 83, the granting of a type-approval certificate shall not be dependent on the requirements specified in paragraph 5 having to be verified.

4.5. Notice of approval or of extension or of refusal of approval of a type of replacement pollution control device pursuant to this Regulation shall be communicated to the Contracting Parties to the Agreement applying this Regulation by means of a form conforming to the model in Annex 1 to this Regulation.

⁽¹⁾ Annex 2 of Regulation No 83, 06 series of amendments, shall be corrected consequently — paragraph 3.2.12.2.1 of Annex 1 of Regulation No 83, 07 series of amendments.

- 4.6. There shall be affixed, conspicuously and in a place specified on the approval form, to the replacement pollution control device conforming to a type of replacement pollution control device approved under this Regulation, an international approval mark consisting of:
- 4.6.1. A circle surrounding the letter 'E' followed by the distinguishing number of the country which has granted approval ⁽¹⁾;
- 4.6.2. The number of this Regulation, followed by the letter 'R', a dash and the approval number in the vicinity of the circle prescribed in paragraph 4.6.1.
- 4.7. If the replacement pollution control device conforms to a pollution control device type-approved under one or more other Regulations annexed to the Agreement in the country which has granted approval under this Regulation, the symbol prescribed in paragraph 4.6.1 need not be repeated; in such a case, the Regulation and approval numbers and the additional symbols of all the Regulations under which approval has been granted in the country which has granted approval under this Regulation shall be placed in vertical columns to the right of the symbol prescribed in paragraph 4.6.1.
- 4.8. The approval mark shall be indelible and clearly legible when the replacement pollution control device is mounted under the vehicle.
- 4.9. Annex 2 to this Regulation gives examples of arrangements of approval marks.

5. REQUIREMENTS

5.1. General requirements

- 5.1.1. The replacement pollution control device shall be designed, constructed and capable of being mounted so as to enable the vehicle to comply with the provisions of those Regulations which it was originally in compliance with and that pollutant emissions are effectively limited throughout the normal life of the vehicle under normal conditions of use.
- 5.1.2. The installation of the replacement pollution control device shall be at the exact position of the original pollution control device, and the position on the exhaust line of the oxygen probe(s) and other sensors, if applicable, shall not be modified.
- 5.1.3. If the original equipment pollution control device includes thermal protections, the replacement pollution control device shall include equivalent protections.
- 5.1.4. The replacement pollution control device shall be durable, that is designed, constructed and capable of being mounted so that reasonable resistance to the corrosion and oxidation phenomena to which it is exposed is obtained, having regard to the conditions of use of the vehicle.

5.2. Requirements regarding emissions

The vehicle(s) indicated in paragraph 3.3.1 of this Regulation, equipped with a replacement pollution control device of the type for which approval is requested, shall be subjected to a type I test under the conditions described in the corresponding annexes of Regulation No 83 in order to compare its performance with the original pollution control device according to the procedure described below.

5.2.1. Determination of the basis for comparison

The vehicle(s) shall be fitted with a new original pollution control device (see paragraph 3.3.1) which shall be run in with 12 extra urban cycles (test type I, part 2). After this preconditioning, the vehicle(s) shall be kept in a room in which the temperature remains relatively constant between 293 and 303 K (20 and 30 °C). This conditioning shall be carried out for at least six hours and continue until the engine oil temperature and coolant, if any, are within ± 2 K of the temperature of the room. Subsequently three exhaust gas tests type I shall be made.

⁽¹⁾ The distinguishing numbers of the Contracting Parties to the 1958 Agreement are reproduced in Annex 3 to Consolidated Resolution on the Construction of Vehicles (R.E.3), document TRANS/WP.29/78/Rev.2.

5.2.2. Exhaust gas test with replacement pollution control device

The original pollution control device of the test vehicle(s) shall be replaced by the replacement pollution control device (see paragraph 3.3.2) which shall be run in with 12 extra urban cycles (test type I part 2). After this preconditioning, the vehicle(s) shall be kept in a room in which the temperature remains relatively constant between 293 and 303 K (20 and 30 °C). This conditioning shall be carried out for at least six hours and continue until the engine oil temperature and coolant, if any, are within ± 2 K of the temperature of the room. Subsequently three exhaust gas tests type I shall be made.

5.2.3. Evaluation of the emission of pollutants of vehicles equipped with replacement pollution control devices.

The test vehicle(s) with the original pollution control device shall comply with the limit values according to the type-approval of the vehicle(s) including — if applicable — the deterioration factors applied during the type-approval of the vehicle(s).

The requirements regarding emissions of the vehicle(s) equipped with the replacement pollution control device shall be deemed to be fulfilled if the results meet for each regulated pollutant (CO, HC, NO_x particulates and particles) the following conditions:

$$(1) M \leq 0,85S + 0,4G$$

$$(2) M \leq G$$

where:

M: mean value of the emissions of one pollutant (CO, HC, NO_x particulates and particles) or the sum of two pollutants (HC + NO_x) obtained from the three type I tests with the replacement pollution control device;

S: mean value of the emissions of one pollutant (CO, HC, NO_x particulates and particles) or the sum of two pollutants (HC + NO_x) obtained from the three type I tests with the original pollution control device;

G: limit value of the emissions of one pollutant (CO, HC, NO_x particulates and particles) or the sum of two pollutants (HC + NO_x) according to the type-approval of the vehicle(s):

(i) divided, if applicable, by the multiplicative deterioration factors determined in accordance with paragraph 5.4 below; or

(ii) minus, if applicable, the additive deterioration factors determined in accordance with paragraph 5.4 below.

Where approval is applied for different types of vehicles from the same car manufacturer, and provided that these different types of vehicles are fitted with the same type of original equipment pollution control device, the type I testing may be limited to at least two vehicles selected after agreement with the technical service responsible for approval.

5.2.4. For pollution control devices intended to be fitted to vehicles type-approved to the 07 series of amendments to Regulation No 83, the regulated pollutants referred to throughout paragraph 5.2.3 of this Regulation shall be understood to be all pollutants specified in paragraph 5.3.1.4 of the 07 series of amendments to Regulation No 83.

5.3. Requirements regarding noise and vehicle performance

The replacement pollution control device shall satisfy the technical requirements of Regulation No 59. As an alternative to the measurement of back-pressure as specified in Regulation No 59, the verification of the vehicle performance can be performed by measuring on a chassis dynamometer the maximum absorbed power at a speed corresponding to the engine maximum power. The value determined under reference atmospheric conditions as specified in Regulation No 85 with the replacement control device shall not be lower by more than 5 per cent than that determined with the original equipment pollution control device.

5.4. Requirements regarding durability

The replacement pollution control device shall comply with the requirements of paragraph 5.3.6 of Regulation No 83.

5.4.1. For replacement pollution control devices intended to be fitted to vehicles type-approved to the 07 series of amendments to Regulation No 83, the durability requirements and associated deterioration factors specified in paragraph 5.3.6 of the 07 series of amendments to Regulation No 83 shall be used.

5.5. Requirements regarding OBD compatibility (applicable only to replacement pollution control devices intended to be fitted to vehicles equipped with an OBD system)

OBD compatibility demonstration is required only when the original pollution control device was monitored in the original configuration.

5.5.1. The compatibility of the replacement pollution control device with the OBD system shall be demonstrated by using the procedures described in the 05, 06 or 07 ⁽¹⁾ series of amendments to Regulation No 83, Annex 11, Appendix 1.

5.5.2. The provisions in the 05, 06 or 07 ⁽¹⁾ series of amendments to Regulation No 83, Annex 11, Appendix 1 applicable to components other than the pollution control device shall not be applied.

5.5.3. The aftermarket manufacturer may use the same preconditioning and test procedure as used during the original type-approval. In this case, the Type-Approval Authorities shall provide, on request and on a non-discriminatory basis, the Appendix to the type-approval communication which contains the number and type of preconditioning cycles and the type of test cycle used by the original equipment manufacturer for OBD testing of the pollution control device.

5.5.4. In order to verify the correct installation and functioning of all other components monitored by the OBD system, the OBD system shall indicate no malfunction and have no stored fault codes prior to the installation of any of the replacement pollution control devices. An evaluation of the status of the OBD system at the end of the tests described in paragraph 5.2.1 may be used for this purpose.

5.5.5. The malfunction indicator (MI: see reference paragraph 2.5 of Annex 11 to the 05 or later series of amendments to Regulation No 83) shall not activate during vehicle operation required by paragraph 5.2.2.

5.5.6. For vehicles with positive-ignition engines, if the THC and NMHC emissions measured during the demonstration test of a new original equipment catalytic converter, under paragraph 5.2.1 of this Regulation are higher than the values measured during the type-approval of the vehicle, the difference shall be added to the OBD threshold limits. The OBD threshold limits are specified in paragraph 3.3.2 of Annex 11 to Regulation No 83.

5.5.7. The revised OBD threshold limits will apply during the tests of OBD compatibility set out in paragraphs 5.5 to 5.5.5 of this Regulation. In particular, when the exceedance allowed in paragraph 1 of Appendix 1 to Annex 11 to Regulation No 83 is applied.

5.6. Requirements for replacement periodically regenerating systems

5.6.1. Requirements regarding emissions

5.6.1.1. The vehicle(s) indicated in paragraph 3.3.1 of this Regulation, equipped with a replacement periodically regenerating system of the type for which approval is requested, shall be subject to the tests described in paragraph 3 of Annex 13 to Regulation No 83, in order to compare its performance with the same vehicle equipped with the original periodically regenerating system.

5.6.2. Determination of the basis for comparison

5.6.2.1. The vehicle shall be fitted with a new original periodically regenerating system. The emissions performance of this system shall be determined following the test procedure set out in paragraph 3 of Annex 13 of Regulation No 83.

⁽¹⁾ Whichever was in force at the time of the approval of the vehicle.

5.6.2.2. Upon request of the applicant for the approval of the replacement component, the approval authority shall make available on a non-discriminatory basis, the information referred to in items 3.2.12.2.1.11.1 and 3.2.12.2.6.4.1 of the information document contained in Annex 1 to Regulation No 83 for each vehicle tested.

5.6.3. Exhaust gas test with a replacement periodically regenerating system

5.6.3.1. The original equipment periodically regenerating system of the test vehicle(s) shall be replaced by the replacement periodically regenerating system. The emissions performance of this system shall be determined following the test procedure set out in paragraph 3 of Annex 13 to Regulation No 83.

5.6.3.2. To determine the D-factor of the replacement periodically regenerating system, any of the engine bench methods referred to in paragraph 3 of Annex 13 to Regulation No 83 may be used.

5.6.4. Other requirements

The requirements of paragraphs 5.2.3, 5.3, 5.4 and 5.5 of this Regulation shall apply to replacement periodically regenerating systems. In these paragraphs the words 'catalytic converter' shall be understood to mean 'periodically regenerating system'.

6. MODIFICATION OF THE REPLACEMENT POLLUTION CONTROL DEVICE TYPE AND EXTENSION OF APPROVAL

Every modification of the replacement pollution control device type shall be notified to the Type-Approval Authority which approved this type of replacement pollution control device.

The Authority may then either:

- (a) consider that the modifications made are unlikely to have an appreciable adverse effect and that in any case the replacement pollution control device still complies with the requirements; or
- (b) require a further test report for some or all the tests described in paragraph 5 of this Regulation from the technical service responsible for conducting the tests.

Confirmation or refusal of approval, specifying the alteration, shall be communicated by the procedure specified in paragraph 4.3 above to the Parties to the Agreement applying this Regulation.

The competent authority issuing the extension of approval shall assign a serial number to each communication form drawn up for such an extension.

7. CONFORMITY OF PRODUCTION

The conformity of production procedures shall comply with those set out in the Agreement, Appendix 2 (E/ECE/324-E/ECE/TRANS/505/Rev.2), with the following requirements.

7.1. The replacement pollution control devices approved under this Regulation shall be so manufactured as to conform to the type approved in the characteristics as defined under paragraph 2.3 of this Regulation. They shall meet the requirements set forth in paragraph 5 and, where applicable, fulfil the requirements of the tests specified in this Regulation.

7.2. The approval authority may carry out any check or test prescribed in this Regulation. In particular, the tests described in paragraph 5.2 of this Regulation (requirements regarding emissions) may be carried out. In this case, the holder of the approval may ask, as an alternative, to use as a basis for comparison not the original equipment pollution control device, but the replacement pollution control device which was used during the type-approval tests (or another sample that has been proven to conform to the approved type). Emissions' values measured with the sample under verification shall then on average not exceed by more than 15 per cent the mean values measured with the sample used for reference.

8. PENALTIES FOR NON-CONFORMITY OF PRODUCTION

8.1. The approval granted in respect of a type of replacement pollution control device pursuant to this Regulation may be withdrawn if the requirements laid down in paragraph 7 above are not complied with.

- 8.2. If a Party to the Agreement which applies this Regulation withdraws an approval it has previously granted, it shall forthwith so notify the other Contracting Parties applying this Regulation, by means of a form conforming to the model in Annex 1 to this Regulation.

9. PRODUCTION DEFINITELY DISCONTINUED

If the holder of the approval completely ceases to manufacture a type of replacement pollution control device approved in accordance with this Regulation, he shall so inform the authority which granted the approval. Upon receiving the relevant communication, that authority shall inform thereof the other Parties to the Agreement applying this Regulation by means of a form conforming to the model in Annex 1 to this Regulation.

10. NAMES AND ADDRESSES OF TECHNICAL SERVICES RESPONSIBLE FOR CONDUCTING APPROVAL TESTS, AND OF TYPE-APPROVAL AUTHORITIES

The Contracting Parties to the Agreement applying this Regulation shall communicate to the United Nations Secretariat the names and addresses of the technical services responsible for conducting approval tests and of the Type-Approval Authorities which grant approval and to which forms certifying approval or extension or refusal or withdrawal of approval issued in other countries are to be sent.

11. DOCUMENTATION

- 11.1. Each new replacement pollution control device shall be indelibly marked with the manufacturer's name or trade mark and accompanied by the following information:

- 11.1.1. The vehicles (including year of manufacture) for which the replacement pollution control device is approved, including, where applicable, a marking to identify if the replacement pollution control device is suitable for fitting to a vehicle that is equipped with an on-board diagnostic (OBD) system.

- 11.1.2. Installation instructions, where necessary.

- 11.2. This information shall be provided either:

- (a) as a leaflet accompanying the replacement pollution control device; or
- (b) on the packaging in which the replacement pollution control device is sold; or
- (c) by any other applicable means.

In any case, the information shall be available in the product catalogue distributed to points of sale by the manufacturer of replacement pollution control device.

APPENDIX

Information document No ... relating to the type-approval of replacement pollution control devices

Any drawings shall be supplied in appropriate scale and sufficient detail on size A4 or on a folder of A4 format. Photographs, if any, shall show sufficient detail.

If the system, components or separate technical units have electronic controls, information concerning their performance shall be supplied.

1. GENERAL

1.1. Make (trade name of manufacturer):

1.2. Type:

1.2.1. Commercial name(s), if available:

1.5. Name and address of manufacturer:

1.7. In the case of components and separate technical units, location and method of affixing of the ECE approval mark:

1.8. Address(es) of assembly plant(s):

2. DESCRIPTION OF THE DEVICE

2.1. Make and type of the replacement pollution control device:

2.2. Drawings of the replacement pollution control device, identifying in particular all the characteristics referred to in items 2.3 to 2.3.2 of this Appendix:

2.3. Description of the vehicle type or types for which the replacement pollution control device is intended:

2.3.1. Number(s) and/or symbol(s) characterising the engine and vehicle type(s):

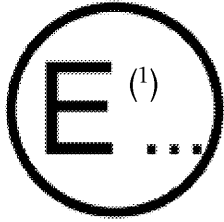
2.3.2. Is the replacement pollution control device intended to be compatible with OBD requirements: Yes/No (Strike out what does not apply).

Description and drawings showing the position of the replacement pollution control device relative to the engine exhaust manifold(s):

ANNEX 1

COMMUNICATION

(Maximum format: A4 (210 × 297 mm))



issued by: Name of administration

.....

.....

.....

Concerning ⁽²⁾: Approval granted

Approval extended

Approval refused

Approval withdrawn

Production definitively discontinued

of a replacement pollution control device pursuant to Regulation No 103

Approval No: Extension No:

Reason for extension:

1. Applicant's name and address:
2. Manufacturer's name and address:
3. Manufacturer's trade name or mark:
4. Type and commercial designation of the replacement pollution control device:
5. Means of identification of type, if marked:
- 5.1. Location of that marking:
6. Vehicle type(s) for which the pollution control device type qualifies as replacement pollution control device:
7. Type(s) of vehicle(s) on which the replacement pollution control device has been tested:
- 7.1. Has the replacement pollution control device demonstrated compatibility with OBD requirements: Yes/No ⁽²⁾
8. Location and method of affixing of the approval mark:
9. Submitted for approval on:
10. Technical Service responsible for approval tests:
- 10.1. Date of test report:
- 10.2. Number of test report:
11. Approval granted/extended/refused/withdrawn ⁽²⁾
12. Place:
13. Date:

-
14. Signature:
15. Annexed to this communication is a list of documents in the approval file deposited at the administrative services having delivered the approval and which can be obtained upon request.

⁽¹⁾ Distinguishing number of the country which has granted/extended/refused/withdrawn an approval (see approval provisions in the Regulation).

⁽²⁾ Strike out what does not apply.

ANNEX 2

EXAMPLES OF ARRANGEMENTS OF APPROVAL MARKS

MODEL A

(See paragraph 4.6 of this Regulation)

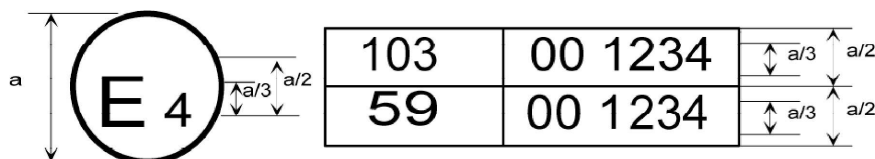


a = 8 mm min

The above approval mark affixed to a component of a replacement pollution control device shows that the type concerned has been approved in the Netherlands (E 4), pursuant to Regulation No 103 under approval No 001234. The first two digits of the approval number indicate that the approval was granted in accordance with the requirements of Regulation No 103 in its original form.

MODEL B

(See paragraph 4.7 of this Regulation)



a = 8 mm min

The above approval mark affixed to a component of replacement pollution control device shows that the type concerned has been approved in the Netherlands (E 4) pursuant to Regulations Nos 103 and 59 ⁽¹⁾.

The first two digits of the approval numbers indicate that, on the date on which these approvals were granted, Regulations Nos 103 and 59 were in their original form.

⁽¹⁾ The second number is given merely as an example

