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II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

Information concerning the date of entry into force of the Agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Morocco on the amendment of Protocols 1 and 4 to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part

The above mentioned Agreement between the European Union and the Kingdom of Morocco, signed in Brussels on 25 October 2018, entered into force on 19 July 2019.

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2019/1259

of 24 July 2019

imposing a definitive anti-dumping duty on imports of threaded tube or pipe cast fittings, of malleable cast iron and spheroidal graphite cast iron, originating in the People's Republic of China and Thailand, following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council

THE EUROPEAN COMMISSION,

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

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

Whereas:

1. PROCEDURE

1.1. Previous investigations and measures in force

- (1) By Council Implementing Regulation (EU) No 430/2013 ⁽²⁾, a definitive anti-dumping duty was imposed on imports of threaded tube or pipe cast fittings, of malleable cast iron and spheroidal graphite cast iron, excluding bodies of compression fittings using ISO DIN 13 metric thread and malleable iron threaded circular junction boxes without having a lid, currently falling under Combined Nomenclature ('CN') code ex 7307 19 10 (TARIC code 7307 19 10 10) and ex 7307 19 90 (TARIC code 7307 19 90 10) originating in the People's Republic of China (the PRC) and Thailand ('the current measures'). The duty, based on the elimination of dumping level, ranged between 14,9 % and 57,8 %.
- (2) On 12 June 2013, Chinese exporting producer Jinan Meide Castings Co., Ltd, lodged an application at the General Court of the European Union seeking the annulment of the Regulation (EU) No 430/2013 in so far as it applies to it. On 30 June 2016, the General Court in its judgement found that the rights of defence of Jinan Meide were breached and annulled the contested Regulation in so far as it imposed an anti-dumping duty on imports of threaded tube or pipe cast fittings, of malleable cast iron, manufactured by Jinan Meide.
- (3) Following the above judgement, by notice ⁽³⁾ of 28 October 2016, the European Commission ('the Commission') reopened the anti-dumping investigation concerning threaded tube or pipe cast fittings, of malleable cast iron, manufactured by Jinan Meide.
- (4) By Commission Implementing Regulation (EU) 2017/1146 ⁽⁴⁾ on 28 June 2017, the Commission re-imposed a definitive anti-dumping duty of 39,2 % on imports of threaded tube or pipe cast fittings, of malleable cast iron, originating in the PRC, manufactured by Jinan Meide Castings Co., Ltd
- (5) On 25 November 2015, the Commission initiated a partial interim review, following the request of Metpro Limited, concerning certain types of threaded tube or pipe case fitting of malleable cast iron originating in PRC and Thailand in order to determine whether they fell within the scope of applicable anti-dumping measures. The Commission terminated this partial interim review on 18 July 2016, by Implementing Decision (EU) 2016/1176 ⁽⁵⁾, following the applicant's withdrawal of his request.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ OJ L 129, 14.5.2013, p. 1.

⁽³⁾ OJ C 398, 28.10.2016, p. 57.

⁽⁴⁾ OJ L 166, 29.6.2017, p. 23.

⁽⁵⁾ OJ L 193, 19.7.2016, p. 115.

- (6) On 23 May 2017, the Commission initiated a partial interim review, following the request of Hebei Yulong Casting Co., Ltd, concerning certain types of threaded tube or pipe case fitting of malleable cast iron originating in PRC and Thailand in order to determine whether they fall within the scope of applicable anti-dumping measures. The Commission terminated this partial interim review on 11 January 2018, by Implementing Decision (EU) 2018/52 ⁽⁶⁾, following the applicant's withdrawal of his request.
- (7) On 12 July 2018, the Court of Justice of the European Union decided that fittings, made of spheroidal graphite cast iron (also known as ductile cast iron) do not correspond to the concept of 'malleable cast iron', as defined within CN subheading 7307 19 10. The Court concluded that fittings made of spheroidal graphite cast iron must be classified under the residual CN subheading 7307 19 90 (as other articles of other iron). On 14 February 2019, the Commission published Regulation (EU) 2019/262 ⁽⁷⁾ amending the references to TARIC codes in order to align them with the court's conclusions. Because anti-dumping measures are imposed according to the product definition irrespective of the tariff classification, this amendment did not have any impact on the product scope of the current measures.

1.2. Request for an expiry review

- (8) Following the publication of a notice of impending expiry ⁽⁸⁾ of the anti-dumping measures in force, the Commission received a request for review ('the Request') pursuant to Article 11(2) of the basic Regulation.
- (9) The Request was lodged on 13 February 2018 by the Defence Committee of Tube or Pipe Cast Fittings of Malleable Cast Iron of the European Union ('the applicant'). The applicant represent more than 95 % of the total Union production of threaded tube or pipe cast fittings, of malleable cast iron and spheroidal graphite cast iron.
- (10) The Request was based on the grounds that the expiry of the measures would be likely to result in continuation or recurrence of dumping and recurrence of injury to the Union industry.

1.3. Initiation of an expiry review

- (11) Having determined that sufficient evidence existed for the initiation of an expiry review, on 8 May 2018, the Commission published a Notice of Initiation in the *Official Journal of the European Union* ('the Notice of Initiation') ⁽⁹⁾.

1.4. Review investigation period and period considered

- (12) The investigation of continuation or recurrence of dumping covered the period from 1 April 2017 to 31 March 2018 ('the review investigation period' or 'RIP').
- (13) The examination of trends relevant for the assessment of the likelihood of a recurrence of injury covered the period from 1 January 2014 to the end of the review investigation period ('the period considered').

1.5. Interested parties

- (14) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. The Commission specifically informed the applicants, known Union producers, known producers and the authorities of the PRC and Thailand, known importers, suppliers, users and traders concerned about the initiation of the investigation and invited them to cooperate.
- (15) Interested parties had an opportunity to comment on the initiation of the investigation and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings. No interested party requested a hearing.

⁽⁶⁾ OJ L 7, 12.1.2018, p. 39.

⁽⁷⁾ OJ L 44, 15.2.2019, p. 6.

⁽⁸⁾ OJ C 268, 12.8.2017, p. 4.

⁽⁹⁾ OJ C 162, 8.5.2018, p. 11.

1.6. Sampling

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

1.6.1. *Sampling of Union producers*

- (17) The Commission stated in the Notice of Initiation that it had provisionally selected a sample of Union producers.
- (18) In accordance with Article 17(1) of the basic Regulation, the Commission selected the sample on the basis of the largest representative volume of sales of the like product in 2017, which could reasonably be investigated within the time available.
- (19) This sample consisted of three Union producers. The sampled Union producers accounted for more than 70 % of the total estimated Union sales volume. The Commission invited interested parties to comment on the provisional sample. No comments were received. Therefore, the Commission concluded that the sample was representative of the Union industry.

1.6.2. *Sampling of importers*

- (20) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation. Seven unrelated importers provided the required information.
- (21) In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample on the basis of the largest representative volume of sales of the product under review in 2017, which could reasonably be investigated within the time available.
- (22) This sample consisted of three Union importers. No comments were received on the sample selected. Therefore, the Commission concluded that the sample was representative of the Union importers.

1.6.3. *Sampling of producers in the PRC*

- (23) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known 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 producers, if any, that could be interested in participating in the investigation.
- (24) Two producers in the PRC provided the requested information and agreed to be included in the sample. In view of the low number of cooperating producers, the Commission decided that sampling was not necessary.

1.6.4. *Sampling of producers in Thailand*

- (25) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known producers in Thailand to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the Kingdom of Thailand to the European Union to identify and/or contact other producers, if any, that could be interested in participating in the investigation.
- (26) One producer in Thailand made itself known but did not send a sampling reply.
- (27) Therefore, there was no cooperation by producers in Thailand.

1.7. Replies to the questionnaire

- (28) The Commission sent questionnaires to the three sampled Union producers, the three sampled unrelated importers, the two producers in the PRC, which made themselves known for the sampling exercise, and the Government of China ('GOC'). Replies to the questionnaires were received only from the three sampled Union producers.

- (29) Therefore, there was no cooperation by producers in the PRC.

1.8. Verification visits

- (30) The Commission sought and verified with cooperating parties all the information deemed necessary for its investigation. Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:

Union producers

- Berg Montana Fittings, EAD, Bulgaria;
- Georg Fischer Fittings GmbH, Austria;
- Odlewnia Zawiercie S.A. (formerly Odlewnia Zeliwa S.A.), Poland.

1.9. Procedure for the determination of the normal value to be used for the PRC dumping calculation under Article 2(6a) of the basic Regulation

- (31) In view of the sufficient evidence available at the initiation of the investigation tending to show the existence in the PRC of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation, the Commission considered it appropriate to initiate the investigation on the basis of Article 2(6a) of the basic Regulation.
- (32) Consequently, in order to collect the necessary data for the eventual application of Article 2(6a) of the basic Regulation, in the Notice of Initiation the Commission invited all known producers in the PRC to provide the information requested in Annex III to the Notice of the Initiation regarding the inputs used for producing the product under review. The two producers that sent sampling replies also submitted the information requested in Annex III.
- (33) In order to obtain information it deemed necessary for its investigation with regard to the alleged significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation, the Commission also sent a questionnaire to the GOC. No reply was received from the GOC.
- (34) In the Notice of Initiation, the Commission also invited all interested parties to make their views known, submit information and provide supporting evidence regarding the appropriateness of the application of Article 2(6a) of the basic Regulation within 37 days of the date of publication of this Notice in the *Official Journal of the European Union*.
- (35) One Chinese producer alleged that the methodology the Commission intend to use was illegal and not in line with the EU's obligations under the WTO Anti-Dumping Agreement. This interested party however failed to substantiate its claim.
- (36) In addition, this Chinese producer stated that there were no distortions within the meaning of Article 2(6a)(b) of the basic Regulation, and its prices and costs, including the costs of raw materials and energy, were the result of free market forces. These claims were not further substantiated, and the said party did not cooperate in the investigation.
- (37) Given the absence of any substantiation of the claims, the Commission could not address them specifically. However, in any event, the Commission assessed whether there were distortions within the meaning of Article 2(6a)(b) of the basic Regulation. Such assessment is laid out in sections 3.2.2.2 to 3.2.2.9 below.
- (38) In the Notice of Initiation, the Commission also specified that, in view of the evidence available, it might need to select an appropriate representative country pursuant to Article 2(6a)(a) of the basic Regulation for the purpose of determining the normal value based on undistorted prices or benchmarks.
- (39) On 20 June 2018, the Commission published a first note to the file ('the Note of 20 June 2018')⁽¹⁰⁾ seeking the views of the interested parties on the relevant sources that the Commission might use for the determination of the normal value, in accordance with Article 2(6a)(e) second indent of the basic Regulation. That note provided a list of all factors of production such as materials, energy and labour used in the production of the product under review by the Chinese producers. In addition, based on the criteria guiding the choice of undistorted prices or benchmarks, the Commission services identified four possible representative countries: Thailand, Turkey, Argentina and Brazil. In respect of the last two countries, the Note of 20 June 2018 acknowledged that there was an observed lack of sufficiently available public financial data.

⁽¹⁰⁾ No. t18.007227.

- (40) All interested parties were given the opportunity to comment. However, comments were received only from one of the applicants and one Chinese producer.
- (41) The comments received on the Note of 20 June 2018 were addressed in a second note on the sources for the determination of the normal value, dated 8 March 2019 ('the Note of 8 March 2019') ⁽¹¹⁾. The list of factors of production was established and it was concluded that, at that stage, Thailand was the most appropriate representative country under Article 2(6a)(a), first indent of the basic Regulation. Interested parties were invited to comment, but no comments were submitted.

2. PRODUCT UNDER REVIEW AND LIKE PRODUCT

2.1. Product under review

- (42) The product under review is threaded tube or pipe cast fittings, of malleable cast iron and spheroidal graphite cast iron, excluding bodies of compression fittings using ISO DIN 13 metric thread and malleable iron threaded circular junction boxes without having a lid, currently falling under CN codes ex 7307 19 10 (TARIC code 7307 19 10 10) and ex 7307 19 90 (TARIC code 7307 19 90 10) and originating in the PRC and Thailand ('the product under review').
- (43) The main input raw materials are metal scrap, coke/electricity/gas, sand (for moulding) and zinc (for galvanisation). The first step of the manufacturing process is the melting of metal scrap. This is followed by the moulding process and the casting of various shapes which are then separated into single pieces. The products have to go through a lengthy annealing process to ensure that they are sufficiently malleable to be used in applications where e.g. shock and vibration resistance are required and to withstand rapid temperature changes. Subsequently, fittings can be galvanized. Then the threading and other machining takes place.
- (44) Threaded tube or pipe cast fittings are used for connecting two or more pipes or tubes, connecting a pipe to an apparatus, changing the direction of a fluid flow, or closing a pipe. Threaded tube or pipe cast fittings are mainly used in the gas, water and heating systems of residential and non-residential buildings. They are also used in the pipe systems of oil refineries. These fittings are available in many configurations, the most common being 90-degree elbows, tees, couplings, crosses, and unions. They are produced in both black (non-galvanized) and galvanized form.

2.2. Like product

- (45) As established in the original investigation, this expiry review investigation confirmed that the following products have the same basic physical, chemical and technical characteristics as well as the same basic uses:
- the product under review;
 - the product produced and sold on the domestic market of Thailand;
 - and the product produced and sold in the Union by the Union industry.
- (46) Those products were therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

3. LIKELIHOOD OF CONTINUATION OF DUMPING FOR THE PRC

3.1. Preliminary remarks for the PRC

- (47) In accordance with Article 11(2) of the basic Regulation, the Commission examined whether the expiry of the measures in force would be likely to lead to a continuation or recurrence of dumping from the PRC.
- (48) As mentioned in recital (29), none of the Chinese producers cooperated in the investigation. The Chinese producers failed to submit questionnaire replies, including any data on export prices and costs, domestic prices and costs, capacity, production, investments, etc. Likewise, the GOC and the Chinese producers did not submit any comments on the evidence in the case file, including the 'Commission Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the Purposes of Trade Defence Investigations' ('the Report') ⁽¹²⁾. Therefore, the Commission resorted to the use of facts available in accordance with Article 18 of the basic Regulation.

⁽¹¹⁾ No. t19.001077.

⁽¹²⁾ http://trade.ec.europa.eu/doclib/docs/2017/december/tradoc_156474.pdf

- (49) The Commission notified the Chinese authorities and the two Chinese producers of the application of Article 18(1) of the basic Regulation and gave them the opportunity to comment. No comments were submitted.
- (50) On that basis, in accordance with Article 18(1) of the basic Regulation, the findings in relation to the likelihood of continuation or recurrence of dumping set out below were based on facts available, in particular, the information contained in the Request, in the submissions by interested parties, the statistics collected on the basis of Article 14(6) of the basic Regulation ('Article 14(6) database') and other public sources identified where applicable below (recitals (115) and (127)).

3.2. Dumping during the review investigation period

- (51) For the review investigation period, the statistical data from the Article 14(6) database show that 7 666 tonnes of malleable fittings were imported into the Union from the PRC constituting 21 % of the total Union consumption. Consequently, the Commission concluded that the actual imports in the review investigation period were representative and, therefore, examined whether dumping continued during the review investigation period.

3.2.1. Normal value

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

3.2.2. Existence of significant distortions

3.2.2.1. Introduction

- (55) Article 2(6a)(b) of the basic Regulation defines *'significant distortions are those distortions which occur when reported prices or costs, including the costs of raw materials and energy, are not the result of free market forces as they are affected by substantial government intervention. In assessing the existence of significant distortions regard shall be had, inter alia, to the potential impact of one or more of the following elements:*
- *the market in question being served to a significant extent by enterprises which operate under the ownership, control or policy supervision or guidance of the authorities of the exporting country;*
 - *state presence in firms allowing the state to interfere with respect to prices or costs;*
 - *public policies or measures discriminating in favour of domestic suppliers or otherwise influencing free market forces;*
 - *the lack, discriminatory application or inadequate enforcement of bankruptcy, corporate or property laws;*
 - *wage costs being distorted;*
 - *access to finance granted by institutions which implement public policy objectives or otherwise not acting independently of the state'.*
- (56) According to Article 2(6a)(b) of the basic Regulation, the assessment of the existence of significant distortions within the meaning of Article 2(6a)(a) shall take into account, amongst others, the non-exhaustive list of elements in the former provision. Pursuant to Article 2(6a)(b) of the basic Regulation, in assessing the existence of significant distortions, regard shall be had to the potential impact of one or more of these elements on prices and costs in the exporting country of the product concerned. Indeed, as that list is non-cumulative, not all the elements need to be given regard to for a finding of significant distortions. Moreover, the same factual circumstances may be used to demonstrate the existence of one or more of the elements of the list. However, any conclusion on significant distortions within the meaning of Article 2(6a)(a) must be made on the basis of all the evidence at hand.

- (57) Article 2(6a)(c) of the basic Regulation provides that '*[w]here the Commission has well-founded indications of the possible existence of significant distortions as referred to in point (b) in a certain country or a certain sector in that country, and where appropriate for the effective application of this Regulation, the Commission shall produce, make public and regularly update a report describing the market circumstances referred to in point (b) in that country or sector*'.
- (58) Interested parties were invited to rebut, comment or supplement the evidence contained in the investigation file at the time of initiation. In that respect, the Commission relies on the Report showing the existence of substantial government intervention at many levels of the economy, including specific distortions in key factors of production (such as land, energy, capital, raw materials and labour) as well as in specific sectors (such as steel and chemicals) which are particularly relevant for the investigation at hand. The Report was placed in the investigation file.
- (59) The Commission examined whether it was appropriate or not to use domestic prices and costs in the PRC, due to the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation. The Commission did so on the basis of the evidence available on the file, including the evidence contained in the Report, which relies on publicly available sources, notably on Chinese legislation, official published Chinese policy documents, reports published by international organisations, and studies and articles by renowned academics, specifically identified in the Report. That analysis covered the examination of the substantial government interventions in its economy in general, but also the specific market situation in the relevant sector including the product under review.
- (60) As specified in recitals (28) to (33), neither the GOC nor the Chinese producers commented or provided evidence supporting or rebutting the existing evidence on the case file, including the Report, and the additional evidence provided by the applicants, on the existence of significant distortions and/or on the appropriateness of the application of Article 2(6a) of the basic Regulation in the case at hand.

3.2.2.2. Significant distortions affecting the domestic prices and costs in the PRC: general economic context

- (61) The Chinese economic system is based on the concept of a 'socialist market economy'. That concept is enshrined in the Chinese Constitution and determines the economic governance of the PRC. The core principle is the '*socialist public ownership of the means of production, namely, ownership by the whole people and collective ownership by the working people*'. The State-owned economy is the '*leading force of the national economy*' and the State has the mandate '*to ensure its consolidation and growth*' ⁽¹³⁾. Consequently, the overall setup of the Chinese economy not only allows for substantial government interventions into the economy, but such interventions are expressly mandated. The notion of supremacy of public ownership over the private one permeates the entire legal system and is emphasised as a general principle in all central pieces of legislation. The Chinese property law is a prime example: it refers to the primary stage of socialism and entrusts the State with upholding the basic economic system under which the public ownership plays a dominant role. Other forms of ownership are tolerated, with the law permitting them to develop side by side with the State ownership ⁽¹⁴⁾.
- (62) In addition, under Chinese law, the socialist market economy is developed under the leadership of the Chinese Communist Party ('CCP'). The structures of the Chinese State and of the CCP are intertwined at every level (legal, institutional, personal), forming a superstructure in which the roles of CCP and the State are indistinguishable. Following an amendment of the Chinese Constitution in March 2018, the leading role of the CCP was given an even greater prominence by being reaffirmed in the text of Article 1 of the Constitution. Following the existing first sentence of the provision: '*[t]he socialist system is the basic system of the People's Republic of China*' a new second sentence was inserted which reads: '*[t]he defining feature of socialism with Chinese characteristics is the leadership of the Communist Party of China*'. ⁽¹⁵⁾ This illustrates the control of the CCP over the economic system of the PRC. This control is inherent to the Chinese system and goes beyond the situation customary in other countries where the governments exercise broad macroeconomic control within the boundaries of which free market forces are at play.

⁽¹³⁾ Report – Chapter 2, p. 6-7.

⁽¹⁴⁾ Report – Chapter 2, p. 10.

⁽¹⁵⁾ <http://en.pkulaw.cn/display.aspx?cgid=311950&lib=law>.

- (63) The Chinese State engages in an interventionist economic policy in pursuance of goals, which coincide with the political agenda set by the CCP rather than reflecting the prevailing economic conditions in a free market ⁽¹⁶⁾. The interventionist economic tools deployed by the Chinese authorities are manifold, including the system of industrial planning, the financial system, as well as at the level of the regulatory environment.
- (64) First, on the level of overall administrative control, the direction of the Chinese economy is governed by a complex system of industrial planning which affects all economic activities within the country. The totality of these plans cover a comprehensive and complex matrix of sectors and crosscutting policies and is present on all levels of government. Plans at provincial level are detailed while national plans set broader targets. Plans also specify the means order to support the relevant industries/sectors as well as the timeframes in which the objectives need to be achieved. Some plans contain explicit output targets. Under the plans, individual industrial sectors and/or projects are singled out as (positive or negative) priorities in line with the government priorities and specific development goals are attributed to them (industrial upgrade, international expansion etc.). The economic operators, private and State-owned alike, must effectively adjust their business activities according to the realities imposed by the planning system. Not only because of the binding nature of the plans but also because the relevant Chinese authorities at all level of government adhere to the system of plans and use their vested powers accordingly, thereby inducing the economic operators to comply with the priorities set out in the plans (see also section 3.2.2.5 below) ⁽¹⁷⁾.
- (65) Second, on the level of allocation of financial resources, the financial system of China is dominated by the State-owned commercial banks. Those banks, when setting up and implementing their lending policy need to align themselves with the government's industrial policy objectives rather than primarily assessing the economic merits of a given project (see also section 3.2.2.8 below) ⁽¹⁸⁾. The same applies to the other components of the Chinese financial system, such as the stock markets, bond markets, private equity markets etc. Even though of lesser significance than the banking sector, these parts of the financial sector are institutionally and operationally set up in a manner not geared towards maximizing the efficient functioning of the financial markets but towards ensuring control and allowing intervention by the State and the CCP ⁽¹⁹⁾.
- (66) Third, on the level of regulatory environment, the interventions by the State into the economy take a number of forms. For instance, the public procurement rules are regularly used in pursuit of policy goals other than economic efficiency, thereby undermining market based principles in the area. The applicable legislation specifically provides that public procurement shall be conducted in order to facilitate the achievement of goals designed by State policies. However, the nature of these goals remains undefined, thereby leaving broad margin of appreciation to the decision-making bodies ⁽²⁰⁾. Similarly, in the area of investment, the Chinese government maintains significant control and influence over destination and magnitude of both State and private investment. Investment screening as well as various incentives, restrictions, and prohibitions related to investment are used by authorities as an important tool for supporting industrial policy goals, such as maintaining State control over key sectors or bolstering domestic industry ⁽²¹⁾.
- (67) In sum, the Chinese economic model is based on certain basic axioms which provide for and encourage manifold government interventions. Such substantial government interventions are at odds with free play of market forces, resulting in distorting the effective allocation of resources in line with market principles ⁽²²⁾.

3.2.2.3. Significant distortions according to Article 2(6a)(b), first indent of the basic Regulation: the market in question being served to a significant extent by enterprises which operate under the ownership, control or policy supervision or guidance of the authorities of the exporting country.

- (68) In the PRC, enterprises operating under the ownership, control and policy supervision or guidance by the State represent an essential part of the economy.

⁽¹⁶⁾ Report – Chapter 2, p. 20-21.

⁽¹⁷⁾ Report – Chapter 3, p. 41, 73-74.

⁽¹⁸⁾ Report – Chapter 6, p. 120-121.

⁽¹⁹⁾ Report – Chapter 6, p. 122-135.

⁽²⁰⁾ Report – Chapter 7, p. 167-168.

⁽²¹⁾ Report – Chapter 8, p. 169-170, 200-201.

⁽²²⁾ Report – Chapter 2, p. 15-16, Report – Chapter 4, p. 50, p. 84, Report – Chapter 5, p. 108-9.

- (69) With regard to State ownership, a substantial degree of ownership by the Chinese government persists in the steel sector. A number of the major producers are owned by the State, some being specifically referred to in the 'Steel Industry Adjustment and Upgrading plan for 2016-2020' ⁽²³⁾ as examples of the achievements of the 12th five-year planning period (such as Baosteel, Anshan Iron and Steel, Wuhan Iron and Steel, etc.). While the nominal split between the number of State-owned enterprises ("SOEs") and privately owned companies is estimated to be almost even, from the five Chinese steel producers ranked in the top ten of the world's largest steel producers, four are SOEs ⁽²⁴⁾. At the same time, while the top ten producers only took up some 36 % of total industry output in 2016, the Chinese government is aiming at consolidating 60 to 70 % of iron and steel production in around ten large-scale enterprises by 2025 ⁽²⁵⁾. Such consolidation may entail forced mergers of profitable private companies with underperforming SOEs ⁽²⁶⁾.
- (70) With regard to control by the State, the government and the CCP maintain structures that ensure their continued influence over enterprises. The State (and in many respects also the CCP) not only actively formulates and oversees the implementation of general economic policies by individual enterprises, but it also claims its rights to participate in their operational decision making. The elements that point to the existence of government control over enterprises in the steel and iron sector are further developed in section 3.2.2.4 below, in particular in recital (75).
- (71) As concerns policy supervision and guidance by the State in the sector, the existence of such supervision and guidance is demonstrated by, on the one hand, the tight links between the enterprises in the iron and steel sector and the CCP, which is present and claims the right to decision making in such enterprises (see in particular recitals (74) - (75)) and, on the other hand, the public industrial planning documents as well as additional governmental policy tools and directives applicable to the sector (see in particular recitals (79) - (83)). With the high level of government control and intervention in the steel and iron sector as described below, even privately owned tube and pipe cast fittings producers are prevented from operating under market conditions.
- (72) The control, policy supervision and guidance of the sector by the Chinese authorities further transpires from the objectives of the leading sectoral industry association, the Chinese Iron and Steel Association ('CISA'). According to Article 3 of CISA's Articles of Association, the association '*shall serve enterprises, shall serve the sector and shall serve the government (...) and shall strive to ensure a bridging role between government and involved enterprises*'. In addition, Article 24 provides for CISA to '*perform any other task as entrusted by the government and the relevant administration*', while Article 26 stipulates that CISA '*duly stick to the Party's line, guidelines, policies, political governance*' ⁽²⁷⁾.
- (73) On the basis of the above, the Commission concluded that the market for tube or pipe cast fittings in the PRC was served to a significant extent by enterprises subject to control or policy supervision or guidance by the Chinese government.

3.2.2.4. Significant distortions according to Article 2(6a)(b), second indent of the basic Regulation: State presence in firms allowing the state to interfere with respect to prices or costs.

- (74) The Chinese State is in position to interfere with prices and costs through State presence in firms. While the right to appoint and to remove key management personnel in SOEs by the relevant State authorities, as provided for in the Chinese legislation, can be considered to reflect the corresponding ownership rights ⁽²⁸⁾, CCP cells in enterprises, state owned and private alike, represent another channel through which the State can interfere with

⁽²³⁾ The full text of the plan is available on the Ministry of Industry and Information Technology website: <http://www.miit.gov.cn/n1146295/n1652858/n1652930/n3757016/c5353943/content.html>.

⁽²⁴⁾ Report – Chapter 14, p. 358: 51 % private and 49 % SOEs in terms of production and 44 % SOEs and 56 % private companies in terms of capacity.

⁽²⁵⁾ https://policycn.com/policy_ticker/higher-expectations-for-large-scale-steel-enterprise/?iframe=1&secret=c8uthafuthefra4e.

⁽²⁶⁾ As was the case of the merger between the private company Rizhao and the SOE Shandong Iron and Steel in 2009. See Beijing steel report, p. 58.

⁽²⁷⁾ See <http://www.chinaisa.org.cn/gxportal/DispatchAction.do?efFormEname=ECTM40&key=VzQMM1oxUTACY1BnAGdWN1A0AmJSNlNgVWdUZwVhADIAEw9ADBcCMgobUhUFellw> (accessed on 27 March 2019).

⁽²⁸⁾ Report – Chapter 5, p. 100-1.

business decisions. According to the PRC's company law, a CCP organisation is to be established in every company (with at least three CCP members as specified in the CCP Constitution ⁽²⁹⁾) and the company is to provide the necessary conditions for the activities of the party organisation. In the past, this requirement appears not to have always been followed or strictly enforced. However, since at least 2016 the CCP has reinforced its claims to control business decision in SOEs as a matter of political principle. The CCP is also reported to exercise pressure on private companies to put 'patriotism' first and to follow party discipline ⁽³⁰⁾. In 2017, it was reported that party cells existed in 70 % of some 1.86 million privately owned companies, with growing pressure for the CCP organisations to have final say over the business decision within their respective companies ⁽³¹⁾. These rules are of general application throughout the Chinese economy, including the iron and steel sector. Hence, it is established that these rules also apply to the producers of malleable fittings and the suppliers of their inputs.

- (75) Specifically in the iron and steel sector, tight links exist between decision making processes of enterprises active in the sector and the State, in particular the CCP. In the recent anti-subsidy investigation of certain hot-rolled flat products of iron, non-alloy or other alloy steel ('HRF') originating in the PRC ⁽³²⁾, the Commission established that three of the four sampled groups of exporting producers were SOEs. In all three groups, the Chairmen of the Board or the President also acted as the Party Committee Secretary of the group's CCP organisation. Similarly, with respect to the product under review, Party structures personally overlapping with the management bodies can be shown to exist within the Chinese producers. By way of example, the Vice Chairman of the Board of the company Jinan Meide Casting Co. Ltd served simultaneously as the company's Party committee secretary at least between 2013 and 2016 ⁽³³⁾.
- (76) The State's presence and intervention in the financial markets (see also section 3.2.2.8 below) as well as in the provision of raw materials and inputs have an additional distorting effect on the market ⁽³⁴⁾.
- (77) Based on all of the above, it is concluded that the State presence in firms in the iron and steel sector, as well as in the financial sector allows the GOC to interfere with respect to prices and costs.

3.2.2.5. Significant distortions according to Article 2(6a)(b), third indent of the basic Regulation: public policies or measures discriminating in favour of domestic suppliers or otherwise influencing free market forces.

- (78) The direction of the Chinese economy is to a significant degree determined by an elaborate system of planning which sets out priorities and prescribes the goals the central and local governments must focus on. Relevant plans exist on all levels of government and cover virtually all economic sectors, the objectives set by the planning instruments are of binding nature and the authorities at each administrative level monitor the implementation of the plans by the corresponding lower level of government. Overall, the system of planning in the PRC results in resources being driven to sectors designated as strategic or otherwise politically important by the government, rather than being allocated in line with market forces ⁽³⁵⁾.
- (79) The iron and steel industry is regarded as a key industry by the Chinese government ⁽³⁶⁾. This is confirmed in the numerous plans, directives and other documents focused on steel, which are issued at national, regional and municipal level such as the 'Steel Industry Adjustment and Upgrading plan for 2016-2020'. This Plan states that

⁽²⁹⁾ The Report – Chapter 2, p. 26.

⁽³⁰⁾ Report – Chapter 2, p. 31-2.

⁽³¹⁾ See <https://www.reuters.com/article/us-china-congress-companies-idUSKCN1B40JU>.

⁽³²⁾ See Recital (64) of Commission Implementing Regulation (EU) 2017/969 of 8 June 2017 imposing definitive countervailing duties on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China and amending Commission Implementing Regulation (EU) 2017/649 imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China, OJ [2017] L 146/17.

⁽³³⁾ <http://www.jihuachina.com/index.php/home/zx/detail/id/453/gid/501/eid/3035> (accessed on 27 March 2019) and <http://www.meide-casting.com/news/428.html> (accessed on 27 March 2019).

⁽³⁴⁾ Report – Chapters 6 and 12.

⁽³⁵⁾ Report – Chapter 4, p. 41-42, 83.

⁽³⁶⁾ Report, Part III, Chapter 14, p. 346 ff.

the steel industry is ‘an important, fundamental sector of the Chinese economy, a national cornerstone’ ⁽³⁷⁾. The main tasks and objectives set out in this Plan cover all aspects of the development of the industry ⁽³⁸⁾, including specific objectives related to steel scrap ⁽³⁹⁾. The existence of industrial policies concerning steel scrap transpire also from additional government documents, such as the targets set by Ministry of Industry and Information Technology (MIIT) for gradually increasing the use of steel scrap ⁽⁴⁰⁾.

- (80) The 13th Five-Year Plan on Economic and Social Development ⁽⁴¹⁾ envisages support to enterprises producing high-end steel product types ⁽⁴²⁾. It also focuses on achieving product quality, durability and reliability by supporting companies using technologies related to clean steel production, precision rolling and quality improvement ⁽⁴³⁾.
- (81) The ‘Catalogue for Guiding Industry Restructuring (2011 Version) (2013 Amendment)’ ⁽⁴⁴⁾ (‘the Catalogue’) lists iron and steel as encouraged industries. In particular, the Catalogue encourages the ‘[d]evelopment and application of technologies for higher-performance, high-quality, and upgrading steel products, including but not limited to high-strength automobile sheets of not less than 600 MPa, high performance pipeline steel for oil and gas transmission, high-strength wide and thick plates for vessels, marine engineering steel, moderate thickness plates of not less than 420 MPa for buildings, bridges and other structures, steel for high-speed and heavy-haul railways, low-iron loss and high-magnetic induction silicon steel, corrosion- and wear-resistance steel, alloy resource-saving stainless steel (modern ferritic stainless steel, duplex stainless steel, and nitrogen stainless steel), special steel bars and wire rods for high-performance basic parts (high-performance gears, bolts at or above Grade 12.9, high-strength spring, and long service life bearings), and high-quality special steel forged materials (tool and mould steel, stainless steel, and steel for machinery, among others)’. The applicability of the Catalogue was confirmed by the recent anti-subsidy investigation of certain hot-rolled flat products of iron, non-alloy or other alloy steel (‘HRF’) originating in the PRC ⁽⁴⁵⁾.
- (82) Moreover, in recent years, the PRC kept in place a variety of export restrictions on inputs essential for the production of the product under review, even if a number of them were eventually removed following a WTO ruling ⁽⁴⁶⁾. In particular, the PRC maintained export duties for steel scrap and zinc, as well as for ferromanganese ⁽⁴⁷⁾. This was in line with the policies on bolstering domestic industries which are in place and which are set out in the 13th Non-ferrous Metals Five Years Plan which call for a strict control of new established smelting facilities for zinc and for a technological reform of outdated zinc capacities ⁽⁴⁸⁾. Similarly, the 13th Five Years Plan for Mineral Resources foresees state control over zinc mining capacities and calls for concentration of resources towards backbone enterprises in selected geographic areas ⁽⁴⁹⁾.
- (83) The GOC further guides the development of the iron and steel sector in accordance with a broad range of policy tools and directives related, inter alia: to market composition and restructuring, raw materials, investment, capacity elimination, product range, relocation, upgrading, etc. Through these and other means, the GOC directs and controls virtually every aspect in the development and functioning of the sector ⁽⁵⁰⁾. The current problem of overcapacity is arguably the clearest illustration of the implications of the GOC’s policies and the resulting distortions.

⁽³⁷⁾ Introduction to The Plan for Adjusting and Upgrading the Steel Industry.

⁽³⁸⁾ Report, Chapter 14, p. 347.

⁽³⁹⁾ See for instance Part IV/6 of The Plan for Adjusting and Upgrading the Steel Industry.

⁽⁴⁰⁾ See <http://www.qhdb.com.cn/Newspaper/Show.aspx?id=196215> (accessed on 29 March 2019).

⁽⁴¹⁾ The 13th Five-Year Plan for Economic and Social Development of the People’s Republic of China (2016-2020), <http://en.ndrc.gov.cn/newsrelease/201612/P020161207645765233498.pdf>.

⁽⁴²⁾ Report – Chapter 14, p. 349.

⁽⁴³⁾ Report – Chapter 14, p. 352.

⁽⁴⁴⁾ Catalogue for Guiding Industry Restructuring (2011 Version) (2013 Amendment) issued by Order No 9 of the National Development and Reform Commission on 27 March 2011, and amended in accordance with the Decision of the National Development and Reform Commission on Amending the Relevant Clauses of the Catalogue for Guiding Industry Restructuring (2011 Version) issued by Order No 21 of the National Development and Reform Commission on 16 February 2013.

⁽⁴⁵⁾ See Recital (56) of Commission Implementing Regulation (EU) 2017/969 of 8 June 2017 imposing definitive countervailing duties on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People’s Republic of China and amending Commission Implementing Regulation (EU) 2017/649 imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People’s Republic of China, OJ [2017] L 146/17.

⁽⁴⁶⁾ DS395 – China – Measures related to the exportation of various raw materials (see Report, Chapter 12, p. 299).

⁽⁴⁷⁾ See Report, Chapter 14 (p. 365), Chapter 12 (p. 303).

⁽⁴⁸⁾ See Report, Chapter 8 (p. 178), Chapter 12 (p. 278).

⁽⁴⁹⁾ See Report, Chapter 12 (p. 270, 272-3).

⁽⁵⁰⁾ Report – Chapter 14, p. 375-376.

- (84) It is therefore established that the GOC has public policies in place influencing free market forces concerning the production of tube or pipe cast fittings and the raw materials used for producing them.

3.2.2.6. Significant distortions according to Article 2(6a)(b), fourth indent of the basic Regulation: the lack, discriminatory application or inadequate enforcement of bankruptcy, corporate or property laws

- (85) According to the information on file, the Chinese bankruptcy system delivers inadequately on its own main objectives such as to fairly settle claims and debts and to safeguard the lawful rights and interests of creditors and debtors. This appears to be rooted in the fact that while the Chinese bankruptcy law formally rests on similar principles as corresponding laws in other countries, the Chinese system is characterised by systematic under-enforcement. The number of bankruptcies remains notoriously low in relation to the size of the country's economy, not least because the insolvency proceedings suffer from a number of shortcomings, which effectively function as a disincentive for bankruptcy filings. Moreover, the role of the State in the insolvency proceedings remains strong and active, often having direct influence on the outcome of the proceedings ⁽⁵¹⁾.
- (86) In addition, the shortcomings of the system of property rights are particularly obvious in relation to ownership of land and land-use rights in the PRC ⁽⁵²⁾. All land is owned by the Chinese State (collectively owned rural land and State-owned urban land). Its allocation remains solely dependent on the State. There are legal provisions that aim at allocating land use rights in a transparent manner and at market prices, for instance by introducing bidding procedures. However, these provisions are regularly not respected, with certain buyers obtaining their land for free or below market rates ⁽⁵³⁾. Moreover, authorities often pursue specific political goals including the implementation of the economic plans when allocating land ⁽⁵⁴⁾.
- (87) Therefore, the Chinese bankruptcy and property laws do not appear to properly work, resulting in distortions when maintaining insolvent firms afloat and in relation to the land provision and acquisition in the PRC. These laws also apply with respect to the iron and steel sector, including to the exporting producers of the product under review.
- (88) In light of the above, the Commission concluded that there was discriminatory application or inadequate enforcement of bankruptcy and property laws in the iron and steel sector, including with respect to the product under review.

3.2.2.7. Significant distortions according to Article 2(6a)(b), fifth indent of the basic Regulation: wage costs being distorted

- (89) A system of market-based wages cannot fully develop in the PRC as workers and employers are impeded in their rights to organise and collective bargaining. The PRC has not ratified a number of essential conventions of the International Labour Organisation (ILO), in particular those on freedom of association and on collective bargaining ⁽⁵⁵⁾. Under national law, only one trade union organisation is active. However, this organisation lacks independence from the State authorities and its engagement in collective bargaining and protection of workers' rights remains rudimentary ⁽⁵⁶⁾. Moreover, the mobility of the Chinese workforce is restricted by the household registration system, which limits access to the full range of social security and other benefits to local residents of a given administrative area. This typically results in workers who are not in possession of the local residence registration finding themselves in a vulnerable employment position and receiving lower income than the holders of the residence registration ⁽⁵⁷⁾. Those findings lead to the distortion of wages costs in the PRC.
- (90) The iron and steel sector, including the product under review, is also subject to the Chinese labour law system described. The tube or pipe cast fittings sector is thus affected by the distortions of wage costs both directly (when making the product under review) as well as indirectly (when having access to capital or inputs from companies subject to the same labour system in the PRC).

⁽⁵¹⁾ Report – Chapter 6, p. 138-149.

⁽⁵²⁾ Report – Chapter 9, p. 216.

⁽⁵³⁾ Report – Chapter 9, p. 213-215.

⁽⁵⁴⁾ Report – Chapter 9, p. 209-211.

⁽⁵⁵⁾ Report – Chapter 13, p. 332-337.

⁽⁵⁶⁾ Report – Chapter 13, p. 336.

⁽⁵⁷⁾ Report – Chapter 13, p. 337-341.

- (91) On the basis of the above, the Commission concluded that wage costs were distorted in the iron and steel sector, including in respect of the product under review.

3.2.2.8. Significant distortions according to Article 2(6a)(b), sixth indent of the basic Regulation: access to finance granted by institutions which implement public policy objectives or otherwise not acting independently of the State

- (92) Access to capital for corporate actors in the PRC is subject to various distortions.
- (93) Firstly, the Chinese financial system is characterised by strong position of State-owned banks ⁽⁵⁸⁾, which, when granting access to finance, take into consideration criteria other than economic viability of a project. Similarly to non-financial SOEs, the banks remain connected to the State not only through ownership but also via personal relations (the top executives of the large State-owned financial institutions are ultimately appointed by the CCP) ⁽⁵⁹⁾ and, again just like non-financial SOEs, the banks regularly implement public policies designed by the government. In doing so, the banks comply with an explicit legal obligation to conduct their business in accordance with the needs of the national economic and social development and under the guidance of the industrial policies of the State ⁽⁶⁰⁾. This is compounded by additional existing rules, which direct finances into sectors designated by the government as encouraged or otherwise important ⁽⁶¹⁾.
- (94) While it is acknowledged that there might be various legal instruments referring to the need to respect normal banking behaviour and prudential rules such as the need to examine the creditworthiness of the borrower, the relevant evidence shows that these provisions play only a secondary role in the application of the various legal instruments ⁽⁶²⁾. Findings made in previous trade defence investigations also reached the same conclusion ⁽⁶³⁾.
- (95) Furthermore, bond and credit ratings are often distorted for a variety of reasons including the fact that the risk assessment is influenced by the firm's strategic importance to the Chinese government and the strength of any implicit guarantee by the government. Estimates strongly suggest that Chinese credit ratings systematically correspond to lower international ratings ⁽⁶⁴⁾.
- (96) This is compounded by additional existing rules, which direct finances into sectors designated by the government as encouraged or otherwise important ⁽⁶⁵⁾. This results in a bias for lending to SOEs, large well-connected private firms and firms in key industrial sectors, which implies that the availability and cost of capital is not equal for all players on the market.
- (97) Secondly, borrowing costs have been kept artificially low to stimulate investment growth. This has led to the excessive use of capital investment with ever lower returns on investment. This is illustrated by the recent growth in corporate leverage in the state sector despite a sharp fall in profitability, which suggests that the mechanisms at work in the banking system do not follow normal commercial responses.
- (98) Thirdly, although nominal interest rate liberalization was achieved in October 2015, price signals are still not the result of free market forces, but are influenced by government induced distortions. Indeed, the share of lending at or below the benchmark rate still represents 45 % of all lending and recourse to targeted credit appears to have been stepped up, since this share has increased markedly since 2015 in spite of worsening economic conditions. Artificially low interest rates result in under-pricing, and consequently, the excessive utilization of capital.

⁽⁵⁸⁾ Report – Chapter 6, p. 114-117.

⁽⁵⁹⁾ Report – Chapter 6, p. 119.

⁽⁶⁰⁾ Report – Chapter 6, p. 120.

⁽⁶¹⁾ Report – Chapter 6, p. 121-122, 126-128, 133-135.

⁽⁶²⁾ Report, *ibid.*

⁽⁶³⁾ Report – Chapter 14, p. 362-3, listing EU trade defence investigations (concerning certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China and concerning certain organic coated steel products originating in the People's Republic of China), as well as trade defence investigation conducted by the Australian, Canadian, Indian or US authorities.

⁽⁶⁴⁾ Report – Chapter 6, p. 127, in particular with respect to the IMF estimate.

⁽⁶⁵⁾ Report – Chapter 6, p. 121-122, 126-128, 133-135.

- (99) Overall credit growth in the PRC indicates a worsening efficiency of capital allocation without any signs of credit tightening that would be expected in an undistorted market environment. As a result, non-performing loans have increased rapidly in recent years. Faced with a situation of increasing debt-at-risk, the Chinese government has opted to avoid defaults. Consequently, bad debt issues have been handled by rolling over debt, thus creating so called 'zombie' companies, or by transferring the ownership of the debt (e.g. via mergers or debt-to-equity swaps), without necessarily removing the overall debt problem or addressing its root causes.
- (100) In essence, despite the recent steps that have been taken to liberalize the market, the corporate credit system in the PRC is affected by significant systemic issues and distortions resulting from the continuing pervasive role of the state in the capital markets.
- (101) In light of the above, the Commission concluded that the producers of tube or pipe cast fittings had access to finance granted by institutions which implement public policy objectives or otherwise not acting independently from the state.

3.2.2.9. Systemic nature of the distortions described

- (102) The Commission noted that the distortions described in the Report are not limited to the iron and steel sector in general. On the contrary, the evidence available shows that the facts and features of the Chinese system as described above in Sections 3.2.2.1-3.2.2.5 as well as in Part A of the Report apply throughout the country and across the sectors of the economy. The same holds true for the description of the factors of production as set out above in Sections 3.2.2.6-3.2.2.8 above and in Part B of the Report.
- (103) In order to produce tube or pipe cast fittings, a broad range of inputs is needed. When the tube or pipe cast fittings' producers purchase/contract these inputs the prices they pay (and which are recorded as their costs) are clearly exposed to the same systemic distortions mentioned before. For instance, suppliers of inputs employ labour that is subject to the distortions. They may borrow money that is subject to the distortions on the financial sector/capital allocation. In addition, they are subject to the planning system which applies across all levels of government and sectors.
- (104) As a consequence, not only the domestic sales prices of tube or pipe cast fittings cannot be used but all the input costs (including raw materials, energy, land, financing, labour, etc.) are also tainted because their price formation is affected by substantial government intervention, as described in Parts A and B of the Report. Indeed, the government interventions described in relation to the allocation of capital, land, labour, energy and raw materials are present throughout the PRC. This means, for instance, that an input that in itself was produced in the PRC by combining a range of factors of production is exposed to significant distortions. The same applies for the input to the input and so forth.

3.2.2.10. Conclusion

- (105) The analysis laid out in sections 3.2.2.2. to 3.2.2.9. which includes an examination of all the available evidence relating to the PRC's intervention in its economy in general as well as in the iron and steel sector (including the product tube or pipe cast fittings) showed that prices or costs, including the costs of raw materials, energy and labour, are not the result of free market forces because they are affected by substantial government intervention within the meaning of Article 2(6a)(b) of the basic Regulation. On that basis, and in the absence of any cooperation from the GOC and the Chinese producers, the Commission concluded that it is not appropriate to use domestic prices and costs to establish normal value in this case.
- (106) Consequently, the Commission proceeded to construct the normal value exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks, that is, in this case, on the basis of corresponding costs of production and sale in an appropriate representative country, in accordance with Article 2(6a)(a) of the basic Regulation, as discussed in the following section. The Commission recalled that no Chinese producer cooperated with the investigation and that no claim was presented that some domestic costs would be undistorted under the third indent of Article 2(6a)(a) of the basic Regulation.

3.2.3. Representative country

3.2.3.1. General remarks

(107) The choice of the representative country was based on the following criteria:

- A level of economic development similar to the PRC. For this purpose, the Commission used countries with a gross national income similar to the PRC on the basis of the database of the World Bank ⁽⁶⁶⁾;
- Production of the product under review in that country ⁽⁶⁷⁾;
- Availability of relevant public data in that country;
- Where there is more than one possible representative country, preference was given, where appropriate, to the country with an adequate level of social and environmental protection.

(108) As explained in the Note of 20 June 2018, the Commission informed interested parties that it had identified four possible representative countries: Argentina, Brazil, Thailand and Turkey, and invited interested parties to comment and suggest other countries.

(109) With regard to the representative country, subsequent to the Note of 20 June 2018, the Commission received a submission from the Chinese producer Jinan Meide Casting Co., Ltd ('the submission of 18 July 2018'). The producer expressed disagreement to the Commission's intention to use the methodology in accordance with Article 2(6a) of the basic Regulation and submitted some comments which are addressed in recitals (35) (36) above.

3.2.3.2. A level of economic development similar to the PRC

(110) With regard to the level of economic development, the Commission notes that both Thailand, Brazil, and Turkey are at the same income level 'Upper Middle Income', according to the World Bank. Thailand, Turkey and Brazil are therefore equally suitable as representative countries in this respect. On the contrary, Argentina is classified as a high income country and thus was not considered further in the analysis.

(111) In its submission, Jinan Meide Casting Co., Ltd supported Thailand as a representative country over Turkey, due to geographical, cultural and economic proximity of Thailand and the PRC. Further arguments concerned Turkey, and its higher level of development compared to Thailand and the PRC, Turkey being candidate country to join the EU and that Turkey has a customs union with the EU.

(112) Concerning Turkey being candidate country to join the EU, or the fact that Turkey is in a customs union with the EU, the Commission also notes that these facts are not relevant when assessing the appropriateness of a country as representative country. Jinan Meide did not provide any argument or evidence as to how these elements could invalidate that country being considered as a potential representative country. In this respect, Thailand and Turkey are equally suitable. Also, the cultural and geographical proximity do not affect the appropriateness of a country. The assessment of appropriateness is based on economic criteria, not cultural or geographic ones. Consequently, these claims were rejected.

3.2.3.3. Production of the product under review in the representative country and availability of the relevant public data in the representative country

(113) As pointed out in the Note of 20 June 2018, the Commission was not able to find public financial data in respect of Brazil. After further analysis, the Commission confirmed that such information was not available as initially identified. Also, no interested party provided alternative sources where such data could be found. The Commission therefore considered that only Thailand and Turkey should be considered further in its analysis.

(114) As mentioned in the Note of 20 June 2018, the Commission found publicly available financial statements for the following producers of the product under review in possible representative countries:

- Siam Fittings Co. Ltd ('Siam'), Thailand
- BIS Pipe Fitting Industry Co., Ltd ('BIS'), Thailand, and
- Trakya Döküm, Turkey.

⁽⁶⁶⁾ World Bank Open Data – Upper Middle Income, <https://data.worldbank.org/income-level/upper-middle-income>.

⁽⁶⁷⁾ If there is no production of the product under review in any country with a similar level of development, production of a product in the same general category and/or sector of the product under review may be considered.

- (115) Following the Note of 20 June 2018, the 2017 results of all three companies were made available in the 'Orbis' database ⁽⁶⁸⁾. The profitability of Siam turned negative in 2017. Therefore, for the selection of the representative country, the Commission took into account the other two companies, BIS in Thailand and Trakya Döküm in Turkey.
- (116) BIS produces almost exclusively the product under review. According to publicly available information, its products cover only tube or pipe cast fittings produced according to American, British and DIN standards.
- (117) Trakya Döküm is a large group producing many other products. According to publicly available information, Trakya Döküm manufactures products for following industries: automotive, white goods, hydraulics, electrical, machinery, railway, fittings & construction (including malleable iron pipe fittings and king clamps) and other products such as clamping products, chain links and hand wheels. The product under review constitutes only a small part of its production.
- (118) So while BIS almost exclusively produces the product under review, the product under review constitutes only a sub-category of eight product categories of Trakya Döküm. Therefore, due to the larger share of the product under review in the total company turnover, the Commission considered the information available for BIS more appropriate than for Trakya Döküm. This is because in the case of BIS the SG&A and profit figures more directly relate to the product under review, while Trakya's data was less precise.
- (119) As far as the information concerning factors of production is concerned, for both countries, Turkey and Thailand, the Commission found it available at a sufficiently detailed level. The Commission analysed the share of Chinese imports into Thailand and Turkey for the main factor of production, steel scrap. For Thailand, only 4 % of all imports originated in the PRC. With regard to Turkey, the share of Chinese imports could not be established, because over 50 % of imports of steel scrap was reported as imports into Turkish Free Trade Zones, without indicating the origin. Therefore, since the origin of most imports into Turkey of the main factor of production are unavailable and therefore it is not possible to exclude imports from the PRC, Thailand was considered a more suitable representative country.

3.2.3.4. Conclusion

- (120) Under Article 2(6a)(a) first indent of the basic Regulation, the objective is finding, in a possible representative country, all or as many of the corresponding undistorted factors of production used by the Chinese producers and of undistorted amounts for manufacturing overheads, SG&A and profits as possible.
- (121) In view of the above analysis, Thailand met all the criteria laid down in Article 2(6a)(a), first indent of the basic Regulation in order to be considered as an appropriate representative country. In particular, Thailand has a substantial production of the product under review and a complete set of data available for all factors of production, SG&A and profit.
- (122) Having established that Thailand is an appropriate representative country in this case, there was no need to analyse further the level of social and environmental protection in Thailand.

3.2.4. *Manufacturing overhead costs, SG&A and profits*

- (123) According to Article 2(6a)(a), fourth paragraph of the basic Regulation, 'the constructed normal value shall include an undistorted and reasonable amount for administrative, selling and general costs and for profits'.
- (124) For this purpose, the Commission used the SG&A expenses and profit of the Thai company BIS as reported in the Profit and Loss account figures of BIS for 2017.
- (125) No comments were received on this aspect within the stipulated 10-days deadline.

⁽⁶⁸⁾ www.bvdinfo.com.

- (126) Manufacturing overheads are not separately identified in the available Profit and Loss account figures of BIS. For this reason the Commission considered that it was more suitable using the overheads specific to this process, based on verified information of the sampled Union producer as specified in recital (135) below.

3.2.5. Sources used to establish undistorted costs

- (127) In the Note of 20 June 2018, the Commission stated that, in order to construct the normal value in accordance with Article 2(6a)(a) of the basic Regulation, it would use Global Trade Atlas ('GTA') to establish the undistorted cost of most of the factors of production. In addition, in the note of 8 March 2019 it specified that it would use the National Statistics Office of Thailand/Bank of Thailand for wages in manufacturing sector, and the Electricity Generating Authority of Thailand for the cost of energy.

3.2.6. Factors of production

- (128) As already stated in recital (39) and in the Note of 20 June 2018, the Commission sought to establish an initial list of factors of production and sources intended to be used for all factors of production such as materials, energy and labour used in the production of the product under review by any cooperating producer.
- (129) In the absence of cooperation by Chinese producers, the Commission relied on the applicant in order to specify the factors of production used in the production of malleable fittings.
- (130) With regard to factors of production, Jinan Meide Casting Co., Ltd submitted that the products from which a surrogate value would be derived for the inputs used by the Chinese producers should be those with an 8-digit customs code, and should be adjusted if the code covered other products.
- (131) The level of digits upon initiation of the proceeding, as also reflected in the Note of 20 June 2018, was 6 digits as it followed the standard international product nomenclature of the World Customs Organization referred to as 'Harmonised System' or HS. However, once a suitable representative country was identified the Commission used the most detailed level of digits available in that country so as to be as precise as possible in the valuation of the various cost inputs to determine normal value. Therefore, as can be seen in Table 1 below, the Commission used up to 11-digit codes specific for Thailand, depending on the information available in each case.
- (132) The Commission did not receive comments concerning specific factors of production as specified in Section 2 of the Note of 20 June 2018.
- (133) Since no Chinese producer submitted a questionnaire reply, the Commission relied on the facts concerning factors of production as established by the investigation, as described below.
- (134) On the basis of information available to the Commission confirmed during the verifications, which is also consistent with evidence obtained in the context of the investigation that imposed the measures (recital (1)) there are two main, different production processes used in the production of tube or pipe cast fittings. The main difference between the processes concerns the initial stage of melting the input raw material. In one of the processes, the energy used for heating up the raw materials is generated by burning coke in a so-called 'cupola' furnace. In the other process, the heat to melt the raw materials is generated using electricity by means of an electric arc. Consequently, at this first stage of production the Commission observed differences concerning factors of production of these two production processes. These differences are mainly the level of consumption of coke and the level of consumption of electricity.
- (135) On the basis of information available to the Commission from the original investigation and the sampling exercise of the present investigation, the largest producer of malleable fittings in the PRC uses the 'cupola' type of furnaces, and therefore the Commission decided to use factors of production, consumption ratios and manufacturing overheads specific to this process, based on information made available to the Commission by the Union producer using 'cupola' furnaces.

- (136) Considering all the information submitted by the applicant, the following factors of production and related tariff heading under Thai nomenclature, where applicable, were identified:

Table 1

Factors of production

Factor of Production	Tariff code under Thai nomenclature	Description of the tariff code under Thai nomenclature	Unit import value
Raw materials			
Steel scrap	7204 41 00 090	Other (falling under HS code 7204 41 Ferrous Waste and Scrap Nesoi; Turnings, Shavings, Chips, Milling Waste, Sawdust, Filings, Trim-mings and Stampings, whether or not in bun-dles)	0,31
Zinc	7901 11	Zinc, not alloyed, containing 99,99 % or more by weight of zinc, unwrought	2,72
Ferro-silicon	7202 21 00 000	Ferrosilicon, containing more than 55 % (Wt.) silicon	1,22
Ferro-manganese	7202 11 00 000	Ferromanganese, containing more than 2 % (Wt.) carbon	1,13
Sand	2505 10 00 000	Silica sands and quartz sands	0,09
Bentonite	2508 10 00 000	Bentonite	0,21
Labour			
Direct labour, Wages in manufacturing sector	[N/A]		2,15
Energy			
Electricity	[N/A] ⁽¹⁾		0,07
Coke	2704 00 10 000	Coke and semicoke of coal	0,65
Natural gas	[N/A] ⁽²⁾		222,19

⁽¹⁾ One exporting producer indicated HS code 2716 00. However, this information is not relevant when establishing values on the basis of statistics explicitly referring to electricity.

⁽²⁾ One exporting producer indicated HS code 2711 11. However, this information is not relevant when establishing values on the basis of statistics explicitly referring to natural gas.

3.2.6.1. Materials

- (137) With regard to steel scrap, HS code 7204 10 was indicated by the two Chinese producers that provided completed replies to Annex III to the Notice of Initiation. The Table presents the 11-digit code specific for Thailand, that in the absence of further information from Chinese producers nor comments from other interested parties, the Commission used for the purpose of constructing normal value.
- (138) With regard to zinc, this factor of production was reported by one of the Union producers and by one of the Chinese producers, but under different codes. While the Union producer reported code 7901 11 00 for 'Zinc, unwrought, not alloyed, containing by weight 99,99 % or more of zinc', the Chinese producer proposed to use code 2608 00 that is 'Zinc ores and concentrates'. The Commission found that it was not appropriate to use the code for zinc ore and decided to use the HS code as presented in the Table, as proposed by the Union producer.

- (139) With regard to Ferro-silicon, the applicants indicated 'Fe-Alloys' without indicating a code. The Chinese producer, as well as two Union producers proposed code 7202 21 00. The Commission used the 11-digit code presented in the Table, specific to Thailand.
- (140) With regard to Ferro-manganese, the applicants indicated 'Fe-Alloys' without indicating a code. One Chinese producer suggested HS code 7202 30 that represents Ferro-silico-manganese. The 11-digit code specific to Thailand used by the Commission was found to better describe the factor of production used by the tube or pipe cast fittings producers.
- (141) With regard to sand, there was discrepancy between the code suggested by one Chinese producer and those found during the investigation. The Chinese producer referring to 'Resin sand' suggested code 3824 10 00 that stands for 'Prepared Binders For Foundry Moulds Or Cores' but it did not match the description of factor of production suggested by one Union producer. The Union producer did not provide a code. Based on the description of the production process, the Commission used the 11-digit code indicated in the Table. This code follows the Memorandum of the US Department of Commerce of 21 October 2016 ⁽⁶⁹⁾ ('the Memorandum'), which was also submitted to the Commission by one of the Chinese producers.
- (142) With regard to the bentonite, the 11-digit code indicated in the Table and used for the calculation reports the same material as the more general 8-digit code proposed by one of the Union producers. The Memorandum sets the same 11-digit code. It stands for 'Bentonite'. None of the exporting producers proposed a tariff code for bentonite.
- (143) For all materials, absent any information on the Thai market, the Commission relied on import prices. An import price in the representative country was determined as a weighted average of unit prices of imports from all third countries excluding the PRC, as well as the following non-market economy countries: Azerbaijan, Belarus, Kazakhstan, North Korea, Turkmenistan and Uzbekistan.
- (144) The Commission decided to exclude the imports from the PRC into the representative country as it concluded in recital (105) that in the present case it is not appropriate to use domestic prices and costs in the PRC due to the existence of significant distortions in accordance with Article 2(6a)(b). On the basis of the evidence available, and absent any rebuttal by interested parties, the Commission considered that the same distortions affected export prices. After excluding the countries listed in recital (143), the imports from other third countries remained representative ranging from 94 % to 100 % of total volumes imported into Thailand.
- (145) In order to establish undistorted price of materials as delivered at the gate of the Chinese producer's factory as provided by Article 2(6a)(a), first indent, the Commission added domestic transport costs.

3.2.6.2. Labour

- (146) With regard to labour costs, the Commission used the data of the Labour Force Survey of the National Statistical Office, Ministry of Digital Economy and Society ⁽⁷⁰⁾. In particular, the Commission calculated it on the basis of average monthly salary plus all employee received fringe benefits in the manufacturing sector. The most recent period for which data was available was the 1st quarter of 2017, the quarter immediately preceding the review investigation period.

3.2.6.3. Coke

- (147) With regard to coke, this factor of production was reported by one of the Union producers, at the 6-digit level and it represents 'Coke and semicoke of coal, of lignite or of peat, whether or not agglomerated; retort carbon'. With regard to this factor of production a special attention must be paid to the fact that this coke is used as energy source, and not the 'carbon dust' or 'baking coal', that may constitute a raw material input. The Commission used the 11-digit code specific for Thailand, which represents 'Coke and semicoke of coal'. This code was more specific than the one reported by one of the Union producers and referred more specifically to coke used as a source of energy.

⁽⁶⁹⁾ United States Department of Commerce, International Trade Administration, A-570-032, 21 October 2016.

⁽⁷⁰⁾ <https://data.go.th/DatasetDetail.aspx?id=d986842c-b30a-4ed3-b329-9e248a7d5096&AspxAutoDetectCookieSupport=1>.

3.2.6.4. Electricity

- (148) With regard to electricity costs, the Commission applied the average energy sales price for direct customers as indicated in the 2017 Annual Report of Electricity Generating Authority of Thailand ⁽⁷¹⁾.

3.2.6.5. Natural gas

- (149) With regard to natural gas, the Commission also used the data published in the 2017 Annual Report of Electricity Generating Authority of Thailand, which refers to the average 2017 price of natural gas of 239 Bath/million BTU ⁽⁷²⁾. The BTU (British Thermal Unit) used in Thailand has been converted to the 1 000 m³ used by the Union producer, using the equivalent measure of 1 000 m³ = 35 915 million BTUs ⁽⁷³⁾.

3.2.6.6. Calculation of normal value

- (150) In order to establish the constructed normal value, the Commission followed the following two steps.
- (151) First, the Commission established the undistorted manufacturing costs. In the absence of cooperation by the Chinese producers, the Commission used the same materials, labour and energy and related consumption ratio as the largest Union producer. It multiplied the usage factors by the undistorted costs per unit observed in the representative country Thailand and added domestic transport costs.
- (152) Second, to the manufacturing costs identified above the Commission applied SG&A expenses and profit from the Thai company BIS and the manufacturing overhead costs from the largest Union producer.
- (153) On that basis, the Commission constructed the normal value on an ex-works basis in accordance with Article 2(6a)(a) of the basic Regulation. Due to the fact no Chinese producers cooperated, the normal value was established on a countrywide basis and not for each producer separately.

3.2.7. Export price

- (154) In the absence of cooperation of Chinese producers, the export price was determined based on CIF Eurostat data adjusted to ex-works level.

3.2.8. Comparison

- (155) Where justified by the need to ensure a fair comparison, the Commission adjusted the normal value and the export price for differences affecting prices and price comparability, in accordance with Article 2(10) of the basic Regulation. An upwards adjustment of 8 % was made to the normal value for non-refundable VAT costs. Based on the information from the applicant, a downwards adjustment between 4 and 7 % was made to the export price for international freight and insurance.

3.2.9. Dumping margin

- (156) In the absence of cooperation of Chinese producers, the Commission compared the weighted average normal value of the like product with the weighted average export price at ex-works level, in accordance with Articles 2(11) and (12) of the basic Regulation.
- (157) On this basis, the Commission found a dumping margin, expressed as a percentage of the CIF Union frontier price duty unpaid, at a level of around 26 %.
- (158) The Commission therefore concluded that dumping continued during the review investigation period.

3.3. Likelihood of continuation of dumping

- (159) As established above, imports of tube or pipe cast fittings from the PRC were found to be dumped during the review investigation period. For the sake of completeness, the Commission also investigated the likelihood of continuation of dumping should the measures be repealed. The following additional elements were analysed: the production capacity and spare capacity in the PRC, pricing behaviour of exporting producers in the PRC in other markets and the attractiveness of the Union market.

⁽⁷¹⁾ <https://www.egat.co.th/en/images/annual-report/2017/egat-annual-eng-2017.pdf>, page 131.

⁽⁷²⁾ <https://www.egat.co.th/en/images/annual-report/2017/egat-annual-eng-2017.pdf>, page 18.

⁽⁷³⁾ <https://www.energir.com/en/major-industries/conversion-factors/>.

- (160) As a consequence of non-cooperation of producers from the PRC, this examination was based on the information available to the Commission, that is, information supplied in the Request and information from other independent available sources, such as official import statistics and information obtained from interested parties during the investigation.

3.3.1. Production capacity and spare capacity in the PRC

- (161) According to the information in the Request ⁽⁷⁴⁾, the precise production of the product under review in the PRC is unknown. The market is fragmented with many small producers and a number of large ones. On the basis of information provided by the applicant, the Commission established a combined production capacity for 6 out of 30 known producers of at least 310 000 tonnes.
- (162) The two producers that provided a sampling reply reported a spare capacity of around 10 %. Assuming the same percentage of spare capacity for the other producers, we obtain a spare capacity of 31 000 tonnes. Even using this conservative approach, the Chinese spare capacity accounts for over 80 % of the Union consumption.

3.3.2. Attractiveness of the Union market

- (163) In order to establish the possible development of imports in case measures were repealed, the Commission considered the attractiveness of the Union market with regard to prices.
- (164) In this regard the Commission verified information in the Global Trade Atlas ⁽⁷⁵⁾, under the HS code 7307 19 pipe or tube fittings, cast, of iron nesoi ⁽⁷⁶⁾ or steel. Only the 6-digit level code is available, and the code appears to include products outside the scope of this review, such as ductile cast iron fittings, grooved couplings, etc.
- (165) For the analysis the Commission thus used the sampling replies provided by the 2 Chinese producers, and found that the prices on the EU market are more attractive than on certain export markets and on the domestic market. Therefore, should the measures be repealed, the Union market would become even more attractive with a likelihood of redirection of certain quantities currently sold on other markets. Imports from the PRC into the Union are likely to increase significantly and at dumped prices.

3.3.3. Conclusion

- (166) The investigation showed that Chinese imports continued to enter the Union market at dumped prices during the review investigation period. In view of the elements examined in sections 3.3.1 and 3.3.2, the Commission also concluded that it is highly likely that Chinese producers would export significant quantities of tube or pipe cast fittings to the Union at dumped prices, should the measures lapse. Thus, the Commission concluded that there was a strong likelihood of continuation of dumping should the measures lapse.

4. LIKELIHOOD OF CONTINUATION OF DUMPING FOR THAILAND

4.1. Preliminary remarks for Thailand

- (167) As indicated in recital (27), none of the producers from Thailand cooperated in the investigation. Therefore, the Commission informed the authorities of Thailand that due to the absence of cooperation, the Commission would apply Article 18 of the basic Regulation, basing its findings in relation to the likelihood of continuation or recurrence of dumping on facts available. The Commission received comments from the Department of Foreign Trade Ministry of Commerce and from the Thai company BIS Pipe Fitting Industry. The comments are addressed in recitals (196) and (197) below.

4.2. Dumping during the review investigation period

4.2.1. Normal value

- (168) Due to the lack of cooperation from Thai producers, the Commission used facts available for establishing a normal value in Thailand. To this end, the information submitted by the applicant was used.

⁽⁷⁴⁾ Non-confidential annexes B-17 and B-19: the request provides evidence of a production capacity of at least 310 000 tonnes based on the webpages of only six Chinese producers out of 30 known producers in China.

⁽⁷⁵⁾ Available at: <http://www.gtis.com/gta/>.

⁽⁷⁶⁾ Not Elsewhere Specified Or Included.

- (169) Thus, normal value was based on the domestic prices in Thailand, established from a domestic price list including a large number of product types. As the list of prices was considered not to be up to date, a correction factor obtained using official statistics and additional information on the basis of market intelligence was applied to the prices in the list. To get to ex-work prices an estimated profit for distributors and transport costs were deducted.

4.2.2. *Export price*

- (170) In the absence of cooperation of Thai producers, the export price was determined based on CIF Eurostat import price data corrected to ex-works level.

4.2.3. *Comparison*

- (171) 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. Based on information from the applicant, a downward adjustment between 5 and 9 % was made to the export price for freight and insurance.

4.2.4. *Dumping margin*

- (172) The Commission compared the normal value of the like product as reported by the applicant with the export price at ex-works level, in accordance with Articles 2(11) and (12) of the basic Regulation.
- (173) On this basis, the Commission found a dumping margin, expressed as a percentage of the CIF Union frontier price duty unpaid, at a level of around 33 %.
- (174) The Commission therefore concluded that dumping continued during the review investigation period.

4.3. **Likelihood of continuation of dumping**

- (175) Further to the finding of the existence of dumping during the review investigation period, the Commission investigated in accordance with Article 11(2) of the basic Regulation the likelihood of continuation of dumping, should the measures be repealed. The following additional elements were analysed: the production capacity and spare capacity in Thailand, relation between export prices to third countries and the price level in the Union, the attractiveness of the Union market.
- (176) In order to examine the likely development of exports from Thailand should measures be repealed, in the absence of cooperation, the Commission used the best available information from publicly available sources (companies websites and GTA statistics) and information provided in the Request.

4.3.1. *Production capacity and spare capacity in Thailand*

- (177) For Thailand, the request refers to the existence of three producers. In addition, the Thai authorities have identified 30 potential producers ⁽⁷⁷⁾ upon initiation of the investigation, two of which already mentioned in the request. However, only partial information about the production and spare capacities of the Thai industry was provided.
- (178) In the original investigation, the two Thai exporting producers accounting for the bulk of Thai exports had a spare capacity of 38 % or 8 200 tonnes. According to publicly available information, the size of their business remained largely unchanged since then (both companies produce almost exclusively tube or pipe cast fittings).
- (179) As a second step, the Commission investigated whether other markets could have absorbed the spare capacity in the meantime. Total exports from Thailand in 2011, investigation period of the original investigation, amounted to 16 506 tonnes. In 2017 the total exports amounted to 18 610 tonnes, i.e. around 2 100 tonnes more than in 2011.
- (180) The Commission concluded that only some of the spare capacity, which existed during the original investigation, was directed to other markets since the application of duties. The domestic market is tiny (< 10 % of sales) and could not have absorbed the spare capacity either.

⁽⁷⁷⁾ Producers in Thailand exporting to the Union the product falling under the HS code 7307 19. While this code includes other products, the overwhelming share of exports to the Union under this code is malleable threaded fittings.

- (181) It is therefore likely that the majority of the spare capacity of 8 200 tonnes (22 % of Union consumption) which existed during the original investigation can still be used and directed to the Union market in case measures lapse. Even on the conservative assumption that the spare capacity decreased by the totality of the increase in exports, the available spare capacity would amount to 6 100 tonnes or 17 % of the Union market.
- (182) On that basis, the Commission concluded that there is substantial spare capacity available in Thailand and as a consequence, there is a strong likelihood that export volumes would significantly increase, should the anti-dumping measures be repealed.

4.3.2. *Attractiveness of the Union market*

- (183) Despite the anti-dumping duties in place, during the review investigation period Thailand still exported to the Union, with a market share of 4,5 %, showing that the Union remained an attractive market and an attractive export destination. Given the low capacity utilisation of Thai producers, there is a strong likelihood that Thai exporters will aim at winning back the lost market share should measures be allowed to lapse.

4.3.3. *Relation between export prices to third countries and the price level in the Union*

- (184) Thai export statistics show higher average prices for almost all other main export markets for malleable fittings than for the Union. This price difference may be caused by differences in the product mix or the measures in force. In view of the lack of cooperation on the part of Thai producers, the Commission cannot reliably assess these price differences.

4.3.4. *Conclusion*

- (185) The investigation showed that Thai exports continued to enter the Union market at dumped prices during the review investigation period. Beyond the relatively low import volumes compared to Union consumption in the review investigation period, the Commission considered the existence of high spare capacity and the previous practise of Thai producers.
- (186) Thus, in view of the elements examined in sections 4.3.1 and 4.3.2, the Commission concluded that there will be a likely significant increase of exports to the Union at dumped prices, should the measures lapse.

5. INJURY

5.1. **Definition of the Union industry and Union production**

- (187) The product under review was manufactured by 5 producers in the Union during the period considered. They constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.
- (188) The Commission established the total Union production during the review investigation period at around 33 000 tonnes, based on the information provided by the Union Industry. As indicated in recital (17), the sampled Union producers represented over 70 % of the total Union production.

5.2. **Union consumption**

- (189) The Commission established the Union consumption as a sum of Union industry's sales volume on the Union market and total imports into the Union reported by Eurostat at TARIC level.
- (190) Union consumption of the product under review developed as follows:

Table 2

Union Consumption (tonnes)

	2014	2015	2016	2017	Review Investi- gation Period
Total consumption	37 708	36 835	38 984	39 186	36 448
<i>Index (2014 = 100)</i>	100	98	103	104	97

Source: Eurostat at TARIC level, data submitted by the Union industry and verified questionnaire replies

- (191) The Union consumption decreased by 3 % in review investigation period in comparison to 2014, after increasing in 2016 and 2017. The malleable fittings market is mature and did not show any large fluctuations over the period considered.

5.3. Imports from the countries concerned

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

- (192) The Commission examined whether imports of tube or pipe cast fittings originating in the countries concerned should be assessed cumulatively in accordance with Article 3(4) of the basic Regulation.
- (193) The margin of dumping established in relation to the imports from each of the countries concerned was above the *de minimis* threshold as defined in Article 9(3) of the basic Regulation. The volume of imports from each of the countries concerned was not negligible within the meaning of Article 5(7) of the basic Regulation.
- (194) In the original investigation, the cumulative assessment was considered appropriate in view of the comparable conditions of competition between the imports from these two countries and the like Union product, i.e. through the same sales channels and to the same categories of customers. The Commission has not received any evidence of changes in this respect in the current investigation. Therefore, the Commission considers that these findings are still valid.
- (195) In the light of the above, it was considered that all the criteria set out in Article 3(4) of the basic Regulation were met. The imports from the PRC and Thailand were therefore examined cumulatively.
- (196) The Mission of Thailand and BIS Pipe Fitting Industry Co., Ltd, a Thai producer submitted that imports from Thailand should be excluded from the review on the basis of consistently declining import volumes and that the cumulation with imports from the PRC is neither legally nor economically justifiable.
- (197) The Commission, rejected these claims, as the investigation using the detailed Eurostat data on TARIC level shows that despite the Thai imports declined, the volume of imports exceeding 5 % of the total imports is still considerable and can be therefore used in the cumulative assessment in accordance with Article 3(4) of the basic Regulation.

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

- (198) The Commission established the volume of imports from the PRC and Thailand into the Union on the basis of Eurostat data at TARIC level and the market shares of the imports by comparing these import volumes with the Union consumption as shown in Table 2.

Table 3

Union import volume (tonnes)

	2014	2015	2016	2017	RIP
PRC	8 526	8 161	10 097	9 682	7 666
<i>Index (2014 = 100)</i>	100	96	118	114	90
Thailand	3 449	2 322	2 066	1 745	1 637
<i>Index (2014 = 100)</i>	100	67	60	51	47
Countries concerned	11 975	10 482	12 163	11 426	9 302
<i>Index (2014 = 100)</i>	100	88	102	95	78

Source: Eurostat at TARIC level, data submitted by the Union industry and verified questionnaire replies

- (199) The volume of imports of the product under review from the countries concerned into the Union market has decreased by 22 % over the period considered.

- (200) The market share of dumped imports from the countries concerned decreased by 6 percentage points from 32 % to 26 % over the period considered. This market share decreased mainly in the period from 2016 until the end of review investigation period. The trend followed the development of the imports.

Table 4

Union market share

	2014	2015	2016	2017	RIP
PRC	23 %	22 %	26 %	25 %	21 %
<i>Index (2014 = 100)</i>	100	98	115	109	93
Thailand	9 %	6 %	5 %	5 %	5 %
<i>Index (2014 = 100)</i>	100	69	58	49	49
Countries concerned	32 %	29 %	31 %	29 %	26 %
<i>Index (2014 = 100)</i>	100	90	98	92	80

Source: Eurostat at TARIC level, data submitted by the Union industry and verified questionnaire replies

- (201) Imports from the PRC and Thailand therefore continued to enter the Union, despite the measures in place, throughout the period considered.

5.3.3. Prices of the imports from the countries concerned

- (202) The Commission established the prices of imports on the basis of Eurostat import statistics at TARIC level. The average prices of imports from PRC and Thailand into the Union developed as follows:

Table 5

Import prices (EUR/tonne)

	2014	2015	2016	2017	RIP
Import prices PRC	1 620	2 011	1 925	2 166	2 029
<i>Index (2014 = 100)</i>	100	124	119	134	125
Import prices Thailand	2 171	2 229	2 128	2 181	2 152
<i>Index (2014 = 100)</i>	100	103	98	100	99
Countries concerned	1 779	2 059	1 960	2 168	2 050
<i>Index (2014 = 100)</i>	100	116	110	122	115

Source: Eurostat at TARIC level

- (203) The import prices from Thailand remained rather stable throughout the period considered, whereas the imports from the PRC, starting in 2014 at a much lower price level compared to Thai imports narrowed the gap towards the end of the period considered.

5.3.4. Price undercutting

- (204) The Commission determined the price undercutting during the review investigation period by comparing:
- the weighted average sales prices of the sampled Union producers charged to unrelated customers in the Union market, adjusted to an ex-works level; and
 - the import price data from Eurostat for the product under review from the both the PRC and Thailand at a CIF level, adjusted to a landed price, including an amount of conventional customs duty and post importation costs.
- (205) The result of the comparison was expressed as a percentage of the Union industry's price during the review investigation period.
- (206) The comparison showed for imports from the PRC and Thailand an average undercutting in the Union market during the review investigation period of 47 % and 44 % respectively.
- (207) Despite some increase of the average price of imports from the countries concerned caused mainly by the PRC import prices increase, the undercutting levels remained significant.

5.4. Imports from third countries other than the PRC and Thailand

- (208) The market share of the imports of the product under review from other third countries developed as follows:

Table 6

Imports market share

	2014	2015	2016	2017	RIP
Indonesia	2 %	2 %	4 %	3 %	3 %
Brazil	3 %	3 %	3 %	3 %	3 %
India	4 %	4 %	2 %	3 %	2 %
Others countries	1 %	2 %	2 %	1 %	2 %
Total	10 %	11 %	11 %	10 %	10 %
Index (2014 = 100)	100	110	110	100	100

Source: Eurostat at TARIC level

- (209) The market share of imports from other third countries remained stable over the period considered with a slight temporary increase in 2015 and 2016.

5.5. Economic situation of the Union industry

5.5.1. General remarks

- (210) 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.
- (211) As mentioned in recital (17), sampling was used for the assessment of the economic situation of the Union industry.
- (212) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators.
- (213) The Commission evaluated the macroeconomic indicators on the basis of data submitted by the Union industry and the verified questionnaire replies from the sampled Union producers.

- (214) The Commission evaluated the microeconomic indicators on the basis of data contained in the questionnaire replies from the sampled Union producers.
- (215) Both sets of data were found to be representative of the economic situation of the Union industry.
- (216) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity, magnitude of the dumping margin and recovery from past dumping.
- (217) The microeconomic indicators are: average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital.

5.5.2. Macroeconomic indicators

5.5.2.1. Production, production capacity and capacity utilisation

Table 7

Union production volume (tonnes)

	2014	2015	2016	2017	RIP
Production volume	30 629	28 438	32 052	32 312	33 025
Index (2014 = 100)	100	93	105	105	108

Source: Data submitted by the Union industry and verified questionnaire replies

- (218) The Union production volume increased by 8 % over the period considered despite the decrease in consumption.

Table 8

Union production capacity (tonnes)

	2014	2015	2016	2017	RIP
Production capacity	55 840	55 840	55 840	55 840	55 840
Index (2014 = 100)	100	100	100	100	100

Source: Data submitted by the Union industry and verified questionnaire replies

- (219) The production capacity of the Union industry remained steady over the period considered. The capacity-limiting factor is the annealing process, requiring substantial assets (furnaces) and time. The furnaces cannot be quickly stopped or heated and consume high levels of energy.

Table 9

Union production capacity utilisation

	2014	2015	2016	2017	RIP
Capacity utilisation	55 %	51 %	58 %	58 %	59 %
Index (2014 = 100)	100	93	105	105	108

Source: Data submitted by the Union industry and verified questionnaire replies

- (220) Thanks to the increased Union production volume, the capacity utilisation increased by 4 percentage points.

5.5.2.2. Sales volume and market share

- (221) The sales volume of the union producers on the Union market increased by 7 % over the period considered, in line with the production increase and despite the decrease in consumption, being able to benefit from the anti-dumping duty in place.

Table 10

Union sales volume (tonnes)

	2014	2015	2016	2017	RIP
Union sales	21 459	21 779	22 216	23 375	23 043
<i>Index (2014 = 100)</i>	100	101	104	109	107

Source: Data submitted by the Union industry and verified questionnaire replies

- (222) The market share of the Union industry increased by 6 percentage points or 11 % during the period considered, while the dumped imports decreased by 22 % during the same period, effectively replacing some of the sales of previously imported tube or pipe cast fittings.

Table 11

Union market share

	2014	2015	2016	2017	RIP
Union market share	57 %	59 %	57 %	60 %	63 %
<i>Index (2014 = 100)</i>	100	104	100	105	111

Source: Eurostat at TARIC level, data submitted by the Union industry and verified questionnaire replies

5.5.2.3. Employment and productivity

- (223) The employment in full-time equivalents (FTE) followed the increase in Union production volumes only partially, which indicates that the Union industry has rationalised production process and increased productivity in the review investigation period.

Table 12

Employment in FTE

	2014	2015	2016	2017	RIP
Employment in FTE	1 887	1 889	1 898	1 908	1 916
<i>Index (2014 = 100)</i>	100	100	101	101	102

Source: Data submitted by the Union industry and verified questionnaire replies

- (224) The Union industry was able to improve productivity, resulting in higher growth of Union production volumes than the increase of the employment in FTE.

Table 13

Productivity (tonnes/FTE)

	2014	2015	2016	2017	RIP
Productivity	16,4	15,2	17,1	17,1	17,4
<i>Index (2014 = 100)</i>	100	93	104	104	106

Source: Data submitted by the Union industry and verified questionnaire replies

- (225) The increase in productivity also stems from the industrial innovations, where robots continuously replace the factory workers, especially in the field of machining and expedition.

5.5.2.4. Growth

- (226) As indicated in Table 2, the Union consumption decreased between 2014 and the review investigation period by more than 1 000 tones, while the volume of dumped imports decreased by more than 2 000 tonnes during the same period. The Union industry was able to increase their sales by more than 1 000 tonnes, benefiting from the decrease of the dumped imports.

5.5.2.5. Magnitude of dumping and recovery from past dumping

- (227) Dumping continued during the review investigation period at a significant level, as explained under section 3 above.
- (228) Since the volumes of the dumped imports from the PRC and Thailand were lower than during the original investigation period, the Commission concluded that the impact of the magnitude of the dumping margin on the Union industry was significantly less pronounced than in the original investigation.

5.5.3. Microeconomic indicators

5.5.3.1. Prices and factors affecting prices

Table 14

Average Union sales price per tonne

	2014	2015	2016	2017	RIP
Average sales price	4 483	4 453	4 341	4 270	4 284
<i>Index (2014 = 100)</i>	100	99	97	95	96

Source: Verified questionnaire replies

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

Table 15

Average Union costs of production per tonne

	2014	2015	2016	2017	RIP
Average costs of production	3 171	3 417	3 193	3 327	3 308
<i>Index (2014 = 100)</i>	100	108	101	105	104

Source: Verified questionnaire replies

- (230) The decreasing trend is the result of the pressure from the dumped imports on the market.

- (231) The average Union sales price of the sampled producers decreased over the period by 4 %, whilst the average costs of production increased by 4 % during the same period as shown below.
- (232) The average labour costs of the sampled Union producers increased over the period considered by 5 %:

Table 16

Average labour costs per employee

	2014	2015	2016	2017	RIP
Average labour costs (EUR/FTE)	27 628	28 306	28 143	28 001	28 882
Index (2014 = 100)	100	102	102	101	105

Source: Verified questionnaire replies

5.5.3.2. Inventories

- (233) The level of closing stocks decreased over the period considered. Overall, it decreased by 33 %. This decrease reflects improved internal policies of the Union producers aiming for stock rationalisation in order to free their operating capital.

Table 17

Stocks (tonnes)

	2014	2015	2016	2017	RIP
Stocks	5 103	4 285	4 124	3 712	3 433
Index (2014 = 100)	100	84	81	73	67

Source: Verified questionnaire replies

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

Table 18

Profitability, cash flow, investments and return on investments

	2014	2015	2016	2017	RIP
Profitability	11,2 %	8,9 %	10,7 %	8,7 %	8,5 %
Index (2014 = 100)	100	80	96	78	76
Cash flow ('000 EUR)	11 659	14 574	15 399	15 102	13 689
Index (2014 = 100)	100	125	132	130	117
Investments ('000 EUR)	4 251	6 554	6 755	7 172	4 409
Index (2014 = 100)	100	154	159	169	104
Return on investments	32 %	27 %	29 %	24 %	24 %
Index (2014 = 100)	100	83	90	74	74

Source: Verified questionnaire replies

- (234) The Commission established the profitability of the sampled Union producers by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales.
- (235) Profitability dropped over the period considered by 24 %, in particular after 2016.
- (236) The net cash flow, the Union industry's ability to self-finance its activities, increased significantly until 2016, then decreased in review investigation period to a lower level but still 17 % higher than in 2014.
- (237) The development of the investments of the Union producers confirmed that this industry is very capital intensive. Substantial investments need to be done in order to comply with increasing environmental standards same as to counterweight the increasing cost for staff needed in the production by replacing them by robots. The drop in the investments in the review investigation period as of 2015 is caused by the timing/approval process of one of the sampled producers and does not earmark any change in the trend. In fact the Union producers consider that further substantial investments will be needed in order to retain sufficient profitability levels in the future.
- (238) The Union industry's return on investment, the profit as a percentage of the net book value of assets, dropped by 26 % over the period considered. This is mainly due to the increasing value of the capital employed in the production assets, when compared with just slightly sliding profits made during the period considered.
- (239) Due to the sufficient profitability and return on investments, sampled Union producers were in general able to raise capital for their necessary capital expenditures. However some Union producers noted increased difficulties to raise capital in the light of the uncertainty of the continuation of the measures and for the future investments.

5.6. Conclusion on the situation of the Union industry

- (240) The imposition of the definitive anti-dumping measures in May 2013 initiated the decreasing trend of imports from the countries concerned over the period concerned. The decreasing import volumes arriving at lower prices compared to the average sales prices of the Union industry, brought along the mitigation of the negative effects on the Union market.
- (241) This in turn helped to improve the situation of the Union industry in the period considered allowing the recovery from the previous injurious effects of dumping.
- (242) This helped to the increase in production and Union producer's sales volumes, positive cash flows and return on investments and enabled a sound, albeit decreasing profitability.
- (243) However, even if the Union industry has largely recovered from the past injury and seems to be on the right track to maintain its condition in the long-run, it is still in a fragile situation due to very limited growth potential of the Union market and continuing pressure on prices.
- (244) In addition, the high capital intensiveness of this industry, makes it particularly sensitive to the decrease of sales volumes or unit price.
- (245) With regard to the above, the Commission concluded that the Union industry did not suffer material injury within the meaning of Article 3(5) of the basic Regulation during the review investigation period.

5.7. Likelihood of recurrence of injury

- (246) The Commission concluded in recital (245) that the Union industry did not suffer material injury during the review investigation period. Therefore, the Commission assessed, in accordance with Article 11(2) of the basic Regulation, whether there would be a likelihood of recurrence of injury from the dumped imports from the PRC and Thailand if the measures were allowed to lapse.
- (247) In that regard, the Commission examined the production capacity and spare capacity in the countries concerned, attractiveness of the Union market and the impact of imports from the countries concerned on the situation of the Union industry should the measures be allowed to lapse.

5.7.1. *Spare capacity*

- (248) As concluded in recitals (182) and (162), there are substantial excess capacities in the countries concerned. The Commission has found no elements that would indicate any significant increase of domestic demand of the product under review in the countries concerned or in any third country market in the near future to absorb this spare capacity.

5.7.2. *Attractiveness of the Union market*

- (249) As explained in the recitals (165) and (183), the Union market is an attractive market for the exporting producers from the countries concerned.
- (250) This was confirmed between June 2016 and June 2017, when Chinese imports increased significantly, following the temporarily repealed anti-dumping duty for the product under review produced by Jinan Meide. This producer doubled its low priced imports to the Union in the first quarter of 2017 compared to the previous quarter and usual value of first quarter throughout the period considered.
- (251) On this basis, in the absence of measures, producers from the countries concerned will likely intensely increase their presence in the Union market in terms of both volume and market share and at dumped prices that would significantly undercut the Union industry's sales prices.

5.7.3. *Impact on the Union industry*

- (252) Repealing the measures in place would mean that the Union producers would suffer injury. With the likely arrival of large quantities of Chinese and Thai imports undercutting the prices, the Union Industry would be forced to considerably reduce its production, which would quickly depress the profitability levels.
- (253) The sensitivity of the Union industry to the decreases in production volumes or sales prices would cause a very quick deterioration of its profitability and other performance indicators.
- (254) The tube or pipe cast fittings production is a capital intensive industry. To operate a foundry, large facilities need to be in place including furnaces, moulding machines, galvanising and annealing lines. In addition, the robotics needed to cope with the increasing labour costs in the Union by replacing the human labour is very expensive. Acquisition of a single automated machine for threading a one particular type of fitting can cost up to 1 million EUR. This is a very significant outlay compared to the turnover and profits typical for this industry.
- (255) The continuous investments required into the fixed assets would no longer be justified and the recovery of the investment assets already acquired would be unsure. This could lead to factory closures and resulting losses of employment and to the eventual disappearance of the industry.

5.8. **Conclusion**

- (256) The repeal of the measures would in all likelihood result in a significant increase of dumped imports from the countries concerned at injurious prices resulting in a recurrence of material injury to the Union industry.

6. **UNION INTEREST**

6.1. **Introduction**

- (257) In accordance with Article 21 of the basic Regulation, the Commission examined whether the maintaining the existing anti-dumping measures would be against the interest of the Union as a whole. The determination of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, importers, wholesalers, retailers and users.
- (258) In the original investigation, the adoption of measures was considered not to be against the interest of the Union. Furthermore, the fact that the present investigation is a review, thus analysing a situation in which anti-dumping measures have already been in place, allows for the assessment of any undue negative impact on the parties concerned by the current anti-dumping measures.

- (259) On this basis it was examined whether, despite the conclusions on the likelihood of continuation of dumping and recurrence of injury, it could be concluded that it would not be in the Union interest to maintain measures in this particular case.

6.2. Interest of the Union industry

- (260) The investigation showed that should the measures expire, this would likely have a significant negative effect on the Union industry. The Union industry's situation would quickly deteriorate in terms of lower sales volumes and sales prices resulting in a strong decrease in profitability. The continuation of measures would allow the Union industry to fully exploit its potential on the Union market that is a level-playing field.
- (261) Therefore, maintaining the anti-dumping measures in force is in the interest of the Union industry.

6.3. Interest of importers

- (262) As mentioned in recital (20), the Commission sampled three importers and invited them to cooperate in this investigation. None of them came forward.
- (263) In the original investigation it was found that, given the importers' profits and sources of supply, any negative impact of the imposition of measures on importers, if any, would not be disproportionate.
- (264) In the current investigation there is no evidence available to the Commission suggesting the opposite, and it can thus accordingly be confirmed that the measures currently in force had no substantial negative effect on the financial situation of importers and that the continuation of the measures would not unduly affect them.

6.4. Interest of users

- (265) The Commission contacted all known users in this investigation and invited to cooperate. No users cooperated.
- (266) In the current investigation there is no evidence on file suggesting that the measures in force affected them in any negative way. Due to the low price, the share of the product under review on the total costs of the new construction or installation is also limited.
- (267) On that basis it is confirmed that the measures currently in force had no substantial negative effect on the financial situation of users and that the continuation of the measures would not unduly affect them.

6.5. Conclusion

- (268) In view of the above, the Commission concluded that there are no compelling reasons of Union interest against the maintenance of the definitive anti-dumping measures on imports of the product under review originating in the PRC and Thailand.

7. ANTI-DUMPING MEASURES

- (269) On the basis of the conclusions reached by the Commission on continuation of dumping, recurrence of injury and Union interest, the anti-dumping measures applicable to imports of threaded tube or pipe cast fittings, of malleable cast iron and spheroidal graphite cast iron, originating in the People's Republic of China and Thailand should be maintained.
- (270) All interested parties were informed of the essential facts and considerations on the basis of which it was intended to maintain the anti-dumping measures in force. They were also granted a period within which they could submit comments to this disclosure and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

- (271) No comments were received within the stipulated 25-days deadline.
- (272) In view of Article 109 of Regulation (EC) No 2018/1046 ⁽⁷⁸⁾, when an amount is to be reimbursed following a judgment of the Court of Justice of the European Union, the interest to be paid should be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union* on the first calendar day of each month.
- (273) The individual company anti-dumping duty rates specified in this Regulation are solely applicable to imports of the product under review produced by these companies and thus by the specific legal entities mentioned. Imports of the product under review manufactured by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from those rates and shall be subject to the duty rate applicable to 'all other companies'.
- (274) Any claim requesting the application of these individual anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission ⁽⁷⁹⁾ immediately with all relevant information. In particular any modification in the company's activities linked to production, domestic and export sales associated with, for instance, that name change or that change in the production and sales entities. If appropriate, the Regulation will then be amended accordingly by updating the list of companies benefitting from individual duty rates.
- (275) The Committee established by Article 15(1) of Regulation (EU) 2016/1036 did not deliver an opinion.

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is imposed on imports of threaded tube or pipe cast fittings, of malleable cast iron and spheroidal graphite cast iron, excluding bodies of compression fittings using ISO DIN 13 metric thread and malleable iron threaded circular junction boxes without having a lid, currently falling under CN codes ex 7307 19 10 (TARIC code 7307 19 10 10) and ex 7307 19 90 (TARIC code 7307 19 90 10) and originating in PRC and Thailand.
2. The rate of the definitive anti-dumping duty applicable to the net, free-at-Union-frontier price, before duty, of the product described in paragraph 1 and manufactured by the companies listed below, shall be as follows:

Country	Company	Duty (%)	TARIC Additional Code
PRC	Hebei Jianzhi Casting Group Ltd – Yutian County	57,8	B335
	Jinan Meide Casting Co., Ltd — Jinan	39,2	B336
	Qingdao Madison Industrial Co., Ltd — Qingdao	24,6	B337
	Hebei XinJia Casting Co., Ltd – XuShui County	41,1	B338
	Shijiazhuang Donghuan Malleable Iron Castings Co., Ltd – Xizhaotong Town	41,1	B339
	Linyi Oriental Pipe Fittings Co., Ltd – Linyi City	41,1	B340
	China Shanxi Taigu County Jingu Cast Co., Ltd – Taigu County	41,1	B341
	Yutian Yongli Casting Factory Co., Ltd – Yutian County	41,1	B342
	Langfang Pannext Pipe Fitting Co., Ltd – LangFang, Hebei	41,1	B343

⁽⁷⁸⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

⁽⁷⁹⁾ European Commission, Directorate-General for Trade, Directorate H, B-1049 Brussels, Belgium.

Country	Company	Duty (%)	TARIC Additional Code
	Tangshan Daocheng Casting Co., Ltd – Hongqiao Town, Yutian County	41,1	B344
	Tangshan Fangyuan Malleable Steel Co., Ltd — Tangshan	41,1	B345
	Taigu Tongde Casting Co., Ltd – Nanyang Village, Taigu	41,1	B346
	All other companies	57,8	B999
Thailand	BIS Pipe Fitting Industry Co. Ltd — Samutsakorn	15,5	B347
	Siam Fittings Co., Ltd — Samutsakorn	14,9	B348
	All other companies	15,5	B999

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

4. The Commission may amend paragraph 2 in order to include a new exporting producer and to attribute to that producer the appropriate weighted average anti-dumping duty rate applicable to the cooperating companies not included in the sample of the original investigation, where a new exporting producer in the People's Republic of China or Thailand provides sufficient evidence to the Commission that:

- (a) it did not export to the Union the product described in paragraph 1 in the period between 1 January 2011 and 31 December 2011 (original investigation period),
- (b) it is not related to any exporter or producer in the People's Republic of China or Thailand which is subject to the anti-dumping measures imposed by this Regulation, and
- (c) it has either actually exported to the Union the product under review or it has entered into an irrevocable contractual obligation to export a significant quantity to the Union after the end of the original investigation period.

5. The application of the individual anti-dumping duty rates specified for the companies listed in paragraph 2 shall be conditional upon presentation of a valid commercial invoice to the customs authorities of the Member States. On the commercial invoice 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 threaded tube or pipe cast fittings, of malleable cast iron or spheroidal graphite cast iron, sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in the (country concerned). I declare that the information provided in this invoice is complete and correct.' If no such invoice is presented, the duty rate applicable to 'all other companies' shall apply.

Article 2

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

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

Done at Brussels, 24 July 2019.

For the Commission
The President
Jean-Claude JUNCKER

DECISIONS

COUNCIL DECISION (EU) 2019/1260

of 15 July 2019

on the position to be taken on behalf of the European Union within the Trade Committee established by the Free Trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part, as regards the amendment of Appendices 2-C-2 and 2-C-3 of Annex 2-C of the Agreement

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Free Trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part ⁽¹⁾ (hereinafter the 'Agreement', the parties to which are hereinafter referred to as the 'Parties'), signed on 6 October 2010, was concluded by the Union by Council Decision (EU) 2015/2169 ⁽²⁾. It has been applied as of 1 July 2011 ⁽³⁾.
- (2) Article 15.1 of the Agreement establishes a Trade Committee, which may, inter alia, consider amendments to the Agreement or amend provisions of the Agreement in cases specifically provided for in the Agreement. Article 15.5.2 of the Agreement establishes that the Parties may decide within the Trade Committee to amend the Annexes, Appendices, Protocols and Notes to the Agreement, subject to the Parties' respective applicable legal requirements and procedures.
- (3) Under Article 3(d) of Annex 2-C of the Agreement, the Parties are to review Appendices 2-C-2 and 2-C-3 of Annex 2-C no less than every three years from the entry into force of the Agreement with a view to furthering the acceptance of products as set out in subparagraph (a) of the same Article, taking into account any regulatory developments that may have occurred internationally or within the Parties. Article 3(d) of Annex 2-C further specifies that any modifications to Appendices 2-C-2 and 2-C-3 shall be decided upon by the Trade Committee.
- (4) Since the Agreement began to apply, the technical regulations mentioned in Appendices 2-C-2 and 2-C-3 of Annex 2-C of the Agreement have changed, as has some of the product coverage. In order to take into account these developments, the Union and Korea have modified the technical regulations while maintaining the same degree of market access covered by Article 1.2 of Annex 2-C of the Agreement.
- (5) It is appropriate to establish the position to be taken on the Union's behalf within the Trade Committee.
- (6) The position of the Union within the Trade Committee should therefore be to support the adoption of the attached draft decision of the Trade Committee,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on behalf of the Union within the Trade Committee established by Article 15.1 of the Free Trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part, shall be to support the adoption of the draft decision of the Trade Committee attached to this Decision.

⁽¹⁾ OJ L 127, 14.5.2011, p. 6.

⁽²⁾ Council Decision (EU) 2015/2169 of 1 October 2015 on the conclusion of the Free Trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part (OJ L 307, 25.11.2015, p. 2).

⁽³⁾ Notice concerning the provisional application of the Free Trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part (OJ L 168, 28.6.2011, p. 1).

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 15 July 2019.

For the Council
The President
J. LEPPÄ

DRAFT

DECISION No 3 OF THE KOREA-EU TRADE COMMITTEE
of xx April 2019
on the amendment of Appendices 2-C-2 and 2-C-3 of the Annex 2-C of the Korea-EU Free Trade Agreement

THE TRADE COMMITTEE,

Having regard to the Free Trade Agreement between the Republic of Korea ('Korea'), of the one part, and the European Union ('EU') and its Member States, of the other part (hereinafter the 'Agreement' and the 'Parties', respectively), and in particular Articles 15.1.4(c) and 15.5.2 thereof, and Article 3(d) of Annex 2-C thereof,

Whereas:

- (1) Pursuant to Article 15.1.4(c) of the Agreement, the Trade Committee established by the Parties may consider amendments to the Agreement or amend provisions of the Agreement in cases specifically provided for in the Agreement.
- (2) Article 15.5.2 of the Agreement provides that a decision of the Trade Committee to amend the Annexes, Appendices, Protocols and Notes to the Agreement may be adopted by the Parties, subject to their respective applicable legal requirements and procedures.
- (3) Article 3(d) of Annex 2-C of the Agreement mandates the Parties to review Appendices 2-C-2 and 2-C-3 of Annex 2-C no less than every three years from the entry into force of the Agreement with a view to furthering the acceptance of products as set out in subparagraph (a) of the same Article, taking into account any regulatory developments that may have occurred internationally or within the Parties. It further specifies that any modifications to Appendices 2-C-2 and 2-C-3 shall be decided upon by the Trade Committee.
- (4) Korea and the EU have modified the technical regulations in order to maintain the same degree of market access covered by Article 1.2 of Annex 2-C of the Agreement. Moreover, the references to 'UNECE' in Appendices 2-C-2 and 2-C-3 should now read as references to 'UN Reg.' following the Agreement concerning the Adoption of Harmonized Technical United Nations Regulations for Wheeled Vehicles, Equipment and Parts which can be Fitted and/or be Used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of these United Nations Regulations (Revision 3) ⁽¹⁾ of 20 October 2017.
- (5) Table 1 of Appendix 2-C-2 has been modified in the following way:
 - (a) Since UN Regulations apply on a compulsory basis in the EU, for simplicity reasons it has been decided to delete the references to EU Regulations (e.g. GSR) and Directives in the 'Corresponding EU Technical Regulation' column, and the column has been left blank.
 - (b) However, where there are no applicable UN Regulations or where the scope of UN Regulations is inadequate, such as in the case of 'Permissible sound level' for example, then the EU Regulations or Directives replace or complement the UN regulations. For this reason, a reference to 'if existing' has been introduced in the 'Corresponding EU Technical Regulation' column.
 - (c) Concerning 'Permissible sound level' and 'Replacement silencing systems', Regulation (EU) No 540/2014 has been added under the Corresponding EU Technical Regulation because it repeals Directive 70/157/EEC and applies in a time-staggered fashion.
 - (d) 'Emissions' has been replaced with 'Emissions light vehicles' because the UN Reg. 83 requirement applies to M1 and N1 vehicle categories only. Moreover, the reference to 'Directive 70/220/EEC' has been deleted because it has been repealed and replaced by 'Regulations (EC) No 715/2007, (EC) No 692/2008, (EU) No 459/2012, (EU) 2016/427, (EU) 2016/646, (EU) 2017/1151, (EU) 2017/1154 and (EU) 2018/1832', which have been added under the Corresponding EU Technical Regulation.

⁽¹⁾ E/ECE/TRANS/505/Rev.3.

- (e) Concerning 'Replacement catalytic converters', the reference to 'Directive 70/220/EEC' has been deleted because it has been repealed and replaced by 'Regulations (EC) No 715/2007 and (EC) No 692/2008' which have been added under the Corresponding EU Technical Regulation.
 - (f) Moreover, for those subjects whose names change, such as from 'Braking' and 'Braking' which have been replaced with 'Braking heavy vehicles' and 'Braking light vehicles', these changes were done for clarity purposes.
 - (g) On 'Diesel smoke', 'Directive 72/306/EEC' has been deleted since it has been replaced by 'Regulation (EC) No 692/2008' which has been added in Table 1 under the Corresponding EU Technical Regulation.
 - (h) On 'CO₂ emissions – Fuel consumption', 'Directive 80/1268/EEC' has been replaced by 'Regulation (EC) No 692/2008' which has been added in Table 1 under the Corresponding EU Technical Regulation, and the subject now refers to 'CO₂ emissions - Fuel consumption passenger cars with no more than eight seats in addition to the driver's seat' in order to fully respect the scope of that regulation.
 - (i) On 'Engine power', 'Directive 80/1269/EEC' has been deleted since it has been replaced by 'Regulations (EC) No 692/2008 and (EU) No 582/2011' which have been added in Table 1 under the Corresponding EU Technical Regulation.
 - (j) On 'Emissions heavy duty vehicles', 'Directive 2005/55/EC' has been replaced by 'Regulations (EC) No 595/2009, (EU) No 582/2011 and (EU) 2016/1718', which have been added in Table 1 under the Corresponding EU Technical Regulation. The subject has also been renamed 'Emissions heavy duty vehicles' because UN Regulation 49 applies to heavy duty vehicles (i.e. vehicles with a reference mass exceeding 2,610 kg).
- (6) Table 2 of Appendix 2-C-2 remains unchanged.
- (7) Table 1 of Appendix 2-C-3 has been modified in the following way:
- (a) On 'Occupant crash protection' 'Frontal', 'KMVSS Article 102 Paragraphs 1 and 3' have replaced the reference to 'KMVSS Article 102' under the Corresponding Korean Technical Regulations due to a revision of KMVSS.
 - (b) On 'Occupant crash protection' 'Side', 'KMVSS Article 102 Paragraph 1' has replaced the reference to 'KMVSS Article 102' under the Corresponding Korean Technical Regulations due to a revision of KMVSS.
 - (c) The whole line on 'Towing hook' has been replaced. Specifically, 'Towing hook' has been replaced by 'Towing devices', as 'Towing devices' is the official concept referred to in Regulation (EU) No 1005/2010. Moreover, the requirements for 'Towing devices' are now 'Regulation (EU) No 1005/2010' instead of '77/389/EEC'. Finally, the Corresponding Korean Technical Regulations now read 'KMVSS Article 20 paragraph 1' which has replaced the previous reference to 'KMVSS Article 20 Items 1, 2, 4'.
 - (d) On 'Lighting and signalling system', KMVSS Article 106 Items 1 to 10 have been deleted from the corresponding Korean Technical Regulations on 'Head lamp', 'Front fog lamp', 'Backup lamp', 'Clearance lamp', 'Registration plate lamp', 'Tail lamp', 'Stop lamp', 'Centre high mounted stop lamp', 'Turn signal', 'Auxiliary turn signal' and 'Rear fog lamp' due to a revision of KMVSS.
 - (e) On 'Lighting and signalling system' 'Installation', the Corresponding Korean Technical Regulations now read 'KMVSS Articles 38, 38-2, 38-3, 38-4, 38-5, 39, 40, 41, 42, 43, 44, 44-2, 45, 45-2, 47 and 49' which have replaced the previous reference to 'KMVSS Articles 38, 39, 40, 41, 42, 43, 44, 45 and 47'. This is due to a revision of KMVSS.
 - (f) 'Lighting and signalling system', 'Daytime running lamp' and 'Cornering lamp' have been added to the table due to a revision of KMVSS and in order to reflect the updated installation requirements on 'Lighting and signalling system'.
 - (g) On 'Lighting and signalling system', 'Centre high mounted stop lamp', in addition to the deletion of KMVSS Article 106 Item 8, paragraph 3 of KMVSS Article 43 has also been deleted because it has been replaced by the Corresponding Korean Technical Regulations 'KMVSS Article 43 Paragraph 2'.

- (h) On 'Lighting and signalling system', 'Side marker lamp' has been added to the table due to a revision of KMVSS and in order to reflect the updated installation requirements on 'Lighting and signalling system'.
 - (i) On 'Lighting and signalling system' 'Retro-reflection devices', the Corresponding Korean Technical Regulations now read 'KMVSS Article 49' which has replaced the previous reference to 'KMVSS Article 49 paragraphs 1, 2, Article 107'. This is due to a revision of KMVSS.
 - (j) On 'Engine power', the Corresponding Korean Technical Regulations now read 'KMVSS Article 111' which has replaced the previous reference to 'KMVSS Article 11 Paragraph 1 Item 2, Article 111'. This is due to a revision of KMVSS.
 - (k) On 'Device for securing driver's visibility', the references under 'Requirements' to '78/318/EEC' and '78/317/EEC' have been deleted since they have been repealed and replaced by 'Regulation (EU) No 1008/2010' or 'Regulation (EU) No 672/2010'. The Corresponding Korean Technical Regulations remain unchanged.
 - (l) On 'Seat belt assembly anchorages', the Corresponding Korean Technical Regulations now read 'KMVSS Article 27 Paragraphs 1, 2, 3, 4; Article 103' which have replaced the previous references to 'KMVSS Article 27 Paragraphs 1, 2, 3, 4, 5; Article 103 Paragraphs 1, 2, 3'. This is due to a revision of KMVSS.
 - (m) On 'Emission and noise (except the passer-by noise of 3 or 4 wheels) for motor cycles', the references under 'Requirements' to, *inter alia*, 'Directives 2002/51/EC, 2003/77/EC, 97/24/EC Chapters 5 and 9' have been deleted, since they have been repealed and replaced by, *inter alia*, 'Regulations (EU) No 168/2013 and (EU) No 134/2014'. The Corresponding Korean Technical Regulations remain unchanged.
 - (n) On 'Emission Diesel (incl. OBD)' 'Below 3.5t vehicle', the following references under 'Requirements' have been added: 'Regulations (EC) No 715/2007' and '(EU) No 459/2012' because these are the applicable Regulations that correspond to KMVSS. The Corresponding Korean Technical Regulations remain unchanged.
 - (o) On 'Emission Diesel (incl. OBD)' 'Over 3.5t vehicle', the reference under 'Requirements' to, *inter alia*, 'Regulation (EC) No 692/2008' has been deleted and replaced with, *inter alia*, 'Regulations (EC) No 595/2009 and (EU) No 582/2011' because 'Regulation (EC) No 692/2008' does not deal with heavy duty vehicles. The Corresponding Korean Technical Regulations remain unchanged.
 - (p) On 'Tyres', the Corresponding Korean Technical Regulations now read 'Electrical Appliances and Consumer Products Safety Control Act Articles 15, 18 and 19; Enforcement Rules of Electrical Appliances and Consumer Products Safety Control Act Article 3, paragraph 4, Article 26; KMVSS Article 12 Paragraph 1' which have replaced the previous reference to 'Quality Management Safety and Control of Industrial Products Act (QMSCIPA) (Articles 19, 20, 21); Enforcement Rules of QMSCIPA Article 2 paragraph 2, Article 19'. This is because QMSCIPA has been replaced by the 'Electrical Appliances and Consumer Products Safety Control Act'.
- (8) Table 2 of Appendix 2-C-3 remains unchanged.
- (9) Pursuant to Article 12.2 in the Annex of Decision No. 1 of the Korea-EU Trade Committee of 23 December 2011 on the adoption of the rules of procedure of the Trade Committee, in the period between the meetings of the Trade Committee it can adopt decisions by written procedure if both Parties agree. The written procedure would consist of an exchange of notes between the Chairpersons of the Trade Committee,

HAS ADOPTED THIS DECISION:

Article 1

Table 1 of Appendix 2-C-2 of Annex 2-C of the Agreement shall be replaced by Table 1 of Annex 1 to this Decision.

Article 2

Table 1 of Appendix 2-C-3 of Annex 2-C of the Agreement shall be replaced by Table 1 of Annex 2 to this Decision.

Article 3

This Decision shall enter into force on the first day of the month following the date on which the Parties exchange written notifications through diplomatic channels certifying that they have completed their respective applicable legal requirements and procedures necessary for its entry into force.

Done at ...,

For the Trade Committee

YOO Myung-hee

Minister for Trade

*Ministry of Trade, Industry and Energy of the Republic
of Korea*

Cecilia MALMSTRÖM

*Member of the European Commission responsible for
Trade*

ANNEX 1

Appendix 2-C-2

Table 1

List referred to in Article 3(a)(i) of Annex 2-C

Subject	Requirements	Corresponding EU Technical Regulation (if existing) ⁽¹⁾
Permissible sound level	UN Reg ⁽²⁾ . 51	Directive 70/157/EEC, Regulation (EU) No 540/2014
Replacement silencing systems	UN Reg. 59	Directive 70/157/EEC, Regulation (EU) No 540/2014
Emissions light vehicles	UN Reg. 83	Regulations (EC) No 715/2007, (EC) No 692/2008, (EU) No 459/2012, (EU) 2016/427, (EU) 2016/646, (EU) 2017/1151, (EU) 2017/1154, (EU) 2018/1832
Replacement catalytic converters	UN Reg. 103	Regulations (EC) No 715/2007 and (EC) No 692/2008
Fuel tanks	UN Reg. 34	
LPG tanks	UN Reg. 67	
CNG tanks	UN Reg. 110	
Rear protective device	UN Reg. 58	
Steering effort	UN Reg. 79	
Door latches and hinges	UN Reg. 11	
Audible warning	UN Reg. 28	
Indirect vision devices	UN Reg. 46	
Braking heavy vehicles	UN Reg. 13	
Braking light vehicles	UN Reg. 13H	
Brake linings	UN Reg. 90	
Radio interference (electromagnetic compatibility)	UN Reg. 10	
Diesel smoke	UN Reg. 24	Regulation (EC) No 692/2008
Interior fittings	UN Reg. 21	
Anti-theft	UN Reg. 18	
Anti-theft and immobiliser	UN Reg. 116	
Vehicle alarm systems	UN Reg. 97 UN Reg. 116	

Subject	Requirements	Corresponding EU Technical Regulation (if existing) ⁽¹⁾
Behaviour of steering device under impact	UN Reg. 12	
Seat strength	UN Reg. 17	
Seat strength (buses and coaches)	UN Reg. 80	
Exterior projections	UN Reg. 26	
Speedometer	UN Reg. 39	
Seat belt anchorages	UN Reg. 14	
Installation of lighting and light signalling devices	UN Reg. 48	
Retro reflectors	UN Reg. 3	
End-outline/front-position (side)/rear- position (side)/ stop lamps	UN Reg. 7	
Daytime running lamps	UN Reg. 87	
Side marker lamps	UN Reg. 91	
Direction indicators	UN Reg. 6	
Rear registration plate lamp	UN Reg. 4	
Headlamps (R ₂ and HS ₁)	UN Reg. 1	
Headlamps (sealed beam)	UN Reg. 5	
Headlamps (H ₁ , H ₂ , H ₃ , HB ₃ , HB ₄ , H ₇ , and/or H ₈ , H ₉ , HIR1, HIR2 and/or H ₁₁)	UN Reg. 8	
Headlamps (H ₄)	UN Reg. 20	
Headlamps (halogen sealed beam)	UN Reg. 31	
Filament lamps for use in approved lamp units	UN Reg. 37	
Headlamps with gas-discharge light sources	UN Reg. 98	
Gas-discharge light sources for use in approved gas- discharge lamp units	UN Reg. 99	
Headlamps (asymmetrical passing beam)	UN Reg. 112	
Adaptative front-lighting systems	UN Reg. 123	
Front fog lamps	UN Reg. 19	
Rear fog lamps	UN Reg. 38	
Reversing lamps	UN Reg. 23	
Parking lamps	UN Reg. 77	

Subject	Requirements	Corresponding EU Technical Regulation (if existing) ⁽¹⁾
Seat belts and restraint systems	UN Reg. 16	
Child restraints	UN Reg. 44	
Front forward field of vision	UN Reg. 125	
Identification of controls, tell-tales and indicators	UN Reg. 121	
Heating systems	UN Reg. 122	
Head restraints (combined with seats)	UN Reg. 17	
Head restraints	UN Reg. 25	
CO ₂ emissions - Fuel consumption passenger cars with no more than eight seats in addition to the driver's seat	UN Reg. 101	Regulation (EC) No 692/2008
Engine power	UN Reg. 85	Regulations (EC) No 692/2008 and (EU) No 582/2011
Emissions heavy duty vehicles	UN Reg. 49	Regulations (EC) No 595/2009, (EU) No 582/2011, (EU) 2016/1718
Lateral protection	UN Reg. 73	
Safety glazing	UN Reg. 43	
Tyres, motor vehicles and their trailers	UN Reg. 30	
Tyres, commercial vehicles and their trailers	UN Reg. 54	
Temporary-use spare wheels/tyres	UN Reg. 64	
Rolling sound	UN Reg. 117	
Speed limitation devices	UN Reg. 89	
Couplings	UN Reg. 55	
Close-coupling device	UN Reg. 102	
Flammability	UN Reg. 118	
Buses and coaches	UN Reg. 107	
Strength of superstructure (buses and coaches)	UN Reg. 66	
Frontal impact	UN Reg. 94	
Side impact	UN Reg. 95	
Vehicles intended for the transport of dangerous goods	UN Reg. 105	
Front underrun protection	UN Reg. 93	

⁽¹⁾ Blank in the third column (Corresponding EU Technical Regulation) means the corresponding Regulation is the same as the UN Regulation in the second column (Requirements).

⁽²⁾ Abbreviation of 'UN Regulation', formerly known as 'UNECE'.

ANNEX 2

Appendix 2-C-3

Table 1

List referred to in Article 3(a)(ii) of Annex 2-C

Subject		Requirements	Corresponding Korean Technical Regulations
Occupant crash protection	Frontal	UN Reg. 94	KMVSS (1) Article 102 Paragraphs 1 and 3
	Side	UN Reg. 95	KMVSS Article 102 Paragraph 1
Steering control rearward displacement		UN Reg. 12	KMVSS Article 89 Paragraph 1 Item 2
Impact protection for the driver from the steering control system		UN Reg. 12	KMVSS Article 89 Paragraph 1 Item 1
Seating systems		UN Reg. 17	KMVSS Article 97
Head restraints		UN Reg. 17, UN Reg. 25, GTR 7	KMVSS Articles 26, 99
Door locks and door retention components		UN Reg. 11, GTR 1	KMVSS Article 104 Paragraph 2
Instrument panel impact		UN Reg. 21	KMVSS Article 88
Seat back impact		UN Reg. 21	KMVSS Article 98
Armrest impact		UN Reg. 21	KMVSS Article 100
Sun visor impact		UN Reg. 21	KMVSS Article 101
Inside rear view mirror impact		UN Reg. 46	KMVSS Article 108
Towing devices		Regulation (EU) No 1005/2010	KMVSS Article 20 Paragraph 1
Rear under-run protection		UN Reg. 58	KMVSS Article 19 Paragraph 4 and Article 96
Lighting and signalling system	Installation	UN Reg. 48	KMVSS Articles 38, 38-2, 38-3, 38-4, 38-5, 39, 40, 41, 42, 43, 44, 44-2, 45, 45-2, 47 and 49
	Head lamp	UN Reg. 1, 2, 5, 8, 20, 31, 37, UN Reg. 98, 99, 112, 113, 123	KMVSS Article 38, Article 48 Paragraph 3
	Front fog lamp	UN Reg. 19	KMVSS Article 38-2 Paragraph 1

Subject		Requirements	Corresponding Korean Technical Regulations
	Daytime running lamp	UN Reg. 87	KMVSS Article 38-4
	Cornering lamp	UN Reg. 119	KMVSS Article 38-5
	Backup lamp	UN Reg. 23	KMVSS Article 39
	Clearance lamp	UN Reg. 7	KMVSS Article 40
	Registration plate lamp	UN Reg. 4	KMVSS Article 41
	Tail lamp	UN Reg. 7	KMVSS Article 42
	Stop lamp	UN Reg. 7	KMVSS Article 43 Paragraph 1
	Centre high mounted stop lamp	UN Reg. 7	KMVSS Article 43 Paragraph 2
	Turn signal	UN Reg. 6	KMVSS Article 44
	Auxiliary turn signal	UN Reg. 7	KMVSS Article 44
	Side marker lamp	UN Reg. 91	KMVSS Article 44-2
	Rear fog lamp	UN Reg. 38	KMVSS Article 38-2 Paragraph 2
	Retro-reflection devices	UN Reg. 70, UN Reg. 3	KMVSS Article 49
Driver's visibility		UN Reg. 46	KMVSS Article 50, Article 94
Engine power		UN Reg. 85	KMVSS Article 111
Device for securing driver's visibility	Windshield wiping system	Regulation (EU) No 1008/2010	KMVSS Article 51 Paragraph 2, Article 109 Item 1
	Defrosting system	Regulation (EU) No 672/2010	KMVSS Article 109 Item 2
	Defogging system	Regulation (EU) No 672/2010	KMVSS Article 109 Item 3
	Windshield washing system	Regulation (EU) No 1008/2010	KMVSS Article 109 Item 4
Passenger car brake		UN Reg. 13H	KMVSS Article 15, Article 90 Item 1
Brake system except passenger car and trailer		UN Reg. 13	KMVSS Article 15, Article 90 Item 2
Trailer brake system		UN Reg. 13	KMVSS Article 15, Article 90 Item 3
Anti-lock brake system, except trailer		UN Reg. 13	KMVSS Article 15, Article 90 Item 4
Trailer anti-lock brake system		UN Reg. 13	KMVSS Article 15, Article 90 Item 5

Subject		Requirements	Corresponding Korean Technical Regulations
Steering effort		UN Reg. 79	KMVSS Article 14, Article 89 paragraph 2
Speed limiter		UN Reg. 89	KMVSS Article 110-2
Speedometer		UN Reg. 39	KMVSS Article 110
Electro-magnetic compatibility		UN Reg. 10	KMVSS Article 111-2
Fuel leakage in collision		UN Reg. 34, UN Reg. 94, UN Reg. 95	KMVSS Article 91
Bumper impact		UN Reg. 42	KMVSS Article 93
Seat belt assembly anchorages		UN Reg. 14, UN Reg. 16	KMVSS Article 27 Paragraphs 1, 2, 3, 4; Article 103
Child seat anchorage		UN Reg. 14	KMVSS Article 27-2, Article 103-2
Horn noise, stationary noise and pass-by noise for vehicles (4 wheels)		UN Reg. 28, UN Reg. 51	KMVSS Articles 35, 53, NVCA Article 30 and its Ordinance of MOE ⁽²⁾ Article 29
Emission and noise (except the passer-by noise of 3 or 4 wheels) for motor cycles		UN Reg. 40, UN Reg. 41, UN Reg. 47 Regulations (EU) No 168/2013 and (EU) No 134/2014	CACA ⁽³⁾ Article 46 and its Ordinance of MOE Article 62, NVCA Article 30 and its Ordinance of MOE Article 29
Emission Diesel (incl. OBD)	Below 3,5 t vehicle	UN Reg. 83, UN Reg. 24 Regulations (EC) No 715/2007, (EC) No 692/2008, (EU) No 459/2012	CACA Article 46 and its Ordinance of MOE Article 62
	Over 3,5 t vehicle	UN Reg. 49 Regulations (EC) No 595/2009 and (EU) No 582/2011	
Tyres		UN Reg. 30, 54, 75, 106, 117, 108, 109	Electrical Appliances and Consumer Products Safety Control Act Articles 15, 18 and 19; Enforcement Rules of Electrical Appliances and Consumer Products Safety Control Act Article 3 paragraph 4, Article 26; KMVSS Article 12 Paragraph 1

⁽¹⁾ Formerly known as Korea Motor Vehicle Safety Standards, renamed 'Rules on the Performances and Standards of Korean Motor Vehicles and Parts' as of 1 July 2014.

⁽²⁾ Ministry of Environment of Korea.

⁽³⁾ Clean Air Conservation Act of Korea.

COUNCIL DECISION (EU) 2019/1261**of 15 July 2019**

on the position to be taken on behalf of the European Union within the Joint Committee established by the Framework Agreement on Partnership and Cooperation between the European Union and its Member States, of the one part, and the Republic of the Philippines, of the other part, as regards the adoption of decisions on the rules of procedure of the Joint Committee and on the terms of reference of the specialised subcommittees

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 207 and 209, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Framework Agreement on Partnership and Cooperation between the European Union and its Member States, of the one part, and the Republic of the Philippines, of the other part ⁽¹⁾ (the 'Agreement'), entered into force on 1 March 2018.
- (2) Article 48(1) of the Agreement establishes a Joint Committee to ensure the proper functioning and implementation of the Agreement (the 'Joint Committee').
- (3) Article 48(5) of the Agreement provides that the Joint Committee is to adopt its rules of procedure and Article 48(3) provides that it may set up specialised subcommittees.
- (4) In order to ensure the effective implementation of the Agreement, the rules of procedure of the Joint Committee should be adopted as soon as possible.
- (5) It is appropriate to establish the position to be taken on the Union's behalf within the Joint Committee.
- (6) The position of the Union within the Joint Committee should therefore be to support the adoption of the attached draft decisions of the Joint Committee,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the first meeting of the Joint Committee shall be to support the adoption of the draft decisions of the Joint Committee attached to this Decision.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 15 July 2019.

For the Council
The President
F. MOGHERINI

⁽¹⁾ OJ L 343, 22.12.2017, p. 3.

DRAFT

**DECISION No 1/... OF THE JOINT COMMITTEE ESTABLISHED BY THE EU-PHILIPPINES
FRAMEWORK AGREEMENT ON PARTNERSHIP AND COOPERATION**

of ...

adopting its Rules of Procedure

THE JOINT COMMITTEE,

Having regard to the Framework Agreement on Partnership and Cooperation between the European Union and its Member States, of the one part, and the Republic of the Philippines, of the other part ⁽¹⁾ (the 'Agreement'), and in particular Article 48 thereof,

Whereas:

- (1) The Agreement entered into force on 1 March 2018.
- (2) The Rules of Procedure of the Joint Committee should therefore be adopted,

HAS ADOPTED THIS DECISION:

Sole Article

1. The Rules of Procedure of the Joint Committee, as set out in the Annex, are hereby adopted.
2. This Decision shall enter into effect on the date of its adoption.

Done at ...,

*For the Joint Committee
The Chair*

⁽¹⁾ OJ L 343, 22.12.2017, p. 3.

ANNEX

Rules of Procedure of the Joint Committee*Article 1***Tasks and Composition**

1. The Joint Committee shall perform the tasks provided for in Article 48 of the Framework Agreement on Partnership and Cooperation between the European Union and its Member States, of the one part, and the Republic of the Philippines, of the other part (the 'Agreement'), hereinafter jointly referred to as the 'Parties' and individually as the 'Party'.
2. The Joint Committee shall be composed of representatives of both sides at senior official level.

*Article 2***Meetings**

1. The Joint Committee shall normally meet every two years. The meeting of the Joint Committee shall be convened by the Chair. Meetings shall be held in Manila and Brussels alternately, on a date fixed by mutual agreement. Special sessions of the Joint Committee may be held at the request of either Party, if the Parties so agree.
2. If both Parties agree, the meetings of the Joint Committee may exceptionally be held by means of video- or teleconference.
3. Meetings of the Joint Committee shall be conducted exclusively and in confidence between representatives of the Parties, unless both Parties agree to do otherwise.

*Article 3***Chair**

The Party hosting the first Joint Committee meeting shall hold the chair from the date of that meeting until 31 December that year. The Joint Committee shall be then chaired alternately for a period of two years henceforth.

*Article 4***Participants**

1. The members of the delegation of each Party shall be composed of representatives of the Parties to be led at the senior official level.
2. Each Party shall inform the other Party of the actual composition of its delegation 21 working days before the meeting.
3. The Chair shall ensure that all participants of the Joint Committee meetings are duly designated representatives of the Parties. Concerns on the composition of the delegation shall be submitted to the Chair.
4. The Parties, upon prior agreement, may invite third parties to a meeting to provide information on a particular subject if deemed necessary. Each Party must inform the other Party at least 21 working days before the meeting of their intent to invite a third party.

*Article 5***Secretariat**

A representative of the European External Action Service and a representative of the Department of Foreign Affairs of the Republic of the Philippines shall act jointly as Secretaries of the Joint Committee. All communications to and from the Chair shall be forwarded to the Secretaries. Correspondence to and from the Chair may be by any written means, including electronic mail.

*Article 6***Agendas for meetings**

1. The Chair shall draw up a provisional agenda for each meeting. The provisional agenda shall be sent, together with the relevant documents, at least 21 working days before the meeting.
2. The agenda shall be adopted by the Joint Committee. Items other than those appearing on the provisional agenda may be placed on the agenda, if the Parties so agree.

*Article 7***Minutes**

1. The two Secretaries shall jointly prepare a draft summary of the outcome/conclusions of the meeting.
2. The head of delegation of each Party shall approve and sign the draft summary in two copies. Each Party shall receive one original of the approved and signed summary.

*Article 8***Decisions and recommendations**

1. The Joint Committee may take decisions or make recommendations in order to attain the objectives of the Agreement. Decisions and recommendations shall be adopted by common agreement of the Parties. Decisions and recommendations shall be adopted following completion by the Parties of their respective internal procedures in accordance with their laws and regulations.
2. The Joint Committee may decide to adopt decisions or recommendations by means of a written procedure. In such cases, the Parties shall agree a time-limit for the duration of the procedure. If, at the expiry of that time-limit, no Party has expressed opposition to the proposed decision or recommendation, the Chair of the Joint Committee shall declare the decision or recommendation to have been adopted without opposition.

*Article 9***Expenses**

1. Each Party shall bear the expenses it incurs as a result of participating in the meetings of the Joint Committee, both with regard to staff, travel and subsistence expenditure and to postal and telecommunications expenditure.
2. Each Party shall bear the expenses it incurs in connection with interpreting at meetings and translation.
3. The Party hosting the meeting shall bear the expenses in connection with the organisation of meetings and reproduction of documents.

*Article 10***Specialised Subcommittees**

1. In accordance with Article 48(3) of the Agreement, the Joint Committee may set up specialised subcommittees in order to assist it in the performance of its tasks. The specialised subcommittees shall report to the Joint Committee exclusively after each of their meetings.
 2. The Joint Committee shall define the terms of reference ("TOR") of each specialised subcommittee.
 3. The Joint Committee may decide to amend the TOR or to abolish any existing specialised subcommittee.
 4. The specialised subcommittees may make recommendations for the approval of the Joint Committee.
-

DRAFT

**DECISION No 2/... OF THE JOINT COMMITTEE ESTABLISHED BY THE EU-PHILIPPINES
FRAMEWORK AGREEMENT ON PARTNERSHIP AND COOPERATION**

of ...

establishing specialised subcommittees and adopting their terms of reference

THE JOINT COMMITTEE,

Having regard to the Framework Agreement on Partnership and Cooperation between the European Union and its Member States, of the one part, and the Republic of the Philippines, of the other part (the 'Agreement'), and in particular Article 48(3) thereof,

Having regard to Article 10 of the Rules of Procedure of the Joint Committee,

Whereas:

- (1) To allow for expert level discussions on the key areas falling within the scope of the Agreement, specialised subcommittees should be established.
- (2) According to Article 8 of the Joint Committee's Rules of Procedure, the Joint Committee may decide to adopt decisions by means of a written procedure,

HAS ADOPTED THIS DECISION:

Sole Article

The specialised subcommittees listed in Annex I are hereby established. The terms of reference of the specialised subcommittees shall be as set out in Annex II.

Done at ...,

*For the Joint Committee
The Chair*

ANNEX I

Joint Committee established by the EU-Philippines Framework Agreement on Partnership and Cooperation

List of specialised subcommittees

[...]

ANNEX II

Terms of reference of specialised subcommittees established under the Framework Agreement on Partnership and Cooperation between the European Union and its Member States, of the one part, and the Republic of the Philippines, of the other part (hereinafter jointly referred to as 'the Parties' and individually as the 'Party')

Article 1

The specialised subcommittees shall discuss subjects or specific projects related to the relevant area of cooperation.

Article 2

The specialised subcommittees shall work under the authority of the Joint Committee. They shall report and transmit their summary of outcomes/conclusions to the Chair of the Joint Committee within 30 working days after each meeting.

Article 3

1. The specialised subcommittees shall be composed of representatives of the Parties. The heads of delegations of the relevant specialised subcommittees shall inform each other of the representation of both parties at the specialised subcommittees prior to the meeting.
2. Upon written agreement by the relevant heads of delegations of the specialised sub-committees, the specialised subcommittees may invite third parties to their respective meetings and may hear them regarding specific points on the agenda, as appropriate. Each Party must inform the other Party at least 10 working days before the meeting of their intent to invite a third party. The selection of the third party or parties shall be agreed upon by the Parties prior to the meeting.

Article 4

The specialised subcommittees shall be chaired and, in principle, hosted by the Party holding the Chair of the Joint Committee.

Article 5

A representative of the European External Action Service or of the relevant Directorate-General of the European Commission and a representative of the concerned lead agency for the Government of the Republic of the Philippines shall act jointly as Secretaries of the specialised subcommittees.

Article 6

1. The specialised sub-committees shall meet whenever circumstances require upon agreement of the Parties, on the basis of a written request from either Party. Each meeting shall be held at a place and date agreed by the Parties. If both Parties agree, the meetings of the sub-committees may exceptionally be held by means of video- or teleconference.
2. Where one Party requests a meeting of a specialised subcommittee, the Secretary of the other Party shall reply within 21 working days of receipt of that request.
3. Taking into account Article 3(2) with regard to third parties, each Party shall inform the Chair of the intended composition of its delegation in due time before the meeting.

Article 7

1. The Chair shall communicate the draft agenda to the Parties no later than 21 working days before the meeting.
2. Either Party may request the Chair to place an item on the agenda of a meeting of a specialised sub-committee. Items other than those appearing on the provisional agenda may be placed on the agenda, if the Parties so agree.

Article 8

1. The Secretaries shall jointly prepare the draft summary of outcomes/conclusions.
 2. The Head of Delegation of each Party shall approve and sign the draft summary in two copies prior to the end of each meeting. Each Party will receive one original of the approved and signed summary.
 3. The meetings of the specialised sub-committees shall be conducted exclusively and in confidence between representatives of both Parties, unless both Parties agree to do otherwise.
-

