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DIRECTORATE-GENERAL FOR TRADE

Directorate G - Trade Defence
 Unit G2

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GENERAL FINAL DISCLOSURE DOCUMENT

**AD 676 - Anti-dumping proceeding concerning imports of certain iron or steel fasteners
 originating in the People's Republic of China**

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PROCEDURE

Initiation

- (1) On 21 December 2020, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports of certain iron or steel fasteners ('fasteners') originating in the People's Republic of China ('China' or 'the PRC' or 'the country concerned'), on the basis of Article 5 of the basic Regulation. It published a Notice of Initiation in the *Official Journal of the European Union*¹ ('the notice of initiation').
- (2) The Commission initiated the investigation following a complaint lodged on 6 November 2020 by the European Industrial Fasteners Institute ('EIFI' or 'the complainant') on behalf of producers representing more than 25% of the total Union production of iron or steel fasteners (also referred to as the 'complainants'). Furthermore, the complaint was supported by producers accounting for over 58 % of the total Union production in the period from July 2019 to June 2020. The complaint contained evidence of dumping and of resulting material injury that was sufficient to justify the initiation of the investigation.

Registration

- (3) Following a request by the complainant supported by the required evidence, the Commission made imports of fasteners originating in China subject to registration by Commission Implementing Regulation (EU) 2021/970 ('the registration Regulation')² under Article 14(5) of the basic Regulation.
- (4) Following the publication of the registration Regulation, the Commission received comments from several importers, the European Fasteners Distributor Association ('EFDA') and the China Chamber of Commerce of Import and Export of Machinery and Electronic Products ('CCCME'). The Commission noted that, since no provisional measures were adopted, the Commission decided that retroactive collection of duties was not legally possible. Indeed, Article 10(4) of the basic Regulation provides that "a definitive anti-dumping duty may be levied on products which were entered for consumption no more than 90 days *prior to the date of application of provisional measures*" (emphasis added). Therefore, all claims concerning the registration Regulation became moot and the registration Regulation is hereby repealed in full.
- (5) EFDA finally claimed that in case the Commission did not impose provisional measures, the registration Regulation would become void and should be withdrawn, arguing that the sole purpose of the registration Regulation would be to impose definitive measures retroactively and that in case of non-imposition of provisional measures, the retroactive application of definitive measures is not feasible anymore under Article 10(4) of the basic Regulation. The Commission agreed and repealed the registration Regulation. The need to impose definitive anti-dumping duties retroactively is assessed in recitals (375) and following.

¹ OJ C 442, 21.12.2020, p. 6.

² Commission Implementing Regulation (EU) 2021/970 of 16 June 2021 making imports of certain iron or steel fasteners originating in the People's Republic of China subject to registration (OJ L 214, 17.6.2021, p. 53.)

Interested parties

- (6) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission specifically informed the complainant, other known Union producers, the known exporting producers and the Chinese authorities, known importers, users, as well as associations known to be concerned by the initiation of the investigation and invited them to participate.
- (7) The CCCME requested to be considered as an interested party, arguing that it represented the Chinese fasteners industry. EIFI contested CCCME's status as an interested party claiming that the CCCME did not show any objective link between its activities and the product subject to this investigation; in particular, the CCCME did not submit any Articles of Association or any list of its members showing that it could represent the Chinese fasteners industry. EIFI claimed that to the contrary, the CCCME website lists 25 industry sectors, without specifically mentioning the fasteners industry. EIFI also claimed that although the CCCME provided power of attorneys from several companies, there is no prove that those companies were producers of fasteners. In any event, the CCCME, as a State-run organisation, was merely representing the interests of China and not those of an industry as such.
- (8) The Commission confirmed that the CCCME was empowered by a number of fasteners producers in the PRC to act on their behalf. The CCCME could be an interested party to this proceeding only to the extent it was empowered by those specific fasteners producers to represent them.

Comments on initiation of the investigation

- (9) Interested parties had an opportunity to comment on the initiation of the investigation and to request hearings with the Commission and/or the Hearing Officer in trade proceedings. None of the interested parties requested a hearing on the initiation of the investigation.
- (10) Upon initiation, two importers contested that the investigation period chosen by the Commission (1 July 2019 to 30 June 2020) represented the period immediately prior to the initiation of the investigation and suggested that the appropriate investigation period should be set from 1 October 2019 to 30 September 2020 as required under Article 6(1) of the basic Regulation.
- (11) In line with its practice and taking into consideration the specific circumstances of each investigation, the Commission considered that the period 1 July 2019 to 30 June 2020 was appropriate for the purpose of making a representative finding. The Union industry of fasteners is largely composed of small and medium sized enterprises ('SMEs') and the reporting of accounting data not based on half years would have been unduly burdensome. In addition, the product under investigation has many different variations and types that demanded an exceptionally high number of accounting data to be converted and compiled for the purpose of the current investigation. Article 6(1) of the basic Regulation allows for deviation in justified cases such as the current one. Therefore, the claim that the selected investigation period was inappropriate was rejected.
- (12) The same two importer claimed that based on the macroeconomic indicators provided in the complaint, the Union industry did not suffer material injury and that there is no causal link between imports from China and the injury suffered by the complainant.

- (13) The Commission considered that the information provided by the complainant was sufficient to satisfy the legal standard for initiation under Article 5 of the basic Regulation in respect to both material injury and causation. It is recalled that the standard of evidence at the complaint stage is lower than the one required for the imposition of measures. In particular, the complaint showed a substantial increase in imports from China that almost tripled between 2016 and the investigation period of the complaint, which translated in an increase of market share reaching 15% during the investigation period of the complaint. The prices of these imports were severely undercutting the sales prices of the Union industry on the Union market. There was a parallel decrease of the Union industry's production and sales volume, loss of employment, decrease in investments and a suppression of price levels that resulted in a significant loss of profitability for the Union industry (around minus 50% between 2016 and the investigation period of the complaint). Since these developments happened in parallel to the increase of imports from China and since no other factors were identified that could have caused the downturn of the Union industry, the Commission concluded that there was sufficient evidence that the material injury was caused by imports from China.
- (14) The CCCME expressed doubts concerning the import volumes in the complaint, in specific the estimations made by the complainant to exclude imports of stainless steel fasteners from the total import volume under certain CN codes. They also noted that no such adjustments were made with regards to imports from other third countries. The CCCME did not offer any alternative methodology in order to estimate import volumes of stainless steel fasteners.
- (15) The Commission found the methodology proposed by the complainants reasonable as it was based on historical data and the best market knowledge of the complainant. The fact that no adjustment was made for other import sources potentially resulted in the market share of Chinese imports being underestimated and thus did not put into question the overall assessment in the complaint. Since CCCME did not propose any other methodology which would be more appropriate than the one proposed by the complainants, the Commission dismissed the CCCME claims.

Request for anonymity

- (16) Most of the Union producers that were either represented by the complainant – EIFI -, or supporters of the complaint requested to obtain anonymity treatment in order to prevent possible retaliatory actions by customers in the Union that also sourced fasteners from Chinese suppliers. These customers included some large companies with significant market power compared to the Union producers of fasteners that are mostly SMEs.
- (17) Two importers contested the decision of the Commission to grant anonymity to these companies as they claimed that there was no evidence of any possible adverse effect.
- (18) The Commission disagreed. Considering the asymmetry between the Union fasteners producers and users, it concluded that the risk of retaliation alleged by the Union producers represented by EIFI and supporters indeed existed.³ On this basis, the Commission granted confidential treatment to the name of these companies. The claims against this confidential treatment were therefore rejected.

³ See WTO Panel Report, *European Communities - Definitive Anti-Dumping Measures on Certain Iron or Steel Fasteners from China*, WT/DS397/R, 3 December 2010, para. 7.453.

Sampling

Sampling of Union producers

- (19) In its Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. The Commission selected the sample on the basis of production and sales volumes in the Union reported by the Union producers in the standing form, taking also into account their geographical location and a representation of SMEs. This sample consisted of six Union producers, located in four different Member States. The Commission invited interested parties to comment on the provisional sample.
- (20) One of the provisionally sampled Union producers (an SME) informed the Commission that it would not be able to provide a complete questionnaire. The Commission therefore decided to revise the sample of Union producers by replacing this company by the next largest SME in the same Member State.
- (21) EFDA claimed that it could not provide meaningful comments on the selected sample, as insufficient time was granted and because of the anonymity granted to the sampled Union producers. The CCCME claimed that the anonymity of the Union producers prevented them to know the product mix produced of the selected companies and to verify publicly available information of those companies. EFDA and the CCCME argued that while anonymity was requested by and granted to the complainants and supporters of the complaint, such treatment could not be automatically extended to the sampled Union producers. They argued that the sampled Union producers were merely cooperating parties and therefore not necessarily complainants or supporters. There was thus no reason for the Commission to treat the identity of the sampled Union producers as confidential. As no separate request for anonymity by the sampled Union producers had been received the Commission unduly granted such treatment to the selected Union producers.
- (22) EFDA and the CCCME further argued that in any event, there was no good cause for such treatment as it prevented interested parties to provide meaningful comments on the selected sample and reasoned that in accordance with Article 19 of the basic Regulation, the protection of confidential information must be weighed against the rights of defence of the interested parties.
- (23) The British and Irish Association of Fastener Distributors ('BIFAD'), in the name of their Irish members, similarly claimed that insufficient time was granted to provide comments on the provisional sample and that the anonymity granted to the selected companies would prevent them to assess whether the sample was selected in a reasonable and balanced manner. They requested that more information concerning each company's output, capacities, product range and markets serviced should be provided to them.
- (24) Concerning the time frame granted to comment on the provisional sample, interested parties were granted 7 days as from the initiation of the investigation which was extended by further 7 days considering the special circumstances of this case that was considered largely sufficient also considering the strict deadlines applicable to anti-dumping investigations. The Commission notes that all interested parties actively cooperating with the investigation provided comments within this time frame. Therefore, the claim that parties had insufficient time to comment on the provisional sample was rejected.

- (25) Regarding the anonymity of the sampled Union producers, on 18 December 2020, a request was filed that the anonymous treatment granted to the complainant and supporters at pre-initiation stage should be extended to the investigation. As sampling is part of the investigation the confidential treatment covered thus also the sampling exercise. Furthermore, on 8 January 2020, the Union producers selected in the sample specifically requested anonymity during the investigation.
- (26) By granting anonymity to the sampled Union producers the Commission duly balanced the risk of retaliation, on the one hand, and the rights of interested parties, on the other hand, and concluded that there was an overwhelming risk of retaliation that justified granting confidentiality to the sampled Union producers in relation to their identity. The arguments in this regard were therefore rejected.
- (27) Regarding the request to provide further information on output, capacities and product ranges manufactured, the Commission considered that disclosing such information per company would enable interested parties to identify the Union producers concerned. However, it is noted that, in view of the high matching between Union prices and export prices, most of the product types produced by the sampled Union producers were disclosed to the sampled exporting producers through the detailed undercutting and underselling calculations. It is also noted that the methodology to select the sample was duly disclosed to interested parties and no comments were received on the methodology as such. This request was therefore rejected.
- (28) During the investigation, one of the sampled Union producers informed the Commission that it would not be able to respond to the Commission's full questionnaire. Another sampled Union producer was not in a position to provide sufficient assurance on the data provided for verification. These Union producers were therefore excluded from the sample.
- (29) To ensure that the sample remained representative in terms of the criteria set out in Article 17, the Commission decided to revise the sample of Union producers by replacing the above companies with the next two largest producers in terms of volumes and sales, while also taking into account geographical spread and wide product-type mix. As stated in the note to the file of 15 July 2021, the Commission relied on the information provided by the Union producers during the standing phase, which is also used for sampling purposes. In addition, the Commission sought publicly available information and checked the web sites of the companies concerned. The Commission contacted the companies and invited them to cooperate by filling in a questionnaire. Interested parties were given the opportunity to comment.
- (30) The Commission received comments from the CCCME, EFDA and one exporting producer Celo Suzhou Precision Fasteners Ltd ('Celo Suzhou').
- (31) The CCCME and EFDA claimed that insufficient time was granted to interested parties to provide comments on the amended sample. The Commission noted that neither the CCCME nor EFDA requested an extension of the deadline and that both submitted detailed comments on the amended sample of Union producers; their claim was therefore rejected.
- (32) Both parties also reiterated that anonymity should not be granted to the sampled Union producers without, however, providing any further arguments. For the reasons set out in recital (25), these claims were therefore rejected.
- (33) The CCCME furthermore argued that other interested parties were treated in a discriminatory way as strict deadlines were imposed on them, while the newly

sampled Union producers had been given a deadline to reply to the questionnaire ending almost 6 months after the deadline granted to the originally sampled Union producers. In addition, considering that the Commission had sufficient time to analyse questionnaires received under this extended deadline, it had no reason to impose a much shorter deadline to interested parties to comment on the new sample.

- (34) The Commission noted that all sampled Union producers, importers and exporting producers were treated equally and given 30 days plus justified extensions, if applicable to reply to questionnaires from when they were made aware that they had been sampled. Thus, CCCME's claim that some sampled Union producers would have had more than 6 months to reply to the questionnaire is misleading. The Commission also notes that a sample is only finalised after appreciation of the comments received by interested parties and therefore the deadline to comment on the sample is set by the Commission accordingly, taking into consideration the overall deadlines of the investigation. Therefore, the Commission rejected the claim of discriminatory treatment.
- (35) The CCCME and EFDA further claimed that the Commission had not informed interested parties of the withdrawal of the cooperation from the Union producers concerned in a timely manner and that it should also have notified interested parties of the amendment of the Union producer sample at an earlier stage. The CCCME referred to Article 6(7) of the basic Regulation, which stipulates that interested parties may 'inspect all information made available by any party to an investigation'. EFDA stated that the Commission has taken a final decision on the Union producers' sample without adequately taking into consideration comments of the interested parties which would be evidenced by the fact that the additionally selected Union producers were already sent questionnaires prior to the receipt of such comments.
- (36) The CCCME and EFDA moreover suggested that instead of amending the Union producers' sample, the Commission should base findings on facts available in accordance with Article 18 of the basic Regulation and terminate the investigation. The CCCME noted that in case exporting producers cease to cooperate during an investigation, facts available in accordance with Article 18 of the basic Regulation would be applied and that the same treatment should therefore be granted to the Union producers. Alternatively, the Commission should provide further information as to the methodology of the selection of the additional companies for the Union producers' sample and in particular how those companies were identified, as well as the impact on the representativity of the final sample. In this regard, both parties also alleged that the Commission selected the additional companies solely on the basis of information provided by the complainant without receiving any input from other interested parties.
- (37) Regarding the claim of insufficient disclosure, the Commission notes that it added all relevant information to the file in sufficient time to allow interested parties to comment. The Commission took all comments received into consideration and addressed them adequately. The statement that additional companies were selected solely on the basis of information provided by the complainant is factually wrong as also described in recital (29).
- (38) Upon their request, the Commission provided additional information to EFDA and the CCCME regarding the revised sample including the impact on the representativity of the sample. The CCCME reiterated its request for disclosure of additional information regarding the precise share of the production and sale of standard and non-standard fasteners of the Union producers selected in the sample and clarification on the criteria

and methodology used for the selection of the additional Union producers. The CCCME also requested disclosure of the communication between the complainant and the Commission concerning the selection of the additional Union producers.

- (39) Concerning the claim to terminate the investigation because of lack of cooperation, the Commission emphasises that Article 17(4) of the basic Regulation specifically allows that in case of non-cooperation by some or all parties selected in a sample which is likely to materially affect the outcome of the investigation, a new sample might be selected. As to the claim of discrimination vis-à-vis exporting producers, the Commission notes that in case a sampled exporting producer ceases cooperation in an investigation, this exporter is excluded from the sample and the information provided disregarded. Where still possible, the Commission also substitutes such exporting producer in the sample. This same approach was also followed with regard to the Union producers in question. All claims made in this regard were therefore rejected.
- (40) Regarding the request for further information, the Commission refers to recital (29) which sets out the criteria used for the selection of the additional Union producers as well as the methodology applied. The precise share of the production and sale of standard and non-standard fasteners of the Union producers was as such not a criterion for the selection of the sample, nor was the production of standard fastener the sole criterion to be selected in the sample. As set out in recital (88), all product types were considered as one single product. The Union industry produced and sold standard and non-standard fasteners, as well as the exporting producers exported to the Union industry standard and non-standard fasteners and there was an overlap in end use applications. Furthermore, when selecting companies to be included in the sample, this information is not available. The communication between the complainant and the Commission was disclosed in accordance with Article 6(7) of the basic Regulation, while respecting Article 19(1), which provides that information provided in confidence should be treated as such by the authorities. In accordance with Article 19 of the basic Regulation, the Commission made available to the interested parties a non-confidential summary of the information provided in confidence. These requests were therefore rejected.
- (41) Celo Suzhou claimed that the sample of exporting producers should have taken into consideration the product types exported in order that export prices would be comparable to the sales prices of the producers selected in the Union industry sample. As noted in recital (29), the Commission selected a sample which ensured a wide product mix. Given the high matching found in this case (over 90%), the Commission concluded that the sample of Union producers did include the product types most exported to the Union. The claim was therefore rejected.
- (42) On the basis of the above, the final sample consisting of four Union producers was considered to be representative of the Union industry.

Sampling of importers

- (43) 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.
- (44) Twenty-eight unrelated importers provided the requested information and agreed to be included in the sample. In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of five importers on the basis of the largest volume of

imports of the product concerned. In accordance with Article 17(2) of the basic Regulation, interested parties were consulted on the selection of the sample.

- (45) EIFI claimed that two of the selected unrelated importers, pertaining to the same group, would be related to a producer of fasteners in China and they were also licensing, through a related company in the Union, the production of certain fasteners in China. They could not, therefore, be considered as unrelated importers. EIFI further claimed that these companies were also related to Union producers of fasteners. Finally, EIFI noted that since these two importers were related, in any event only one of them should remain in the sample, and the other one replaced by another cooperating importer in the Union. In reply to EIFI's submission, EFDA submitted that it would only be relevant whether an importer would be related to a producer that is also exporting to the Union in order to exclude them from the sample. EFDA argued that given the number of product types imported by the importers in question and the various segments supplied in the Union, they should remain in the sample.
- (46) The importers in question denied that they had any business contacts with the Chinese producer in question, or that they imported the product concerned from this company, or that they were related to any of the other exporting producer of fasteners in China. The investigation did not confirm the claims made by EIFI and the information that EIFI submitted in support of this claim did also not show that the importers in question were indeed related to any of the exporting producers. Furthermore, the fact that the importers were related to each other was not considered a valid argument to exclude them from the sample. The sample included three other unrelated importers selected based on the largest import volume and spread over different Member States. The sample represented 9% of the total imports of fasteners from China and was therefore considered to be sufficiently representative. Therefore, EIFI's claims in this regard were rejected.

Sampling of exporting producers

- (47) In order to decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known exporting producers in China to provide information specified in the Notice of Initiation. In addition, the Commission asked the Mission of People's Republic of China to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.
- (48) Ninety-two exporting producers or groups of exporting producers from China provided the requested information and agreed to be included in the sample. Three exporting producers argued that since they produced a specific product type that would not be comparable to other product types exported from China they should be included in the sample for better representativity.
- (49) In accordance with Article 17(1) of the basic Regulation, the Commission selected three exporting producers/group of exporting producers, representing the largest volume of exports, which could reasonably be investigated within the time available. Since the exporting producers requesting to be included in the sample because of the specific product type were not amongst those with the highest export volumes, they were not selected in the proposed sample. In accordance with Article 17(2) of the basic Regulation, all known exporting producers concerned and the authorities of the country concerned were informed and invited to comment.

- (50) One group of exporting producers not included in the sample requested to be included arguing that (i) it was one of the largest exporters of fasteners; (ii) their inclusion would provide a more accurate picture of the Chinese fasteners industry and (iii) would therefore also give a more accurate picture on how final prices to the Union were determined. On this basis, the exporting producers group argued that import prices based on the sample would not be representative and thus the CIF EU border value to calculate an accurate undercutting and underselling margin based on these prices would not be accurate. The company finally referred to the higher number of Union producers selected in the Union producer sample. Finally, this exporting producer group asserted that adding one more company to the sample would not prevent the Commission from completing the investigation within the statutory time limits.
- (51) First, based on the company's reported export volume the inclusion of the exporting producer group concerned would not significantly increase the representativity of the sample. Second, regarding the claims relating to organisation of the Chinese domestic industry, the export price setting to the Union and the determination of the CIF EU border value, the company did not provide any evidence that its inclusion would significantly increase the representativity of the sample. At the same time, due to its company structure, its inclusion would have added a significant additional burden to the investigation. Third, as the selected sample was considered representative, a reliable CIF EU border value could be established, as well as accurate undercutting and underselling calculations. Finally, the specific number of companies selected in the sample of Union producers is irrelevant for the selection of the sample of exporting producers. The Commission is not obliged to select the same number of companies on both sides and the sampling exercise is limited precisely to allow the Commission to investigate a reasonable number of companies within the deadlines to complete the investigation. The arguments made by this group were therefore rejected.
- (52) Another group of exporting producers argued that they should be included in the sample, since the whole group consists of numerous producers and traders in China and in the Union, having considerable manufacturing and supplying capacities affecting its home and the Union market.
- (53) However, adding this exporting producer group to the sample would have added a significant additional burden to the investigation, without changing the level of representativity of the proposed sample significantly. Also, there were other exporting producers with larger export volumes than the company group in question that provided sampling information. Given that the sample was selected based on the export volume to the Union as mentioned in recital (49) (48), the inclusion in the sample of this exporting producer group was therefore not warranted. The argument made was therefore rejected.
- (54) A third exporting producer claimed that the companies selected in sample were all producer of bolts, and that the proposed sample was therefore not representative of Chinese producers of screws. As a producer of screws, this company requested to be included in the sample. They further claimed that findings should be made separately for the two product types, i.e. screws on the one hand and bolts on the other hand.
- (55) These concerns were echoed by CCCME, who argued that the sample was not representative in terms of volume and in terms of product types covered.
- (56) As explained in recital (49) , the sample was selected based on the largest exported volume to the Union, while the specific product types produced by the selected

companies was not a criterion. As set out in recital (88), all types of fasteners were considered one single product for the purpose of this investigation. As set out in recital (263), separate findings for individual product types were therefore not warranted. The exporting producer provided furthermore no evidence in support of its claim that findings should be made separately for bolts on the one hand and screws on the other hand. Finally, there were other cooperating exporting producers with larger export volumes than the exporting producer concerned that provided sampling information and the inclusion of the latter in the sample, therefore, was not warranted. The arguments of this exporting producer were therefore rejected.

- (57) Finally, EIFI claimed that one of the selected exporting producers should be removed from the sample, since it would be a trader rather than a manufacturer of fasteners and in any event its principal market would be the United States of America ('the US') and not the Union.
- (58) All three exporting producers selected in the sample confirmed that the export volume to the Union, as reported and used by the Commission in selecting the sample, were of their own production. The fact that one of the selected exporting producers was exporting fasteners to the US, even if in larger quantities than to the Union, is irrelevant. The arguments of EIFI were therefore rejected.
- (59) Based on the above, the Commission confirmed the originally proposed sample.
- (60) Following the revision of the Union producers' sample during the course of the investigation, Celo Suzhou Precision Fasteners Co. Ltd. claimed that the sample of exporting producers should be extended by adding Chinese exporting producers of non-standard fasteners. This company argued that the revision of the Union producers' sample was to increase its representativity in terms of product mix and that such criterion was not taken into consideration when selecting the sample of exporting producers. The exporting producer in question further noted that its exports of fasteners to the Union would be representative for a specific range of products and that it had already provided a full reply to the questionnaire in the context of its request for individual examination that should be taken into account by the Commission. Such course of action would not significantly delay the investigation.
- (61) As outlined in recital (49), the three exporting producers/group selected in the sample represented the largest volume of exports, which could reasonably be investigated within the time available. The fact that the Union producer sample was revised did not have any impact on the sample of exporting producers which would justify its revision. Therefore this claim was rejected.

Individual examination and requests for a newcomer treatment

- (62) Seven exporting producers of fasteners requested individual examination under Article 17(3) of the basic Regulation by filling in the questionnaire for exporting producers available online⁴. Given this high number of requests, granting individual examination would have been unduly burdensome and would have prevented the Commission from completing the present investigation in good time. The Commission therefore did not grant any of the requests submitted.

⁴ This questionnaire as well as those for the Union producers, importers and users were available at http://trade.ec.europa.eu/tdi/case_details.cfm?ref=ong&id=2504&sta=1&en=20&page=1&c_order=date&c_order_dir=Down

- (63) As mentioned in recitals (41) and (60), following the revision of the Union producers' sample, one of the exporting producers requested that its request for individual examination should be taken into consideration to increase the representativity of the sample of exporting producers. The claim regarding the representativity of the exporting producers' sample was already addressed in recital (61).
- (64) . Regarding the request for individual examination, the situation of this exporting producer was not significantly different than the situation of the other exporting producers requesting individual examination that would warrant a different treatment. The Commission therefore concluded that there were no objective reasons justifying to grant the individual examination request of this exporting producer.
- (65) One producer in the PRC requested to be treated as a newcomer, as they only started exporting the product concerned after the investigation period. The Commission noted that it is the established practice that such treatment can only be considered based on a Regulation imposing definitive measures and its relevant provisions. Furthermore, it is recalled that the Commission selected a sample of exporting producers and, as set out in the previous recitals, no requests for the calculation of individual dumping margins were accepted because it was considered unduly burdensome. This is also true for the examination of a newcomer treatment request which would have included a detailed examination of the company structure and its export sales. This request was therefore rejected.

Replies to the questionnaires

- (66) The Commission sent a questionnaire concerning the existence of significant distortions in China within the meaning of Article 2(6a)(b) of the basic Regulation to the Government of the People's Republic of China ('GOC'). The GOC did not provide any reply to the questionnaire.
- (67) The Commission made questionnaires available online on the day of the initiation⁵ and requested the sampled Union producers, the sampled unrelated importers, and the sampled exporting producers in China to fill in the relevant questionnaires. In addition, the Commission requested EIFI to provide information on macroeconomic injury indicators pertaining to the entire Union industry.
- (68) The Commission received questionnaire replies from four sampled Union producers, the complainant EIFI, the five sampled unrelated importers, two users and the three exporting producers/groups of exporting producers.
- (69) As mentioned in recital (28), two of the sampled Union producers were excluded from the sample during the course of the investigation and their replies to the questionnaire were therefore disregarded. The two Union producers concerned were replaced by two other Union producers. Both companies provided a questionnaire reply.
- (70) The Commission sought all the information deemed necessary for a determination of dumping, resulting injury and Union interest. In view of the outbreak of COVID-19 pandemic and the confinement measures put in place by various Member States as well as by various third countries during most of the investigation, the Commission could not in most of the cases carry out verification visits pursuant to Article 16 of the basic Regulation. In those cases, the Commission instead cross-checked remotely all the information deemed necessary for its determinations in line with its Notice on the

⁵ *Ibid.*

consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations⁶. The Commission was able to carry out one on-spot verification visit.

- (71) The Commission carried out remote crosschecks ('RCC') of the following companies/parties:

Union producers

- Company 15 (Italy)
- Company 20 (France)
- Company 33 (Germany, SME)
- Company 37 (Italy, SME)
- Company 61 (Poland, SME)
- Company 4 (Croatia)

Importers

- F. Reyher NCHFG (Germany)
- Vipa S.P.A. (Italy)

Exporting producers in China

- Jiangsu Yongyi Fastener Co., Ltd. ('Jiangsu');
- Ningbo Jinding Fastening Piece Co., Ltd. ('Ningbo Jinding');
- Wenzhou Junhao Industry Co., Ltd. ('Wenzhou')

- (72) The Commission carried out an on spot verification visit at the premises of the following company:

Union producers

- Company 42 (Germany, SME)

- (73) The investigation of dumping and injury covered the period from 1 July 2019 to 30 June 2020 ('the investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2017 to the end of the investigation period ('the period considered').

Hearings

- (74) Interested parties had the opportunity to request a hearing with the Commission and/or the Hearing Officer in trade proceedings in accordance with Articles 6(5) and 6(6) of the basic Regulation. The Commission held hearings with several exporting producers, CCCME and EFDA, as well as the complainant EIFI. One hearing took also place in accordance Article 6(6) of the basic Regulation, between parties with adverse interests, in this case the exporting producer Jiangsu Yongi Fastener Co., Ltd and EIFI.

Withdrawal of the United Kingdom from the Union

- (75) This case was initiated on 21 December 2020, i.e. during the transition period agreed between the United Kingdom ('UK') and the EU in which the UK remained subject

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

to the Union law. This period ended on 31 December 2020. Consequently, as of 1 January 2021, companies and associations from the UK no longer qualified as interested parties in this proceeding.

- (76) By a note to the case file of 14 January 2021, the Commission invited UK operators that considered that they still qualified as interested parties to contact it. No company came forward.

Non imposition of provisional measures

- (77) For the reasons set out in recitals (28) and (29), the sample of Union producers had to be revised by substituting two initially sampled Union producers by two other Union producers. The Commission sent a questionnaire to these producers inviting them to fill it in within the time limit set out in Article 6(2) of the basic Regulation. This time frame did, however, not allow the Commission to reach provisional conclusions within the time limit set out in Article 7(1) of the basic Regulation. The Commission decided therefore not to impose provisional measures and to continue the investigation.
- (78) On 20 July 2021, in accordance with Article 19a(2) of the basic Regulation, the Commission informed the interested parties of its intention not to impose provisional measures.
- (79) The CCCME requested that the Commission issued an ‘information document’ summarising the progress of the investigation and preliminary conclusions based on the information available in the file, so that interested parties would be able to comment thereon.
- (80) The basic Regulation does not foresee any disclosure of such information document. In any event, the Commission did not reach any preliminary conclusions within the deadlines set out in Article 7(1) of the basic Regulation and this request was therefore rejected.

PRODUCT CONCERNED AND LIKE PRODUCT

Product concerned

- (81) The product concerned is certain fasteners of iron or steel, other than of stainless steel, i.e. wood screws (excluding coach screws), self-tapping screws, other screws and bolts with heads (whether or not with their nuts or washers, but excluding screws and bolts for fixing railway track construction material), and washers originating in the People's Republic of China, currently classified under CN codes 7318 12 90, 7318 14 91, 7318 14 99, 7318 15 58, 7318 15 68, 7318 15 82, 7318 15 88, ex 7318 15 95 (TARIC codes 7318 15 95 19 and 7318 15 95 89), ex 7318 21 00 (TARIC codes 7318 21 00 31, 7318 21 00 39, 7318 21 00 95 and 7318 21 00 98) and ex 7318 22 00 (TARIC codes 7318 22 00 31, 7318 22 00 39, 7318 22 00 95 and 7318 22 00 98). The CN and TARIC codes are given for information only.
- (82) Fasteners are made of iron or carbon steel and defined by their physical and technical characteristics and different strength/hardness classes. The broader categories are screws, washers and bolts.
- (83) Screws are fastener products with an external threading on the shank. They can either be fixed into wood (wood screws) or metal sheets (self-tapping screws) alone, or combined with a nut and washers to form a bolt. Screws may have a variety of head-shapes (cup, socket, flat, oval, hexagonal, etc.), shank lengths and diameters. The shank may be totally or partially threaded. Screws are generally defined by the type of

slot provided into the head to enable the screwing operation (e.g. single slot, cross-recessed slot, etc.).

- (84) Washers are fasteners with an internal hole allowing pass through, always used in conjunction with a screw and a nut.
- (85) Bolts are fastener parts formed by a screw, a nut and one or several washers.
- (86) Fasteners can be standards ('standard fasteners') or made on the basis of customer drawings ('non-standard fasteners'). Within the same national or international standards, fasteners should comply with the same basic physical and technical characteristics including notably strength, tolerance, finishing and coating.
- (87) Fasteners are used to mechanically join two or more elements in construction, engineering, or other applications. They are used in a wide variety of industrial sectors, as well as by consumers.
- (88) Based on their basic physical and technical characteristics and end uses, all fasteners are considered to constitute a single product for the purpose of this proceeding.

Like product

- (89) The investigation showed that the following products have the same basic physical, chemical and technical characteristics as well as the same basic uses:
- the product concerned and
 - the product produced and sold in the Union by the Union industry.
- (90) The Commission decided that those products are therefore like products within the meaning of Article 1(4) of the basic Regulation.

Claims regarding the product scope

Structural timber screws (or wood lag screws)

- (91) Several interested parties claimed that structural timber screws should be excluded from the product scope.
- (92) Two exporting producers and two importers⁷ argued that structural timber screws had similar characteristics and end uses as coach screws (not covered by the product scope) and that they were merely derivative product types from the latter, with improved mechanical performance and considered as an alternative to coach screws. They claimed that structural timber screws were exclusively used in timber constructions and were not interchangeable with other fasteners, while they were fully interchangeable with traditional coach screws. They were made to customer specific requirements and needed a European Technical Assessment ('ETA') certification to be marketed in the Union. Furthermore, they are produced in a specific production process, using different raw materials (i.e. higher quality steel) with specific treatment and machinery and therefore have higher costs and prices.
- (93) One of the above exporting producers referring to the anti-dumping measures imposed on imports of certain aluminium road wheels⁸ suggested that introducing a system of monitoring would mitigate any risk of circumvention when excluding structural timber

⁷ One of these importers was also a producer of structural timber screws in the Union.

⁸ Council Implementing Regulation (EU) No 964/2010 of 25 October 2010 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain aluminium road wheels originating in the People's Republic of China (OJ L 282, 28.10.2010, p.1)

screws from the product scope. The same exporting producer claimed that, should the Commission not exclude structural timber screws from the product scope, findings with regard to injury and causation should be made separately for these product types.

- (94) All above parties claimed that the Union industry did not produce structural timber screws in sufficient quantities to satisfy the demand on the Union market, and there were also only a limited number of exporting producers in China that supplied structural timber screws.
- (95) Likewise, the European Consortium of Anchor Producers ('ECAP') claimed that screws for use in timber constructions replacing coach screws, and thus for assembling heavy woodworks, should be excluded from the product scope as they have similar technical, chemical and physical characteristics and similar end-uses than coach screws.
- (96) EIFI disagreed with these claims arguing that there would not be any objective criteria to distinguish structural timber screws from other fasteners.
- (97) The Commission considered that structural timber screws do not fall under any specific product standard and cannot be distinguished from other wood screws⁹ falling within the product scope. The investigation also revealed that at least some of the described special features of structural timber screws can also be found in fasteners falling within the product scope. The Commission also considered that the CE markings and ETA certification merely confirm that timber screws may be non-standard fasteners, but this fact alone does not justify their exclusion from the product scope. Therefore, these claims were rejected.
- (98) The claim that findings with regard to injury and causation should be made separately for structural timber screws are addressed in recital (263); and the claim that those product types are not produced and sold by the Union industry in sufficient quantities are addressed in recitals (362) and following. **Error! Reference source not found.**

Screws and bolts for fixing railway track construction material

- (99) One Union producer of screws and bolts used in railways requested that these were included in the product scope of the investigation. The Commission noted however that these products were not covered by the complaint in this case and therefore no evidence of dumping and resulting injury justifying an investigation has been provided by the Union industry. The claim is therefore rejected.

Hot forged fasteners

- (100) One of the sampled exporting producer claimed that fasteners manufactured by hot forged process ('hot forged fasteners') should be excluded from the product scope arguing that they had different production processes and cost structures resulting in different physical characteristics and end-uses than fasteners manufactured by cold forged process ('cold forged fasteners'), predominantly used by the Union industry. This exporting producer argued that hot forged fasteners are generally of a larger size than cold forged fasteners and are mainly used in the railway industry and/or machine building. Fasteners resulting from this process would not be produced at all, or only in limited quantities by the Union industry. In addition, it would economically not be viable to switch to hot forged processes, the latter being more labour and energy intensive and having a higher consumption ratio of steel. They requested an

⁹Currently classified under CN code 7318 12 90. CN codes are given for information only.

adversarial meeting with the presence of EIFI in accordance with Article 6(6) of the basic Regulation which took place on 27 October 2021.

- (101) EIFI submitted that the product scope should not be defined based on different production processes. They pointed to the EU customs nomenclature that does not distinguish between products based on different production processes, but on physical, technical and chemical characteristics. EIFI asserted that the Union industry has substantial hot forging production capacity and that there was a significant overlap of dimensions of fasteners that can be produced with both technologies.
- (102) The Commission agreed that the fact that a product can be produced by different production processes is in itself not relevant for the definition of the product scope of an investigation. Consequently, all product types falling within the definition of the product concerned in recital (81) are covered by this investigation, whether produced by hot forging processes or cold forging processes. The investigation established that the Union industry had substantial production capacity and spare capacities to produce fasteners under the hot forged process. The investigation also revealed that there were overlapping applications between fasteners produced in both processes. The request for exclusion of hot forged fasteners was therefore rejected.

Hardware kits

- (103) One exporting producer claimed that hardware kits should be excluded from the product scope, as they contained both the product concerned and other products outside the scope of the investigation. Hardware kits are sold in different packages than fasteners (such as small paper boxes, boxes with PVC windows, etc.). The packages represent, together with the products not included in the scope a large part of their costs and sales price, while costs and prices of the product concerned included in the hardware kits are not distinguishable from the rest. In addition, hardware kits are destined mainly to household uses, while fasteners produced by the Union industry are destined to industrial uses. Hardware kits are distributed via different sales channels, i.e. retailers, while fasteners destined to industrial use are sold via distributors. Finally, this exporting producer claimed that the complainant Union producers did not produce and sell hardware kits.
- (104) The Commission notes that any imports of such kits that, following tariff classification rules, are classified under the product definition in recital (81), provided they keep the character of this product, are covered by the investigation and potential anti-dumping measures. In addition, the investigation revealed that Union industry produces and sells fasteners for the do-it-yourself ('DIY') sector, which is mainly sold in form of hardware kits. Several Union producers have their own automatic packaging lines, while others outsource the packaging to unrelated service providers in the Union. There is therefore no ground for exclusion of hardware kits.

Anchors and structural connections for concrete, masonry, wood and steel

- (105) ECAP claimed that certain products should not fall within the scope of the investigation, as they have different basic end-used and undergo different CE marking processes. These products are iron or steel 'anchors' and 'structural connections for concrete, masonry, wood and steel' and in particular (i) roofing or self-drilling screws with accessories, (ii) structural connections for wood and (iii) metal anchors, concrete screw anchors and nylon anchors or plugs. ECAP referred to Commission

Implementing Regulation (EU) No 602/2011 of 20 June 2011 concerning the classification of certain goods in the Combined Nomenclature¹⁰. They argued that under this Regulation certain products ‘comprising a bolt with a washer, an expandable anchor sleeve and a nut, all made of stainless steel’ are to be classified under CN code 7318 19 00. By analogy, iron or steel anchors should also be classified under the same CN code, claiming that the logic and principle of Regulation (EU) No 602/2011 should apply to construction anchors of all materials and forms. Therefore, ECAP claimed that iron and steel anchors should not fall within the product scope.

- (106) ECAP referred to several European Assessment Documents (‘EAD’) for the above mentioned products. EADs are harmonised technical specifications for construction products developed by the European Organisation for Technical Assessment (‘EOTA’) for cases where a product is not fully covered by harmonised European standards. ECAP did not provide any further details, information or evidence to what extent these documents would show that the products described therein would not fall within the definition of the current product scope. However, the fact that certain products fall within a specific EAD does not mean that they would not be covered by the product definition of the current investigation.
- (107) Commission Implementing Regulation (EU) No 602/2011 relates to products of stainless steel, which are not covered by this investigation. In any event, this Regulation only specifies that a certain product comprising a bolt with a washer, an expandable anchor sleeve and a nut cannot be considered as a ‘composite good’ for customs purposes as the components together constitute a single product, i.e. an expansion bolt. In any event, any imports of bolts that, following tariff classification rules, are classified under the product definition in recital (81) are covered by the investigation and potential anti-dumping measures. These claims were therefore rejected.
- (108) The Commission highlights that according to Section 2 of the Notice of Initiation only fasteners of iron and steel (other than stainless steel) are covered by the investigation. Thus, products made of stainless steel, plastic or nylon do not fall within the product scope of this investigation.
- (109) One Union producer of anchors and its related exporting producer in China claimed, similarly to ECAP, that concrete anchor screws should be excluded from the product scope of the investigation. They argued that concrete anchor screws are specific, highly specialised products having the same purpose than metal anchors, which is to fix structural elements to concrete in the construction sector. In support of this argument, the interested parties highlighted that the product was developed in accordance with the European Technical Approval Guideline (‘ETAG’) for ‘Metal Anchors for Use in Concrete’ (ETAG001) of EOTA with the objective of (partially) substituting metal anchors. These parties emphasised that anchors were not specifically mentioned in the complaint and that anchor producers were not represented by the complainant EIFI. Like ECAP, they highlighted that anchors were to be classified under CN code 7318 19 00 not covered by the notice of initiation.
- (110) These parties further argued that concrete anchor screws are, due to their specificities, not interchangeable with other fasteners, such as screws, bolts and washers, while they are in competition and interchangeable with wedge anchors or sleeve anchors.

¹⁰ OJ L 163, 23.6.2011, p.8

- (111) For the same reasons set out above in recital (107), the claim concerning specific certificates was dismissed. Regarding the interchangeability with other product types, the Commission has wide discretion to establish the product scope of an investigation (the product concerned). There is no requirement in the basic Regulation that the product concerned encompasses only product types which are interchangeable and in competition. These elements refer to the definition of the like product.
- (112) Finally, the Union producer of anchors mentioned in recital (109) argued that its related exporting producer in China is the only one with an official EU certification (European Technical Assessment or ‘ETA’) issued by EOTA for concrete anchor screws and therefore the only one exporting this product to the Union. The impact of the exclusion of this product would therefore be limited. They also highlighted that in any event, there were no exports of concrete anchor screws during the IP, thus it could not have caused any injury to the Union industry.
- (113) Since this party did not provide any evidence in support of its statements, the Commission decided to reject this claim without analysing it in substance.

Confirmat screws (or self-drive dowels)

- (114) One exporting producer requested that confirmat screws (or self-drive dowels) were excluded from the product scope. This exporting producer claimed that due to their specific end-uses, that is, connecting accessories for the assembly of desks, cabinets, tables or shelves (processed wood materials) in the furniture industry, the physical and technical characteristics of confirmat screws were unique and differed significantly from those of other fasteners. This exporting producer also claimed that should the Commission decide not to exclude confirmat screws from the product scope, findings with regard to injury and causation should be made separately for these product types.
- (115) The investigation established that confirmat screws had similar basic physical and technical characteristics and end uses than other fasteners types included in the product scope. . Therefore, there is no reason for this product type to be excluded from the investigation. This claim was therefore rejected.
- (116) The claim that injury and causation should be assessed separately for this product types is addressed in recital (263).

Pole screws

- (117) One user of pole screws in the Union claimed that the latter should be excluded from the product scope as they were only used in one specific application, i.e. in industrial battery intercell connectors, and were not produced by any of the Union producers. This company argued that pole screws were special screws and had not only a steel part but also a plastic head and thread-locker. The investigation revealed, however, pole screws had similar basic physical and technical characteristics and end uses than other fasteners types included in the product scope. Therefore, there is no reason for this product type to be excluded from the investigation this claim was therefore rejected.

Non-standard fasteners used in the automotive industry

- (118) The CCCME claimed that non-standard fasteners used in the automotive industry should be excluded from the scope of the investigation, arguing they would not be exported by the Chinese exporting producers, or only in very limited quantities. Alternatively, the analysis of injury and causality should be carried out separately per market segment, i.e. standard and non-standard fasteners.

- (119) Non-standard fasteners used in the automotive industry fall within the product definition in recital (81) and are therefore covered by this investigation. The investigation has shown that exports from China included exports of non-standard fasteners intended for the automotive industry and that there were several producers of automotive fasteners in China. The claim to exclude these product types from the scope of the investigation was therefore rejected.
- (120) The claim that the injury and causality analysis should be carried out based on different market segments is addressed in recitals (261) and (263).

DUMPING

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

- (121) The evidence available at the initiation of the investigation pointed to the existence of significant distortions in China within the meaning of Article 2(6a)(b) of the basic Regulation. The Commission therefore considered it appropriate to initiate the investigation having regard to Article 2(6a) of the basic Regulation.
- (122) In order to collect the necessary data for a possible application of Article 2(6a) of the basic Regulation the Commission invited all exporting producers in the country concerned to provide information regarding the inputs used for producing fasteners. Ninety-two exporting producers submitted the relevant information.
- (123) As mentioned above in recital (66), the Commission also requested, the GOC to respond to a questionnaire concerning the alleged existence of distortions in the PRC. However, the GOC did not provide a reply to the questionnaire as requested.
- (124) In addition, the Commission invited all interested parties to make their views known, submit information and provide supporting evidence regarding the application of Article 2(6a) of the basic Regulation within 37 days of the date of publication of the Notice of Initiation in the *Official Journal of the European Union*.
- (125) In point 5.3.2 of the Notice of Initiation the Commission informed interested parties that based on the information available at that stage possible appropriate representative countries pursuant to Article 2(6a)(a) of the basic Regulation could be Brazil and Turkey if the conditions of application of that provision would be confirmed. The Commission also stated that it would examine other possible appropriate representative countries in accordance with the criteria set out in 2(6a)(a) first indent of the basic Regulation.
- (126) On 5 February 2021, the Commission issued a First note on the sources for the determination of the normal value ('the Note of 5 February' or 'First Note') by which it informed interested parties on the relevant sources it intended to use for the determination of the normal value. In that note, the Commission provided a list of all factors of production such as raw materials, labour and energy used in the production of fasteners. In addition, the Commission identified Brazil, Russia, Thailand and Turkey as possible appropriate representative countries. The Commission gave all interested parties opportunity to comment. The Commission received comments from the complainant EIFI, two sampled exporting producers, the CCCME and EFDA.
- (127) On 4 May 2021, after having analysed the comments received, the Commission issued the Second note on the sources for the determination of the normal value ('the Note of 4 May' or 'Second Note'). In that note the Commission established a provisional list

of factors of production and informed interested parties of its intention to use Thailand as the representative country under Article 2(6a)(a), first indent of the basic Regulation. It also informed interested parties that it would establish selling, general and administrative costs ('SG&A') and profits based on readily available financial data sourced from Dun & Bradstreet database¹¹ ('D&B'). The Commission invited interested parties to comment. Comments were received from the complainant, one sampled exporting producer, the CCCME and EFDA.

- (128) After having analysed the comments and information received on the Second Note, the Commission concluded that Thailand was an appropriate choice as representative country from which undistorted prices and costs would be sourced for the determination of the normal value. The underlying reasons for that choice are further described in detail in recitals (163) and following.

Application of Article 18 of the basic Regulation

- (129) As already mentioned in recitals (66) and (123), the GOC did not provide any reply to the questionnaire concerning the existence of distortions¹². The Commission informed the GOC by Note Verbale on 2 June 2021 that it intended therefore to make use of the provisions of Article 18 of the basic Regulation and use facts available with regard to the information covered by the questionnaire. The Commission invited the GOC to submit comments on the application of Article 18 of the basic Regulation. No comments were received.
- (130) As mentioned in recital (47), upon initiation, in order to decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known exporting producers in China to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the People's Republic of China to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation. Ninety-two exporting producers or groups of exporting producers came forward representing 51% of the total exports of fasteners from the PRC to the Union during the IP as estimated by the complainant based on Eurostat statistics. The Commission considered that this level of cooperation was low.
- (131) The Commission informed the Mission of the People's Republic of China to the European Union by Note Verbale accordingly, highlighting that due to this low cooperation, it intended to make use of the provisions of Article 18 of the basic Regulation with regard to the country-wide margin (i.e. the residual duty). The Commission invited the Mission of the People's Republic of China to the European Union to submit its comment on the application of Article 18 of the basic Regulation.
- (132) EFDA claimed that a level of cooperation should not be deemed to be low because:
- (i) the Chinese fasteners industry consists predominantly of small companies and SMEs, which faced difficulties, due to their limited resources, to comply with all the requirements and follow the various procedural steps that are necessary for them to participate in the investigation;

¹¹ Dun & Bradstreet, <https://globalfinancials.com/index-admin.html>

¹² Questionnaire on the existence of significant distortions within the meaning of Article 2(6a) of Regulation (EU) 2016/1036 for the Government of the People's Republic of China

- (ii) the Chinese exporting producers of fasteners, in most cases have only few or no employees who are proficient enough in English to fill out the complex forms that are requested in anti-dumping investigations;
- (iii) the Chinese exporting producers of fasteners could not understand how an anti-dumping investigation could be initiated, while several Union producers have sourced fasteners from Chinese suppliers and even continue to do so after the investigation period;
- (iv) the Commission is putting significant efforts in encouraging and facilitating the participation of SMEs in the Union in anti-dumping investigations, while small Chinese exporting producers are treated in the exact same way as large exporting producers, which creates considerable inequality between SMEs in the Union and in third countries in terms of their ability to participate in trade defence investigations and enforce their rights of defence. Therefore, the Commission should remedy this situation in considering the Chinese exporters' level of cooperation as sufficiently high.
- (133) The Commission noted that, at the start of the investigation (standing and / or sampling exercise), the same amount of information is requested from Union and exporting producers. This information is mainly limited to the contact details of the company, their sales and production quantities and related companies. Cooperation is established on the basis of this initial reply. Therefore, all companies (including the SMEs) in the Union and in the exporting country are treated equally. The claims of the party were therefore rejected.
- (134) During the RCCs, the Commission was unable to verify the actual consumption of labour for any of the three sampled exporting producers. The Commission informed each of the three sampled exporting producers by a letter on 3 June 2021 that it intended to make use of facts available in accordance with the provision of Article 18 of the basic Regulation with regard to the consumption of labour.
- (135) Ningbo Jinding considered that the information on actual working hours was not necessary and that the Commission should rely on standard working hours. They argued that standard working hours could be used to assess labour costs, especially in the absence of any legal obligation to record actual working hours. This exporting producer claimed that it acted to the best of its ability, therefore the Commission could not disregard the labour data provided, since they would still allow for "*a reasonably accurate finding*". They added that standard working hours were the most appropriate facts available, since no other source could possibly be more appropriate for the particular circumstances of Ningbo Jinding's production of the product concerned.
- (136) Wenzhou claimed that the actual labour days (later converted to labour hours at the standard number of working hours per day) were indicated on the monthly payroll sheets, and that the standard working hours per day as limited by the Chinese labour law should be regarded as reliable data to be used in the conversion of actual labour days to labour hours. Also, the fact that the company did not record actual labour hours for the production of the product concerned could not be considered as non-cooperation, and therefore it was unreasonable to apply Article 18 of the basic Regulation to labour costs of Wenzhou.
- (137) The Commission disagreed. The mere existence of the law delimiting the standard number of hours a worker can work is not sufficient evidence for demonstrating the actual hours worked. During the investigation, the Commission found no evidence that

the Chinese labour law was respected or enforced, and that the actual labour days reported by the exporting producers were reflected in the remuneration actually paid to the staff.

- (138) In addition, no evidence was found that actual labour days converted to labour hours at the standard number of working hours captured the hours worked relating to the manufacturing process of the product concerned, since no evidence was provided on what basis the standard hours for production of fasteners were established.
- (139) Also, the two exporting producers converting their labour days at the standard number of working hours per day had nearly double their labour productivity rate¹³ in comparison to the exporting producer that recorded the actual labour hours. The high labour productivity would normally indicate higher and more effective use of the labour force reflected in a higher number of actual working hours. Therefore, in this case, standard working hours could not be used for assessment of the labour cost of the product concerned.
- (140) Based on this, the claims of the exporting producers were rejected and the Commission, used the best facts available with regard to the consumption of labour in accordance with Article 18 of the basic Regulation.

Normal value

- (141) In recent investigations concerning the steel sector in the PRC¹⁴, the Commission found that significant distortions in the sense of Article 2(6a)(b) of the basic Regulation were present. Steel is the main raw material used to produce fasteners, hence it is very close to the steel sector. The Commission concluded in this investigation that, based on the evidence available, the application of Article 2(6a) of the basic Regulation was also appropriate.
- (142) In the past investigations on the steel sector, the Commission found that there is substantial government intervention in the PRC resulting in a distortion of the effective allocation of resources in line with market principles¹⁵. In particular, the Commission concluded that in the steel sector, which is the main raw material to produce the product concerned, not only does a substantial degree of ownership by the GOC persist in the sense of Article 2(6a)(b), first indent of the basic Regulation¹⁶, but the GOC is also in a position to interfere with prices and costs through State presence in firms in the sense of Article 2(6a)(b), second indent of the basic Regulation¹⁷. The

¹³ Kg of fasteners produced per one employee.

¹⁴ Commission Implementing Regulation (EU) 2021/635 of 16 April 2021 imposing a definitive anti-dumping duty on imports of certain welded pipes and tubes of iron or non-alloyed steel originating in Belarus, the People's Republic of China and Russia following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council, and Commission Implementing Regulation (EU) 2020/508 of 7 April 2020 imposing a provisional anti-dumping duty on imports of certain hot rolled stainless steel sheets and coils originating in Indonesia, the People's Republic of China and Taiwan

¹⁵ See Commission Implementing Regulation (EU) 2021/635 recitals 149-150 and Commission Implementing Regulation (EU) 2020/508 recitals 158-159

¹⁶ See Commission Implementing Regulation (EU) 2021/635 recitals 115-118 and Commission Implementing Regulation (EU) 2020/508 recitals 122-127

¹⁷ See Commission Implementing Regulation (EU) 2021/635 recitals 119-122 and Commission Implementing Regulation (EU) 2020/508 recitals 128-132: While the right to appoint and to remove key management personnel in SOEs by the relevant State authorities, as provided for in the Chinese legislation, can be considered to reflect the corresponding ownership rights, CCP cells in enterprises, state owned and private alike, represent another important channel through which the State can interfere

Commission further found that the State's presence and intervention in the financial markets, as well as in the provision of raw materials and inputs have an additional distorting effect on the market. Indeed, overall, the system of planning in the PRC results in resources being concentrated in sectors designated as strategic or otherwise politically important by the GOC, rather than being allocated in line with market forces¹⁸. Moreover, the Commission concluded that the Chinese bankruptcy and property laws do not work properly in the sense of Article 2(6a)(b), fourth indent of the basic Regulation, thus generating distortions in particular when maintaining insolvent firms afloat and when allocating land use rights in the PRC¹⁹. In the same vein, the Commission found distortions of wage costs in the steel sector in the sense of Article 2(6a)(b), fifth indent of the basic Regulation²⁰, as well as distortions in the financial markets in the sense of Article 2(6a)(b), sixth indent of the basic Regulation, in particular concerning access to capital for corporate actors in the PRC²¹.

- (143) Like in previous investigations concerning the steel sector in the PRC, the Commission examined in the present investigation whether it was appropriate 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 complaint, as well as in the country report concerning the PRC (hereinafter 'the Report')²², which relies on publicly available sources. That analysis covered the examination of the substantial government interventions in the PRC's economy in general, but also the specific market situation in the relevant sector including the product concerned. The Commission further supplemented these evidentiary elements with its own research on the various criteria relevant to confirm the existence of significant distortions in the PRC as also found by its previous investigations in this respect.
- (144) In addition to the Report, the complaint listed a few additional factors pointing to the presence of distortions in the fasteners sector. It listed firstly the problem of overcapacity on the wire rod market. Secondly, the complaint pointed to the state intervention into energy and electricity. Furthermore, the complaint mentioned

with 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) and the company shall provide the necessary conditions for the activities of the party organisation. In the past, this requirement appears not to have always been followed or strictly enforced. However, since at least 2016 the CCP has reinforced its claims to control business decisions in SOEs as a matter of political principle. The CCP is also reported to exercise pressure on private companies to put 'patriotism' first and to follow party discipline. In 2017, it was reported that party cells existed in 70% of some 1.86 million privately owned companies, with growing pressure for the CCP organisations to have a final say over the business decisions within their respective companies. These rules are of general application throughout the Chinese economy, across all sectors, including to the producers of SSCR producers and the suppliers of their inputs.

¹⁸ See Commission Implementing Regulation (EU) 2021/635 recitals 123-129 and Commission Implementing Regulation (EU) 2020/508 recitals 133-138.

¹⁹ See Commission Implementing Regulation (EU) 2021/635 recitals 130-133 and Commission Implementing Regulation (EU) 2020/508 recitals 139-142.

²⁰ See Commission Implementing Regulation (EU) 2021/635 recitals 134-135 and Commission Implementing Regulation (EU) 2020/508 recitals 143-144.

²¹ See Commission Implementing Regulation (EU) 2021/635 recitals 136-145 and Commission Implementing Regulation (EU) 2020/508 recitals 145-154.

²² Commission Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the purposes of Trade Defence Investigations, 20 December 2017, SWD(2017) 483 final/2

distortions in the automotive and construction sectors in China (two important users of fasteners), as evidenced by the two publications by the European Union Chamber of Commerce in China: the 2018/2019 and 2019/2020 Business in China – Position Papers. The complaint also mentions the two reports prepared by the Think !Desk China Research & Consulting: Final Report “Assessment of the normative and policy framework governing the Chinese economy and its impact on international competition”, and Draft Final Report “The China Iron and Steel Association – Government Partner and Information Hub”, which show distortions due to the government control over the iron and steel sector, including fasteners. Finally, the complaint pointed to the fact that in the past investigation the Commission already found distortions on the steel market in China.

- (145) As indicated in recital (123), the GOC did not comment or provide evidence supporting or rebutting the existing evidence on the case file, including the Report and the additional evidence provided by the complainant, 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.
- (146) Specifically in the steel sector, which is the main raw material to produce fasteners, a substantial degree of ownership by the GOC persists. Many of the largest steel producers are owned by the State. Some are specifically referred to in the ‘Steel Industry Adjustment and Upgrading plan for 2016-2020’. For instance, the Chinese State-owned Shanxi Taiyuan Iron & Steel Co. Ltd. (“Tisco”) mentions on its website that it is “a super iron and steel giant”, which “developed into an extraordinary large-scale iron and steel complex, which is integrated with business of iron mining, iron and steel production, processing, delivery and trading²³”. Baosteel is another major Chinese State-owned enterprise that engages in steel manufacturing and is part of the recently consolidated China Baowu Steel Group Co. Ltd. (formerly Baosteel Group and Wuhan Iron & Steel)²⁴. While the nominal split between the number of SOEs and privately owned companies is estimated to be almost even, from the five Chinese steel producers ranked in the top 10 of the world’s largest steel producers, four are SOEs²⁵. At the same time, while the top ten producers only took up some 36 % of total industry output in 2016, the GOC set the target in the same year to consolidate 60 % to 70 % of steel production to around ten large-scale enterprises by 2025²⁶. This intention has been repeated by the GOC in April 2019, announcing a release of guidelines on steel industry consolidation²⁷. Such consolidation may entail forced mergers of profitable private companies with underperforming SOEs²⁸. Since the fasteners sector is very

²³ TISCO, ‘Company profile’, <http://en.tisco.com.cn/CompanyProfile/20151027095855836705.html> (last viewed 2 March 2020)

²⁴ Baowu, ‘Company profile’, <http://www.baowugroup.com/en/contents/5273/102759.html> (last viewed 6 May 2021)

²⁵ 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.

²⁶ Available at: www.gov.cn/zhengce/content/2016-02/04/content_5039353.htm (last viewed 6 May 2021); https://policyncn.com/policy_ticker/higher-expectations-for-large-scale-steel-enterprise/?iframe=1&secret=c8uthafuthefra4e (last viewed 6 May 2021), and www.xinhuanet.com/english/2019-04/23/c_138001574.htm (last viewed 6 May 2021).

²⁷ Available at http://www.xinhuanet.com/english/2019-04/23/c_138001574.htm (last viewed 6 May 2021) and http://www.jjckb.cn/2019-04/23/c_137999653.htm (last viewed 6 May 2021).

²⁸ 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, and the acquired majority stake of China Baowu Steel

fragmented and most producers are SOEs, it is impossible to establish the exact ratio of state owned vs. privately owned fasteners producers, however the investigation showed that some fastener producers are SOEs, for example Zhoushan 7412 Factory .

- (147) As to the GOC being in a position to interfere with prices and costs through State presence in firms in the sense of Article 2(6a)(b), second indent of the basic Regulation, the investigation did not look into individual companies, since the fasteners sectors is very fragmented and mostly consists of SMEs SOEs. However the existence of personal connections between producers of the product concerned and the CCP was established at the level of industry associations. The fastener industry associations underline their personal connection to the CCP, for example the Articles of Association of the Ningbo Fasteners Industry Association require that: ‘The president, vice president and secretary-general of this association must meet the following conditions: (1) Adhere to the party's line, principles, policies, and be of a good political quality’²⁹.
- (148) Both public and privately owned enterprises in the fasteners sector are subject to policy supervision and guidance. The following examples illustrate the above trend of an increasing level of intervention by the GOC in the fasteners and steel sectors. While the fasteners industry is very fragmented and consists mostly of SMEs, the investigation revealed connections between the party and the fastener industry associations, which group and represent the fastener producers. For example, the Ningbo Fasteners Industry Association clearly states on its website: ‘Over the past few years, the association has been promoting and implementing party and national guidelines and policies’. The close link with the government is also underlined in the Articles of Association of this organisation, for example in Article 3: ‘The purpose of this association: to comply with the national constitution, laws, regulations and national policies [...], play a role as a bridge and link between the government and members to accelerate the technological progress of the fastener industry and promote the development of the fastener industry. In accordance with the Chinese Communist Party Constitution, this association establishes a party organization and undertakes the responsibilities of ensuring political direction, uniting the masses, promoting development, building advanced culture, serving talent development, and strengthening self-construction.’ and further in Article 6.xviii: ‘To undertake other tasks entrusted by the government’³⁰. According to the website of the of Fasteners Branch of the China Machinery General Part Industry Association, the fastener industry in Ningbo benefits from various support policies and support work made by the Ningbo Municipal Government (also in Zhejiang) and functional departments at all levels³¹. The connection between the fasteners industry and the CCP is also evident in the Haiyan County (Zhejiang province): ‘Haiyan is one of the three major fastener production bases in the country. In order to ensure the stable and orderly development of the fastener industry, Haiyan County adheres to the leadership of Party building, [...], deepens the "industry chain + party building", grasps the "red interaction", and comprehensively promotes the work and production of enterprises producing fasteners. [...] Haiyan County gives full play to the role [...] of the County Party

Group in Magang Steel in June 2019, see <https://www.ft.com/content/a7c93fae-85bc-11e9-a028-86cea8523dc2> (last viewed 6 May 2021).

²⁹ <http://www.fastener-cn.net/reception/association/constitution.jsp>

³⁰ <http://www.fastener-cn.net/reception/association/constitution.jsp>

³¹ <http://www.afastener.com/news/detail-1795.html>

committee. [...] Hence, Haiyan has listed 15 enterprises of different sizes, [...] as pilot demonstration enterprises, and grants a financial guarantee of up to 50% of the renovation cost.’ And further ‘Haiyan gives full play to the role of the provincial (county) Fastener Industry Association party organization in coordinating all parties, taking the lead in matching demand and breaking information barriers. [...] Impacted by the epidemic, the original steel raw material supply of the enterprises located in the fasteners park of the two innovation centers in Qinshan Street were stopped. After the Party organization of the County Fastener Industry Association was informed of the situation, it immediately coordinated the enterprises producing high-end steel raw materials in the County to provide fasteners producing enterprises with low-standard raw materials and ensure complementarity. In just one month, these enterprises had reached about RMB 100 million.³²’

- (149) Further, policies discriminating in favour of domestic producers or otherwise influencing the market in the sense of Article 2(6a)(b), third indent of the basic Regulation are in place in the fasteners sector.
- (150) A number of policy documents guiding specifically the development of the fasteners industry could be identified during the investigation. The fasteners industry is listed in the Announcement of the Ministry of Industry and Information Technology on the issuance of the Guiding Catalogue for the Promotion and Application of the First (Set) Major Technical Equipment (2019 Edition)³³ and also in the Industrial Structure Adjustment Guidance Catalogue (2019 NDRC)³⁴ as an encouraged industry.
- (151) Next to the above mentioned documents on the central level, there are a number of guidance documents on the local, provincial or municipal level, which guide and support the development of the fasteners industry. For example, the 2019 Incentive policies for fastener industry in Haiyan district, envisages that: ‘Haiyan is the "Hometown of Fasteners", and the fastener industry is also one of the important traditional industries in Haiyan. [...] In order to [...] boost the innovation and development of the fastener industry in our county, our county recently issued the "Three-year Special Action Policy for the Digitalization and Smart Transformation of the Fastener Industry in Haiyan County". The scope of the related special funds covers companies implementing digital and smart transformation in the fastener industry’³⁵. The subsidy fund for the fasteners industry in Haiyan was further increased in 2020³⁶.
- (152) The fasteners industry benefits furthermore from governmental guidance and intervention concerning the main raw material to manufacture fasteners, namely steel. The steel industry is regarded as a key industry by the GOC³⁷. 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’, valid during the IP period. This Plan stated that the

³² https://www.cnjxol.com/54/202006/t20200616_631931.shtml

³³ See

https://www.miit.gov.cn/cms_files/filemanager/oldfile/miit/n973401/n5082759/n5084605/c7592204/pa rt/7592209.pdf, page 55 listing strength fasteners

³⁴ See <http://www.gov.cn/xinwen/2019-11/06/5449193/files/26c9d25f713f4ed5b8dc51ae40ef37af.pdf>, page 29

³⁵ http://www.haiyan.gov.cn/art/2019/12/6/art_1512856_40973400.html

³⁶ <http://www.jgzjh.com/html/news/xxdt/2020/0426/625.html>

³⁷ Report, Part III, Chapter 14, p. 346 ff.

steel industry is “an important, fundamental sector of the Chinese economy, a national cornerstone³⁸”. The main tasks and objectives set out in this Plan cover all aspects of the development of the industry³⁹. The 13th Five-Year Plan on Economic and Social Development⁴⁰, applicable during the IP, envisaged support to enterprises producing high-end steel product types⁴¹. It also focuses on achieving product quality, durability and reliability by supporting companies using technologies related to clean steel production, precision rolling and quality improvement⁴². The ‘Catalogue for Guiding Industry Restructuring (2011 Version) (2013 Amendment)’⁴³ (‘the Catalogue’) lists steel as an encouraged industry.

- (153) As can be seen from the above examples concerning steel, which is an important raw materials to produce fasteners, the GOC further guides the development of the fasteners sector in accordance with a broad range of policy tools and directives and controls virtually every aspect in the development and functioning of the sector. Thus, the fasteners industry benefits from governmental guidance and intervention concerning the main raw materials to manufacture fasteners, namely steel.
- (154) In addition to the above, the fasteners producers are also beneficiaries of state subsidies, which clearly indicates the interest of the state in this sector. During the investigation, the Commission established that a number of financial incentive programmes were made available to the fasteners producers, including the 2019 Incentive policies for fastener industry in 2019 in the Haiyan district: ‘Vigorously promote the digital and smart transformation of fastener enterprises: For the application of digital management systems and integrated control device softwares, special financial incentives will be granted depending on the implementation year, [...], Enterprises implementing digital and smart transformation (or new purchases) and upgrade of their equipment in 2019 will be granted a one-time subsidy of up to 20% of the actual investment in core equipment and a maximum of RMB 2 million; as for implementation in 2020, they will be granted a one-time subsidy of up to 15% of the actual investment in core equipment and a maximum of RMB 1.5 million; as for implementation in 2021, they will be granted a one-time subsidy of up to 12% of the actual investment in core equipment and a maximum of RMB 1 million yuan.⁴⁴’ The subsidies were also available in 2020: ‘On the basis of the provincial pilot special fund of 20 million, the county-level matching 1:1 funds are used for the transformation and upgrading of the fastener industry. Together with the “Three-Year Fastener Special Action Policy”, the initial basic subsidy amount of 3% or 6% of the industry software transformation projects investment was increased to more 12%, up to a maximum of 20%, [...], the proportion of investment subsidies for pure software projects in the

³⁸ Introduction to The Plan for Adjusting and Upgrading the Steel Industry.

³⁹ Report, Chapter 14, p. 347.

⁴⁰ The 13th Five-Year Plan for Economic and Social Development of the People’s Republic of China (2016-2020), available at https://en.ndrc.gov.cn/newsrelease_8232/201612/P020191101481868235378.pdf (last viewed 6 May 2021).

⁴¹ Report – Chapter 14, p. 349.

⁴² Report – Chapter 14, p. 352.

⁴³ 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.

⁴⁴ http://www.haiyan.gov.cn/art/2019/12/6/art_1512856_40973400.html

fastener industry has reached more than 30%, with a maximum of 50%. Until now, more than RMB 12 million of special funds for fasteners have been paid, benefiting more than 30 enterprises. [...] As regards technological transformation (investment) projects, the investment in production equipment must exceed RMB 3 million.⁴⁵

- (155) In sum, the GOC has measures in place to induce operators to comply with the public policy objectives of supporting encouraged industries, including the production of steel as the main raw material used in the manufacturing of fasteners. Such measures impede market forces from operating freely.
- (156) The present investigation has not revealed any evidence that the discriminatory application or inadequate enforcement of bankruptcy and property laws according to Article 2(6a)(b), fourth indent of the basic Regulation in the fasteners sector referred to above in recital (142), would not affect the manufacturers of the product concerned.
- (157) The fastener sector is also affected by the distortions of wage costs in the sense of Article 2(6a)(b), fifth indent of the basic Regulation, as also referred to above in recital (142). Those distortion affect the sector both directly (when producing the product concerned or the main inputs), as well as indirectly (when having access to capital or inputs from companies subject to the same labour system in the PRC)⁴⁶.
- (158) Moreover, no evidence was submitted in the present investigation demonstrating that the fasteners sector is not affected by the government intervention in the financial system in the sense of Article 2(6a)(b), sixth indent of the basic Regulation, as also referred to above in recital (142). Therefore, the substantial government intervention in the financial system leads to the market conditions being severely affected at all levels.
- (159) Finally, the Commission recalls that in order to produce fasteners, a number of inputs is needed. When the producers of fasteners 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 that applies across all levels of government and sectors.
- (160) As a consequence, not only the domestic sales prices of fasteners are not appropriate for use within the meaning of Article 2(6a)(a) of the basic Regulation, but all the input costs (including raw materials, energy, land, financing, labour, etc.) are also affected because their price formation is affected by substantial government intervention, as described in Parts 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.
- (161) No evidence or argument to the contrary has been adduced by the GOC or the exporting producers in the present investigation.
- (162) In sum, the evidence available showed that prices or costs of the product concerned, including the costs of raw materials, energy and labour, are not the result of free

⁴⁵ <http://www.jgjzh.com/html/news/xxdt/2020/0426/625.html>

⁴⁶ See Commission Implementing Regulation (EU) 2021/635 recitals 134-135 and Commission Implementing Regulation (EU) 2020/508 recitals 143-144.

market forces because they are affected by substantial government intervention within the meaning of Article 2(6a)(b) of the basic Regulation as shown by the actual or potential impact of one or more of the relevant elements listed therein. On that basis, and in the absence of any cooperation from the GOC, the Commission concluded that it is not appropriate to use domestic prices and costs to establish normal value in this case. 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.

Representative country

General remarks

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

1. A level of economic development similar to China. For this purpose, the Commission used countries with a gross national income per capita similar to China on the basis of the database of the World Bank⁴⁷;
2. Production of the product concerned in that country;
3. Availability of relevant public data in the representative country;
4. Where there was more than one possible representative country, preference would be given, where appropriate, to the country with an adequate level of social and environmental protection.

(164) As mentioned in recitals (126) and (127), the Commission made available two notes to the file on the sources for the determination of the normal value on which interested parties were invited to comment: the Note of 5 February ('First Note') and the Note of 4 May ('Second Note'). These notes described the facts and evidence underlying the relevant criteria and addressed the comments received from the parties on those elements and on the relevant sources. The Commission's assessment of the facts and the evidence and conclusions can be summarised as follows.

A level of economic development similar to China

(165) In the First Note, the Commission identified fifty-five countries with a similar level of economic development as China. In the investigation period, the World Bank classified these countries as 'upper-middle income' countries on a gross national income basis. However, a sizeable production of the product under investigation was known to take place only in eight of these countries, namely in Brazil, Colombia, Indonesia, Malaysia, Mexico, Russia, Turkey and Thailand.

Availability of relevant public data in the representative country

(166) In the First Note, the Commission provided information on relevant readily available data, notably financial information of companies producing the product under investigation in Brazil, Russia, Turkey and Thailand, and on the imports into these countries of the raw material to produce the product under investigation. In the Second Note, the Commission confirmed the availability of financial information of one

⁴⁷ World Bank Open Data – Upper Middle Income - <https://data.worldbank.org/income-level/upper-middle-income>

company producing the product under investigation in Malaysia, as identified by the interested parties. No companies producing the product under investigation with readily available financial information were found in Colombia, Indonesia and Mexico.

- (167) In the Second Note, the Commission considered that, according to the Global Trade Atlas ('GTA') database, more than 75% of the imports of wire of alloy steel (HS 7227 90) into Brazil and Malaysia, were sourced in the PRC and non-WTO countries listed in Annex I to Regulation (EU) 2015/755 of the European Parliament and the Council ('Regulation (EU) 2015/755')⁴⁸. Wire of alloy steel represents more than 45% in the cost of production of fasteners. Based on this, the Commission considered that the import value of wire of alloy steel was likely undermined and unrepresentative in comparison with the other available representative countries like Turkey or Thailand. Therefore, the Commission concluded that Brazil and Malaysia had a lower quality set of readily available data for undistorted value and were not considered appropriate representative countries within the meaning of Article 2(6a)(a) of the basic Regulation.
- (168) In the Second Note, the Commission excluded Russia from its consideration as an appropriate representative country within the meaning of Article 2(6a)(a) of the basic Regulation, because all interested parties agreed that Russia was not a suitable representative country for this investigation.
- (169) In the Second Note, the Commission noted that, that Thailand was the biggest market producing standard and non-standard fasteners when compared to all other potential representative countries, and twice as large as Turkey in terms of production value and internal demand. In light of these considerations, the Commission notified its intention to use Thailand as the appropriate representative country and to use the financial data available for the six companies in Thailand listed in the Second Note, in accordance with Article 2(6a)(a), first indent of the basic Regulation.

Comments of the interested parties

- (170) Following the Second Note, EIFI claimed that Thailand was not an appropriate representative country based on the following arguments:
- There would be evidence of unfair trade practices from Thailand. In support of this claim, EIFI referred to data provided in the complaint and submitted quotations of various actors in Thailand who reported unfair trade practices. In addition, EIFI claimed that many Thai producers had a low profitability.
 - Thailand would not meet the requirement of an adequate level of social and environmental protection as set out in Article 2(7) of the basic Regulation.
- (171) The alleged unfair trade practices from Thailand have not been confirmed by any ongoing anti-dumping investigation and were therefore not further considered. Regarding the level of social and environmental protection in Thailand, in accordance with Article 2(6a)(a) first indent of the basic Regulation, this is only evaluated in case there is more than one potential representative country available. Since this was not the case in the present investigation as detailed in this section, the arguments of EIFI in this respect were dismissed.

⁴⁸ Regulation (EU) 2015/755 of the European Parliament and of the Council of 29 April 2015 on common rules for imports from certain third countries (OJ L 123, 19.5.2015, p. 33).

- (172) The CCCME argued that a number of fasteners producers in Thailand were owned by Japanese car manufacturers. Those producers would mainly produce non-standard fasteners for the automotive industry in Japan and for this purpose import high quality raw materials from their related companies in Japan. The average import price in Thailand would therefore reflect these higher priced imports and would not be representative for the cost of the Chinese producers that were mainly manufacturing standard fasteners using cheaper raw materials. Furthermore, the CCCME claimed that import prices from Japan would not be at arm's length since they were mainly a result of transactions between related companies. Based on these arguments, the CCCME requested that should Thailand be used as representative country, import data should be adjusted by deducting imports from Japan from the total imports. This claim was supported by the sampled exporting producer Ningbo Jinding and EFDA.
- (173) The CCCME did not provide any evidence on the scale of Japanese imports to Thailand of raw materials destined for the production of non-standard fasteners specifically used in the automotive sector. Likewise, there was no evidence provided, that imports were made from related parties or that import prices were distorted. The mere price difference between Japanese imports and other third countries imports into Thailand was not considered sufficient to conclude that import prices from Japan were distorted.
- (174) EIFI argued that the information and arguments brought forward by the CCCME and EFDA demonstrated that Thailand was not a suitable representative country. They emphasised, however, that Chinese exporting producers produce and export all types of fasteners to the Union, in particular also non-standard fasteners.
- (175) Based on GTA, the Commission analysed Japanese export prices of the four major raw materials (i.e. 7228 30 (Bars and rods of alloy steel (other than stainless), not further worked than hot-rolled, hot-drawn or extruded), 7227 90 (Bars and rods of alloy steel (other than stainless), hot-rolled, in irregularly wound coils), 7213 99 (Bars and rods, hot-rolled, in irregularly wound coils, of iron or non-alloy steel, N.E.S.O.I.), 7213 91 (Bars and rods, hot-rolled, in irregularly wound coils, of iron or non-alloy steel, of circular cross-section measuring less than 14mm in diameter)). During the IP, Thailand was one of the top five Japan's main export markets, representing 17% of its total exports of these materials, while the top five (excluding China) represented above 60%. The average export price to Thailand was by 17% higher than to the other of the top five countries (0.90 EUR/kg price for Thailand and 0.77 EUR/kg to the other of the top five export countries). Based on this information, it cannot be concluded that Japanese export prices to Thailand are unreasonably high and unrepresentative.
- (176) Based on the above, the Commission dismissed the argument made by the interested parties that import prices of factors of production into Thailand were unrepresentative or unreasonable.
- (177) The CCCME, EFDA and one sampled exporting producer claimed that Malaysia was the most appropriate representative third country, based on the following arguments:
- Malaysia is mainly producing standard fasteners; therefore, its product mix is similar to that of China.
 - The financial data available for one Malaysian producer, namely Chin Well Fasteners Co. Sdb. Bhd. covers exactly the IP in contrast to the data available in the D&B database for Thai producers that cover either the year 2019 or the year 2020. In addition, neither year is representative for the IP as data for 2019 had

been unaffected by the COVID-19 pandemic, while data for 2020 had been affected in full by it.

- For the Malaysian producer in question audited accounts with accompanying notes and audit report are available and data can be distinguished per business segment, while D&B data might go beyond the product concerned or the relevant business segment. Financial data from the D&B database are therefore less reliable.
 - The CCCME contested that import prices for key factors of production into Malaysia were not representative. Namely, import volumes of wire of alloy steel into Malaysia (under HS code 7227 90) are higher than the combined import volumes under the same HS code into Brazil and Russia, including Chinese and non-WTO countries' imports. The average import price into Malaysia without Chinese and non-WTO countries' imports is similar to the import price into Turkey. Since import prices into Turkey should not be considered as distorted (as there are no imports from China or non-WTO countries), it follows that import price into Malaysia cannot be considered as distorted or unrepresentative either.
- (178) The Commission found that imports to Malaysia under HS code 7227 90 from undistorted sources (i.e. sources other than China and non-WTO countries) were lower than import volumes to other potential representative countries and considered less reliable in terms of prices. Thus, contrary to CCCME's claim, imports under HS code 7227 90 to Thailand amounted to around 187 000 tonnes and were thus nearly twelve times higher than import volumes to Malaysia that amounted to 16 000 tonnes.
- (179) Furthermore, the Commission did not find any company in Malaysia that had financial data for 2019 available. Regarding Chin Well Fasteners Co. Sdn. Bhd. suggested by the interested parties, the annual report of its holding company (Chin Well Holdings Berhad) was indeed available on the company's website. However, the annual report included the statements of the financial position of the Group and of the holding company at 30 June 2020⁴⁹. Based on this report⁵⁰, the Group had the following activities:
- (1) fasteners production in Penang, Malaysia and Dong Nai Province, Vietnam;
 - (2) trading activities in steel bar, screws, nuts, bolts and other fastening products;
 - (3) manufacturing of precision galvanised wire, annealing wire, bridge wire, hard drawn wire, PVC wire, bent round bar and grill mesh;
 - (4) investment holding.
- (180) The profit and loss statement of the Group included therefore other activities than the production of fasteners in Malaysia, in particular the production of fasteners in Vietnam. Thus, the Commission considered it inappropriate to use the annual report of Chin Well Holdings Berhad for the purpose of this investigation. The arguments of the interested parties concerned in this regard were therefore dismissed.

49

https://disclosure.bursamalaysia.com/FileAccess/apbursaweb/download?id=203916&name=EA_DS_A TTACHMENTS , Annual report 2020, Report on the Audit of the Financial Statements, p. 54.

50

https://disclosure.bursamalaysia.com/FileAccess/apbursaweb/download?id=203916&name=EA_DS_A TTACHMENTS , Annual report 2020, Report on the Audit of the Financial Statements, p.10.

- (181) EIFI and EFDA proposed Taiwan as a suitable representative country, arguing it was one of the largest producers of fasteners worldwide.
- (182) As noted in the recital (163), in accordance with Article 2(6a) of the basic Regulation one of the criteria to select the representative country was a level of economic development similar to China. For this purpose, the Commission used countries with a gross national income per capita similar to China based on the database of the World Bank. Since Taiwan was not among these countries, the proposal made by the interested parties was dismissed.
- (183) The CCCME and EFDA also claimed that interested parties could not exercise their rights of defence appropriately given that they could not perform searches in the databases, such as GTA and D&B in the absence of a subscription. Also, the Commission did not provide any extracts from the D&B database nor a description of the methodology used by D&B to obtain the relevant data. As a result, interested parties had not been provided with the data that underlies the determination of an appropriate representative country.
- (184) The Commission addressed these concerns by providing on the open case file the extracts from D&B database on the companies in Thailand and from the GTA database on the imports of the major factors of production to Malaysia (since these were missing in the First Note)⁵¹. The extract from the D&B database included links to the D&B website referring to the general methodology, namely a collection of the Balance Sheet, Profit/Loss and key ratios from number of companies worldwide, per country, including the explanations of these key ratios.
- (185) Finally, the CCCME and EFDA argued that out of the six companies in Thailand listed in the Second Note which financial data was intended to be used for the determination of SG&A and profit for the constructed normal value, several were not appropriate for the following reasons:
- One company (Topy Thailand) mostly produced products that were not the product concerned. The small quantities of the product concerned produced were non-standard fasteners for the automotive sector. Furthermore, SG&A was very low, suggesting that the company did not sell to unrelated customers and sales prices and profit margin were therefore unreliable.
 - Another company (TR Formac) did not have a production plant in Thailand.
 - Another company (S.J. Screwthai) produced a large variety of products that were not product concerned (e.g. anchor bolts) and appeared to be focused on non-standard fasteners.
 - Another company (Thaisin Metals Industries Co., Ltd.) appeared to be focused on non-standard fasteners.
- (186) EIFI agreed with the assessment by these parties and noted that for some of the companies listed SG&A and profit was too low (i.e. profit margin below the 6% minimum target profit as established by Article 7(2c) of the basic Regulation).
- (187) The Commission reviewed the information available for the six companies in Thailand and based on their websites confirmed that:

⁵¹ Document reference t21.003886 of 17/05/2021.

- Topy Thailand produced washers, which fall under the product scope, amongst other products that were not covered by this investigation. The Commission kept this company therefore in the analysis.
- TR Formac did not have a production plant in Thailand. The Commission therefore excluded this company from the analysis.
- S.J. Screwthai was an anchor bolt manufacturer, and also produced screws, concrete anchors and washers. As detailed in recital (111), anchors, in particular when combined with bolts or screws, fall within the scope of this investigation. The company also produced several other types of fasteners (for example, screws and washers). The Commission kept this company in the analysis.
- Thaisin Metals Industries Co., Ltd. was a bolt screw producer, also producing self-tapping screws, machine screws, hexagon bolts, socket hex cap for a variety of sectors. Since there were several types of fasteners produced by this company, including non-standard fasteners, the Commission kept this company in the analysis.

(188) No substantiated evidence was provided on why the SG&A level of the Thai companies was too low. Moreover, the minimum profit level referred to by EIFI was the level of profitability the Union industry can reasonably expect under normal conditions of competition in the Union, before the increase of dumped imports from the country under investigation (target profit) and is not relevant in the determination of an appropriate representative country.

(189) Based on the analysis above, the Commission decided to use Thailand as the appropriate representative country and use the financial data of five companies⁵² for the constructed normal value in accordance with the Article 2(6a)(a) of the basic Regulation.

Level of social and environmental protection

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

Conclusion

(191) In view of the above analysis, the Commission decided to consider Thailand as the appropriate representative country for the purpose of Article 2(6a)(a) of the basic Regulation.

Sources used to establish undistorted costs for factors of production

(192) On the basis of the information submitted by interested parties and other relevant information available on the file, the Commission established, in the First Note, an initial list of factors of production, such as materials, energy and labour used for the production of the product under investigation.

(193) In accordance with Article 2(6a)(a) of the basic Regulation, the Commission also identified sources to be used for establishing undistorted prices and benchmarks. The

⁵² Bangkok Fastenings Co. Ltd., Topy Fasteners (Thailand) Ltd, Thai Sin Metal Industries Co. Ltd., S.J Screwthai Co. Ltd., Sangthong Salakphan Co. Ltd.

main source that the Commission proposed to use included the GTA. Finally, in the same note, the Commission identified the Harmonised System (HS) codes of factors of production which, on the basis of information provided by the interested parties, were initially considered to be used for the GTA analysis.

- (194) The Commission invited the interested parties to comment and propose publicly available information on undistorted values for each of the factors of production mentioned in that Note.
- (195) Subsequently, in the Second Note, the Commission updated the list of factors of production based on the comments of the parties and information submitted by the sampled exporting producers in the questionnaire reply.
- (196) Considering all the information submitted by the interested parties the following factors of production and their sources were identified with regard to Thailand in order to determine the normal value in accordance with Article 2(6a)(a) of the basic Regulation:

Table 1
Factors of production and sources of information

No.	Factor of Production	Code in the Thai tariff classification	Undistorted value
	Raw Materials		
1	Bars And Rods, Hot-Rolled, In Irregularly Wound Coils, Of Iron Or Nonalloy Steel, Of Circular Cross-Section Measuring Less Than 14Mm In Diameter, other than used for used for producing soldering sticks and concrete reinforcement	72139190	4,00 CNY/kg
2	Bars And Rods, Hot-Rolled, In Irregularly Wound Coils, Of Iron Or Nonalloy Steel, other than those used for producing soldering sticks	72139990	7,00 CNY/kg
3	Bars And Rods Of Alloy Steel (Other Than Stainless), Hot-Rolled, In Irregularly Wound Coils, Nesoi	72279000	6,00 CNY/kg
4	Other bars and rods, not further worked than hot-rolled, hotdrawn or extruded	72283090	7,93 CNY/kg
5	Petroleum Oils, Oils From Bituminous Minerals (Other Than Crude) & Products Containing By Weight 70% Or More Of These Oils, Not Biodiesel Or Waste	271019	2,43 CNY/L
6	Methanol (methyl alcohol)	290511	0,52 CNY/kg

No.	Factor of Production	Code in the Thai tariff classification	Undistorted value
7	Pallets, Box Pallets And Other Load Boards; Pallet Collars; Pallets, Box Pallets And Other Load Boards; Pallet Collars	441520	4,99 CNY/kg
8	Cartons, boxes and cases, of corrugated paper or paperboard	481910	15,96 CNY/kg
9	Sacks And Bags (Including Cones), Of Polymers Of Ethylene	392321	32,47 CNY/kg
10	Zinc, Not Alloyed, Containing 99.9% Or More By Weight Of Zinc, Unwrought	790111	17,12 CNY/kg
11	Corrugated paper and paperboard, whether or not perforated	480810	8,14 CNY/kg
	Labour		
12	Labour wages in manufacturing sector	[N/A]	23,63 CNY/hour
	Energy		
13	Natural gas	[N/A]	2,77 CNY/m ³
14	Electricity	[N/A]	Ranges from 0,934 to 1,165 CNY/kWh ⁵³
15	Water	[N/A]	7,27 CNY/m ³

Raw materials used in the production process

(197) In order to establish the undistorted price of raw materials the Commission used as a basis the weighted average import price (CIF) to the representative country, as reported in the GTA, from all third countries excluding the PRC and countries listed in Annex 1 of Regulation (EU) 2015/755.⁵⁴ The Commission decided to exclude imports from the PRC as it concluded that it was not appropriate to use domestic prices and costs in China due to the existence of significant distortions in accordance with Article 2(6a)(b) of the basic Regulation (recitals (141) to (162)). Absent any evidence showing that the same distortions did not equally affect products intended for export, the Commission considered that the same distortions affected exports. The weighted average import price was adjusted for import duties, where appropriate. After

⁵³ Company specific and based on respective peak & off-peak consumption.

⁵⁴ Article 2(7) of the basic Regulation provides that domestic prices in those countries cannot be used for the purpose of determining normal value.

excluding imports from the PRC and non-WTO Members to Thailand, the volume of imports from other third countries of raw materials remained representative (ranging from 27,1% to 99,9%).

- (198) For a small number of factors of production the actual costs incurred by the cooperating exporting producers represented a negligible share of total raw material costs in the IP. As the value used for those had no appreciable impact on the dumping margin calculations, regardless of the source used, the Commission treated those factors of production as consumables as explained in recitals (211) and (212). That same approach was followed for steam, used by one of the sampled exporting producers. Whilst steam represented a negligible part of its costs of production, it is generally not internationally traded or publically quoted commodity. As such, an appropriate benchmark was not readily available.
- (199) The Commission expressed transport cost incurred by the sampled exporting producers for the supply of raw materials as a percentage of the actual cost of such raw materials and then applied the same percentage to the undistorted cost of the same raw materials in order to obtain the undistorted transport cost. The Commission considered that, in the context of this investigation, the ratio between the exporting producer's raw material and the reported transport costs could be reasonably used as an indication to estimate the undistorted costs of raw materials when delivered to the company's factory.
- (200) In their comments on the Second Note, the CCCME argued that the Commission should not include import duties on raw materials paid in the representative country when constructing normal value, because (i) there was no legal basis to do so, and that (ii) the Chinese exporting producers mainly source raw materials domestically in China. The party argued that, according to Article 2(6a)(a) of the basic Regulation, in case the Commission relies on a representative country, the costs relied upon must be "*corresponding costs of production and sale in an appropriate representative country*". The corresponding costs in China would, however, not include import duties. In addition, the CCCME argued that GTA data is based on CIF prices and therefore already include additional costs such as international transport, insurance, and handling costs, which do not incur in the case of domestic purchases by the Chinese exporting producers.
- (201) The Commission considered that, according to Article 2(6a)(a) of the basic Regulation, the normal value should reflect the undistorted price of the raw materials in the representative country (in this case Thailand) as the relevant proxy to construct the normal value in the country of origin. It should therefore reflect the price that a producer of fasteners would pay in Thailand for the raw materials delivered at the factory gate. If import duties were not added, the resulting benchmark would not reflect the undistorted price on the Thai market, but merely the average CIF price in the countries exporting the raw materials in question. This would be contrary to Article 2(6a)(a) of the basic Regulation and thus these claims were rejected.

Labour

- (202) To establish the benchmark for labour costs the Commission used the most recent statistics published by the Thai National Statistics Office⁵⁵, which provided more detailed information on wages and non-wage benefits in different economic sectors by

⁵⁵<http://www.nso.go.th/sites/2014en/Pages/Statistical%20Themes/Population-Society/Labour/Labour-Force.aspx>

quarter than the International Labour Organisation ('ILO'). The Thai National Statistics Office publishes detailed information on wages in different economic sectors in Thailand. The Commission established the benchmark based on the Manufacturing Industry sector and the information found in a document prepared by KPMG on taxes and levies in Thailand⁵⁶. The Commission used this information to establish the social security tax paid by the employer. The Commission calculated an hourly salary in manufacturing, to which additional labour related costs borne by the employer were added.

- (203) As mentioned in recital (137), during the RCCs the Commission was unable to verify the actual hours the staff in the three sampled exporting producers worked on the product concerned. Therefore, the consumption of labour at all three sampled exporting producers was based on the best facts available in accordance with Article 18 of the basic Regulation. For one of these exporting producers, the Commission was, however, able to gather the information on the difference between the actual hours reported and the actual hours worked by its staff. The average labour hours per kilogram of product under investigation produced were used for all three exporting producers as the best facts available.

Electricity

- (204) To establish the benchmark price for electricity, the Commission used the quotation of the electricity price for business, industrial and state enterprises available on the website of the Metropolitan Electricity Authority⁵⁷, 4.2 Time of use tariff (TOU tariff). The benchmark was established based on the price for electricity published for the billing month of November 2018 and the applicable yearly inflation rate⁵⁸. The Commission used the data on the industrial electricity prices in the corresponding consumption band 4.2.3: Below 12 kV.
- (205) The benchmark was established for each company based on respective peak & off-peak consumption of the sampled exporting producers when available. The resulting percentage was allocated to the peak & off-peak rates. If a sampled exporting producer did not distinguish peak & off-peak consumption, peak rates were applied.
- (206) The demand charge was established, in kW, based on the number of employees employed in the production of the product concerned to derive an average number of working hours to provide a fixed cost. The weighted average rate for both peak & off-peak was established as a respective benchmark for each sampled exporting producers.

Gas

- (207) To establish the benchmark for gas, the Commission used the prices of gas for companies (industrial users) in Thailand published by the Energy Policy and Planning Office of the Ministry of Energy⁵⁹. The prices differed per consumption volume. The Commission used the corresponding prices from Table 7.2-4: Final Energy Consumption Per Capita. The Commission used as benchmark the most recent data relating to 2019.

⁵⁶ <https://home.kpmg/xx/en/home/insights/2011/12/thailand-other-taxes-levies.html>

⁵⁷ <http://www.me.a.or.th/en/profile/109/114>

⁵⁸ <https://www.bot.or.th/English/MonetaryPolicy/MonetPolicyCommittee/MPR/Monetary%20Policy%20Report/M-PR-EN-March2020.pdf> p19.

⁵⁹ <http://www.eppo.go.th/index.php/en/en-energystatistics/energy-economy-static>

- (208) The Commission converted the consumption from 1 000 Tonnes of oil equivalent to cubic meter⁶⁰ to establish the natural gas benchmark.
- (209) For both, electricity and gas, the Commission used prices at net level (without VAT).

Water

- (210) The price of water in Thailand is published by the Provincial Waterworks Authority⁶¹. To establish the benchmark price for water, the Commission used the average rate across all regions for which the relevant information was publically available.

Consumables/negligible quantities

- (211) Due to the large number of factors of production of the sampled exporting producers, some of the raw materials that only had a negligible weight in the total cost of production of the exporting producer as well as on a product type level were grouped under consumables.
- (212) The Commission calculated the percentage of the consumables on the total cost of raw materials and applied this percentage to the recalculated cost of raw materials when using the established undistorted prices.

SG&A and profit

- (213) According to Article 2(6a)(a) of the basic Regulation, '*the constructed normal value shall include an undistorted and reasonable amount for administrative, selling and general costs and for profits*'.
- (214) For establishing an undistorted and reasonable amount for SG&A and profits, the Commission used the SG&A and profit of the five companies in Thailand, which had been identified as producing fasteners as concluded in recital (189). Therefore, as outlined in those recitals, the Commission used the figures relating to 2019 and 2020 financial data as those were the most recent available data to the Commission. The five companies used were the following:
- (1) Topy Fasteners (Thailand) Limited;
 - (2) Thai Sin Metal Industries Company Limited;
 - (3) Bangkok Fastenings Company Limited;
 - (4) S.J Screwthai Company Limited;
 - (5) Sangthong Salakphan Company Limited.

Calculation of normal value

- (215) Based on the undistorted prices and benchmarks described above, the Commission constructed the normal value per product type on an ex-works basis in accordance with Article 2(6a)(a) of the basic Regulation.
- (216) To establish the undistorted costs of manufacturing for each legal entity manufacturing and exporting the product concerned, the Commission replaced, for each exporting producer, factors of production purchased from unrelated parties by the factors of production identified in Table 1.

⁶⁰ <https://www.convert-me.com/en/convert/energy/mcmmsgas/mcmmsgas-to-toe.html?u=toe&v=8452000>

⁶¹ <https://en.pwa.co.th/contents/service/table-price>

- (217) First, the Commission established the undistorted costs of manufacturing based on the factors of production purchased by each of the companies. It then applied the undistorted unit costs to the actual consumption of the individual factors of production of each of the sampled exporting producers.
- (218) Second, to arrive at the total undistorted costs of manufacturing, the Commission added manufacturing overheads. Manufacturing overheads incurred by the sampled exporting producers were increased by the costs of raw materials and consumables referred to in recitals (211) and (212) and subsequently expressed as a share of the costs of manufacturing actually incurred by each of the sampled exporting producers. This percentage was applied to the undistorted costs of manufacturing.
- (219) Finally, the Commission added SG&A and profit, determined on the basis of the five Thai companies (see recitals (330) and (331)). SG&A expressed as a percentage of the cost of manufacturing and applied to the undistorted total cost of manufacturing, amounted to 12.4 %. The profit expressed as a percentage of the costs of goods sold ('COGS') and applied to the total undistorted costs of manufacturing, amounted to 6.2 %.
- (220) On that basis, the Commission constructed the normal value per product type on an ex-works basis in accordance with Article 2(6a)(a) of the basic Regulation.

Export price

- (221) The three sampled exporting producers exported to the Union directly to independent customers therefore their export price was established on the basis of the export price actually paid or payable, in accordance with Article 2(8) of the basic Regulation.

Comparison

- (222) The Commission compared the normal value and the export price of the sampled exporting producers on an ex-works basis. 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 upon the actual figures of the cooperating company, adjustments were made for handling charges, freight, insurance, packing, credit costs and bank charges.

Dumping margins

- (223) For the sampled exporting producers the Commission compared the weighted average normal value of each type of the like product with the weighted average export price of the corresponding type of the product concerned to calculate the dumping margin, in accordance with Article 2(11) and (12) of the basic Regulation.
- (224) For the non-sampled cooperating exporting producers, the Commission calculated the weighted average dumping margin established for the sampled exporting producer, in accordance with Article 9(6) of the basic Regulation.
- (225) As set out in recital (130), the level of cooperation from exporting producers in China was considered low. Therefore, for all other exporting producers in China, the Commission considered it appropriate to establish the dumping margin on the basis of the highest dumping margin established for the most representative product type sold by the sampled exporting producers. Therefore, the Commission considered it appropriate to set the country-wide dumping margin applicable to all other non-cooperating exporting producers at the level of 89,8%.

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

Company	Definitive dumping margin
Jiangsu Yongyi Fastener Co., Ltd.	23,9%
Ningbo Jinding Fastening Piece Co., Ltd.	48,1%
Wenzhou Junhao Industry Co., Ltd.	51,5%
Other cooperating companies	41,8%
All other companies	89,8%

INJURY

Preliminary remarks

- (227) As indicated in recitals (75) and (76), the transition period for the UK withdrawal ended on 31 December 2020 and the UK ceased to be subject to Union law as of 1 January 2021. Given that the deadline to provide questionnaire replies and other information fell after the transition period, the Commission requested interested parties to provide information on EU-27 basis. Findings on injury, causation and Union interest were therefore assessed on the basis of EU-27 data.

Definition of the Union industry and Union production

- (228) The like product was manufactured by more than 70 producers in the Union during the investigation period. They constitute the ‘Union industry’ within the meaning of Article 4(1) of the basic Regulation.
- (229) The total Union production during the investigation period was established at 1 060 569 tonnes. The Commission established the figure on the basis of data provided by the complainant and the sampled Union producers. As indicated in recital (42), four Union producers were part of the final sample. They represented 9.5% of the total Union production of the like product.

Union consumption

- (230) The Commission established the Union consumption by adding the total estimated sales volume of the Union industry in the Union market (see table 6) to the total import volume as identified from Eurostat (see tables 3 and 12).
- (231) Union consumption developed as follows:

Table 2 — Union consumption (in tonnes)				
	2017	2018	2019	Investigation period
Total Union consumption	2 134 778	2 093 096	1 959 386	1 748 012
<i>Index</i>	<i>100</i>	<i>98</i>	<i>92</i>	<i>82</i>

Source: EFI and Eurostat

- (232) The Union consumption decreased during the period considered. Overall, the Union consumption decreased by 18%, passing from 2 134 778 tonnes in 2017 to 1 748 012 tonnes in the IP.

Imports from the country concerned

Volume and market share of the imports from the country concerned

- (233) The Commission established the volume of imports on the basis of Eurostat. The market share of imports was established on the basis of the import volume and total Union consumption.

Table 3 — Import volume (in tonnes) and market share				
	2017	2018	2019	Investigation period
Volume of imports from China	135 287	171 152	207 946	209 033
<i>Index</i>	<i>100</i>	<i>127</i>	<i>154</i>	<i>155</i>
Market share	6%	8%	11%	12%
<i>Index</i>	<i>100</i>	<i>129</i>	<i>167</i>	<i>189</i>
<i>Source: Eurostat</i>				

- (234) Import volume from China increased by 54% between 2017 and 2019 and remained relatively stable between 2019 and the IP. Overall, import volume rose by 55% during the period considered.
- (235) Considering the decreasing Union consumption, the Chinese imports market share rose steadily between 2017 and the IP, passing from 6% to 12%.

Prices of the imports from the country concerned and price undercutting

- (236) The Commission established the average prices of imports on the basis of Eurostat dividing the total values of Chinese imports by the total volume of those imports.
- (237) The average price of imports from the country concerned developed as follows:

Table 4 — Import prices (EUR/ tonne)				
	2017	2018	2019	Investigation period
PRC	1 375	1 529	1 518	1 473
<i>Index</i>	<i>100</i>	<i>111</i>	<i>110</i>	<i>107</i>
<i>Source: Eurostat</i>				

- (238) Import prices from the country concerned rose by 11% between 2017 and 2018 and decreased in 2019 by 1% and in the IP by another 3%. Overall, during the period considered, Chinese import prices rose by 7%. This increase did however, by far, not cover the price increase in the raw material cost that was 30% during the same period. Moreover, import prices remained constantly below the Union sales prices as mentioned in Table 8.
- (239) The Commission determined the price undercutting during the investigation period by comparing:
1. the weighted average sales prices per product type of the sampled Union producers charged to unrelated customers on the Union market, adjusted to an ex-works level; and
 2. the corresponding weighted average prices per product type of the imports from the sampled cooperating Chinese producers to the first independent customer on the Union market, established on a Cost, insurance, freight (CIF) basis, with appropriate adjustments for regular customs duties and post-importation costs.
- (240) The price comparison was made on a type-by-type basis for transactions at the same level of trade, duly adjusted where necessary, and after deduction of rebates and discounts. The result of the comparison was expressed as a percentage of the sampled Union producers' turnover during the investigation period. It showed a weighted average undercutting margin of between 28% and 46% by the imports from the country concerned on the Union market.

Claims on price comparability

- (241) EFDA and the CCCME claimed that standard fasteners are not interchangeable with non-standard fasteners and that they do not compete with each other. They emphasised that non-standard fasteners are usually more expensive than standard fasteners. While Chinese exporting producers mainly export standard fasteners, the Union industry predominantly produces and sells non-standard fasteners. Therefore, any price comparison should be based on a careful distinction between standard and non-standard fasteners. Likewise, the CCCME highlighted that the three main product types covered by this investigation, i.e. screws, bolts and washers, are different from each other which should be duly taken into consideration in the price comparison.
- (242) Similarly, EDRA claimed that a price comparison between the Union sales price in the Union market and the Chinese import price should take into consideration the distinction between standard and non-standard fasteners. One of the importers alleged that the Union industry producers' internal product codes would not distinguish between standard and non-standard fasteners and that therefore, a comparison between the sales prices of the Union industry and the Chinese imports would be inadequate.
- (243) EFDA argued that fasteners, even in case they are produced based on an internationally recognised standards, may also comply with specific additional customer requirements, i.e. requirements that differ from the ones laid down in the standard; or that are not addressed by such standard; or that are more stringent than the ones defined in the standard. These fasteners should be considered as non-standard fasteners. In the same vein, the CCCME argued that not only fasteners that are produced based on customer drawings should be considered as non-standard

fasteners, but also those that take into account other customer requirements, even if such fastener is fully in line with international product standards.

- (244) EFDA also pointed to a difference between ‘product standards’ and ‘inspection standards’ and between ‘basic’ product standards and ‘special’ product standards. They argued that while fasteners complying with basic product standards can be considered as standard fasteners, fasteners that comply with inspection standards and special product standards should be considered as non-standard fasteners for the purpose of this investigation, since these requirements fulfil the same role as customer specific requirements.
- (245) Moreover, EFDA and the CCCME highlighted that fasteners produced by the Union industry are often produced with their standard production set-ups, while they have requirements going beyond internationally recognised standards. These fasteners should be considered as non-standard fasteners.
- (246) Finally, EFDA and the CCCME referred to specific certification requirements in certain industries (mainly the automotive industry). These are compliance requirements for suppliers of fasteners and include for instance the obligation of documentation of the manufacturing process of fasteners, the recording of certain data and quality control steps⁶². EFDA claimed that the necessary investments in the suppliers’ manufacturing process to comply with such requirements are reflected in higher costs and prices and therefore, fasteners produced under such conditions should be considered as non-standard fasteners. The CCCME claimed that all fasteners used in the automotive industry should be considered as non-standard fasteners.
- (247) The Commission noted that standard fasteners are described in detail by industry standards, such as, for example, Deutsches Institut für Normung (DIN), International Organization for Standardization (ISO) or European Norms (EN) drafted and maintained by the European Committee for Standardization (CEN). Non-standard fasteners on the other hand, are those that show differences to the industry-recognised standards and often conform to a particular user’s design and/or requirements. Therefore customer drawings that deviate from a recognised international standard makes a fastener special, or non-standard. Likewise, fasteners that are produced on standard production lines were considered as special fasteners when they do not fully comply with a specific internationally recognised industry standard.
- (248) The Commission noted that all claims made as to which types of fasteners should be considered as non-standard fasteners, with the exception of those mentioned in recitals (249) and (250) were in fact non-disputed by the Union industry and also corresponded to the understanding that as soon as a standard fasteners does not comply exactly with an industry product standard, it should be considered as non-standard/special fastener.
- (249) Regarding special production standards and inspection standards mentioned in recital (244), the Commission considered that as long as a fastener is produced exactly to the technical specifications of an internationally recognised standard, it should be

⁶² Production Part Approval Process (‘PPAP’) and Production Process and Production Approval (‘PPA’) level 3 or higher used in the automotive industry.

considered as a standard fastener, and the claims made in this regard were therefore rejected.

- (250) Certification requirements mentioned in recital (246) are customer specific compliance requirements that may not have a direct impact to the technical requirements of the fastener itself as set out in internationally recognised standards. Thus, compliance requirements as long as they do not interfere with the physical and technical characteristics of the fastener or do not constitute a specific customer drawing, but refer mainly to issues such as documentation requirements in the manufacturing process or the recording of quality checks for instance, were not considered a criterion for differentiating standard and non-standard fasteners and the claims made in this regard were rejected.
- (251) The CCCME further argued that fasteners are sold almost exclusively via distributors to end-users and that this should be taken duly into consideration in the price comparison that should be made at the level of trade of distributors. As mentioned in recital (221), all export sales were made directly to independent customers in the Union and the therefore, prices paid or payable were taken into consideration in the comparison rather than constructed export prices. Also, the Union industry sold most of its sales via distributors and price comparison between the import prices and the sales prices of the Union industry on the Union market were made at the same level of trade. This argument was therefore not relevant in the present investigation.

Economic situation of the Union industry

- (252) 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.
- (253) As mentioned in recitals (19) to (42), sampling was used for the determination of possible injury suffered by the Union industry.
- (254) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators on the basis of data provided by the complainant, cross-checked with the data provided by the sampled Union producers. The macroeconomic data related to all Union producers.
- (255) The Commission evaluated the microeconomic injury indicators on the basis of data contained in the questionnaire replies from the sampled Union producers.
- (256) Both sets of data were found to be representative of the economic situation of the Union industry.
- (257) 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.
- (258) The microeconomic indicators are: average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital.
- (259) As set out in recital (54), one exporting producer claimed that the sample of exporting producers was mainly composed of companies producing bolts (as opposed to producers of screws) and therefore it would not be representative for the

Chinese industry and exports overall. The injury analysis should therefore be carried out separately for screws, on the one hand, and bolts, on the other hand.

- (260) In addition, as set out in recitals (93) and (114) one exporting producer of structural timber screws and one exporting producer of confirmat screws claimed that these product types were not included in the scope of this investigation. Alternatively, these interested parties argued that the injury analysis should be carried out separately for these product types.
- (261) As mentioned in recital (118), the CCCME requested that macroeconomic injury indicators are collected and assessed separately for standard fasteners, on the one hand, and non-standard fasteners, on the other hand, on the basis that the Union industry produces and sells predominantly non-standard fasteners, while the exporting producers from China predominantly produce and export standard fasteners.
- (262) The comments regarding the representativity of the sample of exporting producers were already addressed in recital (56). Likewise, comments and claims of interested parties regarding the product scope of the investigation were already addressed in recitals (91) to (120).
- (263) Regarding the claims that the injury analysis should be carried out separately per product types, the Commission recalls that recital (88) concluded that all product types were considered as one single product for the purpose of this investigation as they shared the same basic physical and technical characteristics and the same basic end-uses. Any determination of dumping, injury and causation was therefore based on the product as a whole. No evidence was provided that would have justified a separate analysis per product type. These claims were therefore rejected.
- (264) The CCCME and EFDA submitted that weighing of microeconomic injury indicators of the sampled Union producers that were SMEs would be against the basic Regulation and WTO provisions and should therefore not be applied. They argued that such methodology would artificially increase the weight of data supplied by SMEs, while artificially lowering the weight of data provided by large companies. As the Commission did not weight injury indicators, no further analysis of this claim was necessary.

Macroeconomic indicators

Production, production capacity and capacity utilisation

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

Table 5 — Production, production capacity and capacity utilisation				
	2017	2018	2019	Investigation period
Production volume (tonnes)	1 421 735	1 346 720	1 238 982	1 060 569
<i>Index</i>	<i>100</i>	<i>95</i>	<i>87</i>	<i>75</i>

Production capacity (tonnes)	2 317 772	2 256 337	2 247 276	2 310 557
<i>Index</i>	<i>100</i>	<i>97</i>	<i>97</i>	<i>100</i>
Capacity utilisation	61%	60%	55%	46%
<i>Index</i>	<i>100</i>	<i>97</i>	<i>90</i>	<i>75</i>
<i>Source: EIFI, verified questionnaire replies</i>				

- (266) During the period considered, the Union industry production volume decreased steadily and overall by 25%.
- (267) Production capacity remained stable over the period considered at roughly 2 300 000 tonnes. However, capacity utilisation decreased significantly due to the significant reduction of the production volumes, and decreased from 61% in 2017 to only 46% during the IP.

Sales volume and market share

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

	2017	2018	2019	Investigation period
Sales volume on the Union market (tonnes)	1 414 956	1 303 730	1 199 408	1 038 934
<i>Index</i>	<i>100</i>	<i>92</i>	<i>85</i>	<i>73</i>
Market share	66%	62%	61%	59%
<i>Index</i>	<i>100</i>	<i>94</i>	<i>92</i>	<i>90</i>
<i>Source: EIFI, verified questionnaire replies</i>				

- (269) The Union industry sales volume decreased by 27% over the period considered, significantly faster than the decrease of consumption that decreased by 18% during the same period.
- (270) As a consequence, the Union industry market share fell from 66% in 2017 to 59% during the IP, i.e. a decrease of 10% or 7 percentage points.

Growth

- (271) In a context of decreasing consumption, the Union industry not only lost sales volumes in the Union but also market share.

Employment and productivity

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

Table 7 — Employment and productivity				
	2017	2018	2019	Investigation period
Number of employees (FTE)	22 004	20 960	21 060	21 134
<i>Index</i>	<i>100</i>	<i>95</i>	<i>96</i>	<i>96</i>
Productivity (tonne/employee)	65	64	59	50
<i>Index</i>	<i>100</i>	<i>99</i>	<i>91</i>	<i>78</i>
<i>Source: EIFI, verified questionnaire replies</i>				

(273) The Union industry employment decreased over the period considered, due to the reduction in production and sales. This resulted in a reduction of workforce by 4% without taking into consideration any indirect employment.

(274) As the production volume decreased even faster than the number of employees, the productivity of the Union industry fell by 22% over the period considered.

Magnitude of the dumping margin and recovery from past dumping

(275) The dumping margins established during this investigation were all significantly above the *de minimis* level. The impact of the magnitude of the actual margins of dumping on the Union industry was substantial, given the volume and prices of imports from the country concerned.

Microeconomic indicators

Prices and factors affecting prices

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

Table 8 — Sales prices in the Union				
	2017	2018	2019	Investigation period
Average unit sales price in the Union on the total market (EUR/tonne)	2 467	2 664	2 810	2 738
<i>Index</i>	<i>100</i>	<i>108</i>	<i>114</i>	<i>111</i>

Unit cost of production (EUR/tonne)	2 501	2 632	2 808	2 921
Index	100	105	112	117
<i>Source: Questionnaire replies of the sampled Union producers</i>				

- (277) The unit sales prices of the Union industry rose by 11% between 2017 and the IP. This was significantly lower than the increase in the unit cost of production of the Union industry (+17%) over the period considered. As a result, the Union sales prices which were higher than the unit cost of production in 2018 and 2019, went below the unit cost of production during the IP, due to the significant price pressure operated by the Chinese imports that were undercutting the Union industry's sales price by 37% during the IP.

Labour cost

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

	2017	2018	2019	Investigation period
Average wages per employee (EUR)	42 341	44 784	44 016	39 891
<i>Index</i>	<i>100</i>	<i>106</i>	<i>104</i>	<i>94</i>
<i>Source: Questionnaire replies of the sampled Union producers</i>				

- (279) During the period considered the average labour cost per employee decreased by 6%.

Inventories

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

	2017	2018	2019	Investigation period
Closing stocks (tonnes)	39 021	40 191	45 398	41 638
<i>Index</i>	<i>100</i>	<i>103</i>	<i>116</i>	<i>107</i>
<i>Source: Questionnaire replies of the sampled Union producers</i>				

- (281) The level of closing stocks increased by 16% between 2017 and 2019 and fell by 9% between 2019 and the IP. Overall, during the period considered, the volumes of closing stocks rose by 7%.

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

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

Table 11 — Profitability, cash flow, investments and return on investments				
	2017	2018	2019	Investigation period
Profitability of sales in the Union to unrelated customers (% of sales turnover)	6%	5%	4%	-1%
<i>Index</i>	<i>100</i>	<i>78</i>	<i>61</i>	<i>-15</i>
Cash flow (EUR)	39 458 582	29 914 473	23 776 496	14 621 456
<i>Index</i>	<i>100</i>	<i>76</i>	<i>60</i>	<i>37</i>
Investments (EUR)	26 709 539	20 090 697	17 534 570	11 400 254
<i>Index</i>	<i>100</i>	<i>75</i>	<i>66</i>	<i>43</i>
Return on investments	10%	9%	6%	-1%
<i>Index</i>	<i>100</i>	<i>86</i>	<i>62</i>	<i>-8</i>
<i>Source: Questionnaire replies of the sampled Union producers</i>				

- (283) 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.
- (284) Profitability decreased every year between 2017 and the IP, when it became negative. This trend is mainly due to the fact that the Union industry was not able to reflect the increase in cost of production in their sales prices due to pressure from dumped imports which undercut the Union industry sales prices on average at 37%.
- (285) The net cash flow is the ability of the Union producers to self-finance their activities. The net cash flow decreased steadily during the period considered, and with an

overall drop of 63%, mainly due to the deteriorated of profit before tax, during the same period.

- (286) The return on investments is the profit in percentage of the net book value of investments. It fell even faster than the profitability and the cash flow, decreasing each year during the period considered and becoming negative in the IP, as an effect of the negative profitability. Over the same period, the Union industry halved the level of its investments resulting in a drop of 57%. The ability of the Union industry to raise capital had been severely affected by the erosion of the profitability as well as of the cash flow incurred over the period considered.

Conclusion on injury

- (287) All main injury indicators showed a negative trend during the period considered. The production volume of the Union industry decreased by 25% and its sales volume decreased by 27%. With the decrease in consumption of 18%, the market share of the Union industry fell by 10% reaching 59 % during the IP.
- (288) While the sales price increased by 11% over the period considered, this was not enough to offset the increase in the unit cost of production (+17%), resulting in a continuous erosion of the profitability over the period considered. Such price suppression lead to a loss during the IP. A similar decreasing trend was observed for the employment, average labour costs, investments, return on investment and cash flow which decreased over the period considered.
- (289) Based on the above, the Commission concluded that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.
- (290) EFDA and the CCCME claimed that the Union industry was not suffering any injury and referred to publicly available information indicating positive profitability for certain Union producers in 2019, or positive trends in some of the injury indicators.
- (291) The injury analysis carried out by the Commission was based on aggregated data of the sampled Union producers relating to the production and sales of the like product in the Union for microeconomic indicators, and on data pertaining to the entire Union industry for macroeconomic indicators. In contrast, the information provided by EFDA and the CCCME was based on publicly available data pertaining to only individual Union producers. It was therefore not considered representative. Likewise, the Commission's analysis covered all injury indicators over several years (the period considered), while the information provided by EFDA and the CCCME covered only one financial year, or only certain specific injury indicators, such as profitability. Finally, the data collected by the Commission pertained to the product under investigation only and were subject to verification. The information provided by EFDA and the CCCME was therefore not considered adequate to determine the situation of the entire Union industry during the period considered and did not devalue the findings based on the more precise data verified by the Commission. The claims made by EFDA and the CCCME in this regard were therefore rejected.

CAUSATION

- (292) In accordance with Article 3(6) of the basic Regulation, the Commission examined whether the dumped imports from the country concerned caused material injury to the Union industry. In accordance with Article 3(7) of the basic Regulation, the Commission also examined whether other known factors could at the same time have injured the Union industry. The Commission ensured that any possible injury caused

by factors other than the dumped imports from the country concerned was not attributed to the dumped imports. These factors are imports from other third countries, decrease in Union consumption, structural changes in the automotive sector, imports of fasteners by the Union industry, development of raw material prices and possible competitive advantages of the Chinese exporting producers, the COVID -19 pandemic and the alleged mismanagement by the Union industry.

Effects of dumped imports

- (293) The deterioration in the situation of the Union industry coincided with the significant increase of imports from China, which consistently undercut the Union industry's prices and suppressed Union market price during the IP. As mentioned in recital (277) import prices of the sampled exporting producers undercut Union prices by 37% on average during the investigation period.
- (294) The volume of imports from China increased from around 135 000 tonnes in 2017 to around 209 000 in the investigation period, an increase of 55%. Market share increased by 6 percentage points from 6% in 2017 to 12% in the investigation period. Over the same period, the Union industry sales decreased by 27 % and its market share fell from 66% to 59 %, i.e. by 7 percentage points.
- (295) The prices of the dumped imports increased by 7 % over the period considered, significantly less than the parallel price increase of the raw material (mainly wire rod). The low import prices lead to a price pressure on the Union market that were consistently below Union industry prices throughout the period considered. The Union industry was therefore not able to raise its prices to sustainable levels which resulted in a decreasing profitability and to losses during the IP.
- (296) On the basis of the above, the Commission concluded that imports from China caused material injury to the Union industry. Such injury had both volume and price effects.
- (297) EFDA and the CCCME referring to the prima facie evidence in the complaint, asserted that certain Union producers filed for bankruptcy already in 2016 and 2017, i.e. prior to the increase of Chinese imports. The CCCME emphasised that the anti-dumping measures in force on imports of fasteners originating in China were only lifted in March 2016⁶³ and no imports from China were entering the Union market before that date. This would demonstrate that any injury suffered by the Union industry already existed prior to the increase of imports from China between 2017 and the IP. Therefore, any injury suffered by the Union industry cannot be attributed to the Chinese imports.
- (298) Furthermore, EFDA, referring to publicly available information claimed that several Union producers were in a healthy financial situation despite Chinese imports. They argued that since all Union producers should have been affected by such imports in the same way, any material injury of the Union industry as a whole cannot be attributed to the Chinese imports, but necessarily must have been caused by other factors.

⁶³ Commission Implementing Regulation (EU) 2016/278 of 26 February 2016 repealing the definitive anti-dumping duty imposed on imports of certain iron or steel fasteners originating in the People's Republic of China, as extended to imports of certain iron or steel fasteners consigned from Malaysia, whether declared as originating in Malaysia or not (OJ L 52, 27.2.2016, p. 24)

- (299) The above claims were not confirmed during the investigation. As outlined in recital (293) to (295), there was a clear coincidence in time between the increase of dumped imports and the deterioration of the Union industry. The increase of imports continued well beyond the repeal of the measures that were in force against Chinese imports and such increase was therefore not considered as a mere consequence of the repeal. The Commission also notes that the situation of the Union industry as a whole has been assessed and that the situation of individual Union producers may vary which cannot, however, be considered as representative for the whole Union industry. These claims were therefore rejected.
- (300) As mentioned in recital (112), an anchor producer in the Union argued that its related exporting producer in China is the only one with an official EU certification for concrete anchor screws and therefore the only one exporting this product type to the Union. Since it did not export this product during the investigation period, it could not have caused any injury to the Union industry.
- (301) As set out in recitals (93), (112) and (114), one exporting producer of structural timber screws, one exporting producer of confirmat screws and one exporting producer group of concrete anchor screws claimed that these product types were not included in the scope of this investigation. Alternatively, these interested parties claimed that causality should be determined separately. In the case of confirmat screws and constructional timber screws the parties argued that they were not in competition with any of the product types produced by the Union industry, while in the case of concrete anchor screws, the exporting producer group affirmed that it did not export the product during the investigation period and therefore, it could not have caused any injury to the Union industry.
- (302) As outlined in recital (88), all product types were considered as one single product for the purpose of this investigation as they shared the same basic physical and technical characteristics and the same basic end-uses. As already outlined in recital (263), any determination of dumping, injury and causation was therefore based on the product as a whole. No evidence was provided that would have justified a separate analysis per product type. It is also irrelevant whether all product types were exported during the investigation period. Finally, as already outlined in recital (111) it is not relevant that all product types are fully interchangeable as long as all types have the same basic physical and technical characteristics and same basic end-uses. These claims were therefore rejected.
- (303) The CCCME argued that sales of the Union industry did not compete with Chinese imports, because the latter predominantly produced and exported standard fasteners, while the Union industry produced and sold predominantly non-standard fasteners. On this basis, the CCCME argued that any injury suffered by the Union industry cannot be attributed to the imports of Chinese fasteners.
- (304) The investigation has shown that exports from China included exports of non-standard fasteners and that there were several producers of non-standard fasteners in China. In addition, several Union producers are producing standard fasteners, including two sampled Union producers. There was therefore competition between the imports from China and the Union industry's sales and this claim was rejected.

Effects of other factors*Imports from other third countries*

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

Table 12 — Imports from third countries					
Country		2017	2018	2019	Investigation period
Taiwan	Volume (tonnes)	286 454	292 726	261 244	236 636
	<i>Index</i>	<i>100</i>	<i>102</i>	<i>91</i>	<i>83</i>
	Market share	13%	14%	13%	14%
	Average price	2 176	2 233	2 358	2 387
	<i>Index</i>	<i>100</i>	<i>103</i>	<i>108</i>	<i>110</i>
Vietnam	Volume (tonnes)	94 275	107 243	91 329	84 595
	<i>Index</i>	<i>100</i>	<i>114</i>	<i>97</i>	<i>90</i>
	Market share	4%	5%	5%	5%
	Average price	1 428	1 530	1 632	1 591
	<i>Index</i>	<i>100</i>	<i>107</i>	<i>114</i>	<i>111</i>
Turkey	Volume (tonnes)	45 863	50 691	43 498	38 919
	<i>Index</i>	<i>100</i>	<i>111</i>	<i>95</i>	<i>85</i>
	Market share	2%	2%	2%	2%
	Average price	2 700	2 706	2 615	2 654
	<i>Index</i>	<i>100</i>	<i>100</i>	<i>97</i>	<i>98</i>
Other third countries	Volume (tonnes)	157 942	167 555	155 962	139 895

	<i>Index</i>	7%	8%	8%	8%
	Market share	8%	9%	9%	9%
	Average price	3 177	3 133	3 302	3 321
	<i>Index</i>	100	99	104	105
Total of all third countries except China	Volume (tonnes)	584 535	618 214	552 032	500 045
	<i>Index</i>	100	106	94	86
	Market share	27%	30%	28%	29%
	Average price	2 367	2 394	2 525	2 534
	<i>Index</i>	100	101	107	107
<i>Source: Eurostat</i>					

- (306) Imports from other third countries were mainly from Taiwan, Vietnam and Turkey. Total imports volume from all third countries except China decreased by 14%, between 2017 and the IP, passing from around 585 000 to around 500 000 tonnes. The corresponding market share rose from 27% in 2017 to 29% in the IP, in a context of decreasing consumption in the Union market. Overall, the average import prices increased by 7% during the period considered and were on average considerably higher than the prices of imports from China (72% higher in the RIP), in line with the prices of the Union industry. The only exception was Vietnam, whose prices were only 8% higher than the Chinese imports. Nevertheless, the market share of Vietnamese imports during the investigation period (5%) was significantly lower than the market share of Chinese imports during the same period (12%). Moreover, between 2017 and the investigation period, import volumes from Vietnam decreased by 10%, whilst Chinese import volumes rose by 55%.
- (307) On the basis of the above, the Commission concluded that imports from other third countries were not the source of the material injury suffered by the Union industry.
- (308) At initiation, the CCCME claimed that there was a coincidence in time between the increase of imports from other third countries between 2017 and 2018 and the injury suffered by the Union industry and that therefore, any injury should be attributed to the imports from other third countries rather than China.
- (309) This argument does not take into account the development of the Union industry throughout the entire period considered but only focused on two years of this period, while the injurious situation of the Union industry cannot be limited to only 2017 and 2018. It is also in contrast to the findings of the current investigation which has shown that there was, over the period considered, a gradual and substantial increase

of dumped Chinese imports that coincided with a loss of sales of the Union industry and a negative development of injury indicators. In addition, prices from other third country imports were considerably higher than prices of Chinese imports. This claim was therefore rejected.

Decrease of the Union consumption

- (310) During the period considered Union consumption decreased by 18%. The Commission therefore examined whether this decrease in consumption could attenuate the causal link between the dumped imports and the material injury suffered by the Union industry. However, as shown in Table 3, despite the decrease in consumption, Chinese export sales increased steadily over the period considered and in total by 55%. This increase translated in an increase of market share from 6% to 12%, i.e. 6 percentage points. In parallel, and as set out in recital (240), Chinese import prices were undercutting the Union industry sales prices on the Union market by 37% on average. As shown in Table 6, the Union industry's market share shrank by 7 percentage points during the period considered, which corresponded roughly to the gain of market share by the Chinese imports, whilst the market share of other third countries increased by merely 2 percentage points and decreased in absolute terms. On this basis, the Commission concluded that the decrease in consumption did not cause the material injury to the Union industry

Structural changes in the automotive sector

- (311) Several interested parties claimed that the global automotive market has been shrinking over the past years and has in addition, also gone through important structural changes. They asserted that these developments were mainly due to an increasing trend towards vehicle electrification away from diesel powered engines. Since the electric powered engines require lower specification fasteners there has been a drop in demand of non-standard fasteners. This situation was further accentuated by a general downsizing of vehicles requiring a reduced number of fasteners. In addition, the automotive sector has known a number of consolidations through major mergers and acquisitions, which led to product rationalisation which, in turn impacted the demand of fasteners negatively. These parties claimed that this development affected in particular the Union industry who is predominantly producing non-standard fasteners for the automotive industry.
- (312) The investigation revealed that the Union consumption of fasteners destined for the automotive sector between 2008 and the IP did not exceed [25-32%] of the total Union production. This estimation was based on evidence provided by EIFI based on data on the total production volume of Light Vehicles (LV) and the fasteners used in the production of LV (including electric, hybrid and internal combustion vehicles) over a period from 2008 and the IP⁶⁴. The claim that the Union industry as a whole is predominantly producing for the automotive industry could therefore not be confirmed by the current investigation. To the contrary, the investigation has shown that Union producers were supplying to various industry sectors including those using standard fasteners. The downturn in the automotive sector therefore did not affect the entire Union industry in equal terms, and a large part of the Union production was not affected at all. In addition, the investigation has also shown that the decrease in production of LV did also not have automatically have a negative effect on the Union producers supplying the automotive industry. In particular, the

⁶⁴ HIS Markit Inc <https://ihsmarkit.com/index.html> and A2Mac1 <https://portal.a2mac1.com/>

information available has shown that the production of powertrains for fully electric cars is still relatively low while there has been a substantial growth in hybrid powertrains. The consumption of fasteners in hybrid vehicles is, however, higher than the consumption of fasteners in gasoline cars. Therefore, while part of the Union industry may have been negatively affected by the development in the automotive industry, this was not the case for large part of the Union industry that is not supplying the automotive industry and therefore, this could not attenuate the causal link between the dumped Chinese imports and the material injury suffered by the whole Union industry. The claims in this regard were therefore rejected.

Imports from the Union industry

- (313) EFDA and one of the sampled importers claimed that the Union industry is importing standard fasteners from other third countries including China to establish themselves as traders of standard fasteners in the Union. They alleged that imports would be necessary to maintain their production capacities of the non-standard fasteners that are more lucrative than standard fasteners. In addition, one importer claimed that these imports are mainly from other third countries, in order to avoid anti-dumping duties in the future and therefore position themselves in a better competitive situation than traditional importers of fasteners whose suppliers are mostly in China.
- (314) The investigation did not confirm these allegations. Imports of fasteners from China by the sampled Union producers represented less than 1% of their total production of fasteners; and imports from other third countries less than 3%. In addition, as mentioned in recital (306), imports from other third countries had price levels similar to those of the Union industry. Therefore, the Commission concluded that imports of fasteners from China or other third countries did not break the causal link between the material injury suffered by the Union industry and the dumped imports from China.

Competitive advantages of the Chinese exporting producers

- (315) One of the sampled importers claimed that the Chinese producers would have competitive advantages, such as access to lower raw material prices, lower labour costs, less stringent legal environmental requirements and export subsidies.
- (316) As established in recital (141) and following, the alleged competitive advantages were in reality significant distortions on the Chinese market with regard to domestic prices and costs and normal value for the sampled exporting producer was therefore constructed in accordance with Article 2(6a) of the basic Regulation. The existence of those distortions in China cannot be considered a factor attenuating the causal link between dumped imports and the material injury suffered by the Union industry. Rather, those elements confirm that those distortions lead to artificially low export prices and dumping. The claims in this regard were therefore rejected.

COVID-19 pandemic

- (317) EFDA argued that the COVID-19 pandemic that started in the first half of 2020 caused the material injury suffered by the Union industry.
- (318) As shown in Table 2, Union consumption already started decreasing in 2019, i.e. before the COVID-19 pandemic. This decrease continued during the investigation period, which covered the first half of 2020. Nevertheless, as mentioned in recital (310), Chinese imports increased during the same period, both in absolute terms and in terms of market share, penetrating the Union market at dumped prices undercutting substantially the Union industry sales prices. This is in contrast to

imports from other third countries, import volumes of which decreased in absolute terms and their import prices were overall on average in the same range than those of the Union industry.

- (319) As shown in Table 3, the dumped Chinese imports had already increased steadily on a year-on-year basis in the period 2017-2019 leading to an increase of 54% in 2019, i.e. until the start of the COVID-19 pandemic. In other words, the material injury caused to the Union industry by the dumped imports had already materialised as evidenced by the negative development of most macro - and microeconomic indicators in the period 2017-2019 when the COVID-19 came into the equation.
- (320) In this context, it cannot be denied that the COVID-19 pandemic, and the following decrease in consumption, contributed to further aggravate the already deteriorated Union industry's situation. However, this development does not attenuate the causal link between the material injury found and the dumped imports from China. As noted above, the Union industry was materially injured by dumped imports from China that increased by 54% during the three-year period before the pandemic outbreak so it is clear that material injury already occurred before and regardless of the pandemic.

Mismanagement by the Union industry

- (321) One of the sampled importers claimed that the injury of the Union producers that are also active in the production and sale of standard fasteners was due to bad business and investments decisions and internal structural difficulties and cannot be attributed to the Chinese exports of fasteners.
- (322) This claim was made on a very general basis, without any further details and without providing any evidence in its support. It was therefore rejected.

Conclusion on causation

- (323) The increase of dumped imports from China coincided with the decline of the Union industry's situation. The Chinese imports gained significant market share in the context of a decreasing consumption, at the expense of the Union industry that lost sales volume and market share. In terms of prices, the increasing market share of the Chinese imports continuously undercut those of the Union industry sales prices on the Union market, created substantial price pressure and prevented the Union industry to increase its prices to sustainable levels necessary to achieve reasonable profit margins.
- (324) Possible other factors were also examined, but none of them could attenuate the causal link of the material injury suffered by the Union industry. The Commission distinguished and separated the effects of all known factors on the situation of the Union industry from the injurious effects of the dumped imports.
- (325) On the basis of the above, the Commission concluded that the dumped imports from China caused material injury to the Union industry and that other factors, considered individually or collectively, did not attenuate the causal link between the dumped imports and the material injury. The injury is clear in particular in the evolution of production, capacity utilisation, sales volume in the Union market, market share, productivity, profitability and return on investments.

LEVEL OF THE MEASURES

- (326) Based on the conclusions reached by the Commission on dumping, injury, causation and Union interest, definitive measures should be imposed to prevent further injury being caused to the Union industry by the dumped imports.
- (327) To determine the level of the measures, the Commission examined whether a duty lower than the margin of dumping would be sufficient to remove the injury caused by dumped imports to the Union industry.

Injury elimination level (injury margin)

- (328) The Commission first established the amount of duty necessary to eliminate the injury suffered by the Union industry. In this case, the injury would be eliminated if the Union industry was able to cover its costs of production, including those costs resulting from multilateral environmental agreements, and protocols thereunder, to which the Union is a party, and of ILO Conventions listed in Annex Ia of the basic Regulation, and was able to obtain a reasonable profit ('target profit') by selling at a target price in the sense of Articles 7(2c) and 7(2d) of the basic regulation.
- (329) In accordance with Article 7(2c) of the basic Regulation, for establishing the target profit, the Commission took into account the level of profitability before the increase of imports from the country concerned and the level of profitability to be expected under normal conditions of competition. Such profit margin should not be lower than 6 %.
- (330) The Commission established a basic profit covering full costs under normal conditions of competition. The Commission took the profits achieved by the sampled Union producers before increase of imports from China. Such profit margin was established at 5,9 %, which corresponds to the level of profit achieved by the Union industry in 2017. As this was lower than the minimum 6 % required by Article 7(2c) of the basic Regulation, this profit margin was replaced by 6%.
- (331) No claims were made that the Union industry's level of investments, research and development (R&D) and innovation during the period considered would have been higher under normal conditions of competition.
- (332) Likewise, no claims were made concerning the future costs resulting from Multilateral Environmental Agreements, and protocols thereunder, to which the Union is a party and that the Union industry will incur during the period of the application of the measure pursuant to Article 11(2), in accordance with Article 7(2d) of the basic Regulation.
- (333) On this basis, the Commission calculated a non-injurious price of the like product for the Union industry by applying the target profit margin of 6% to the cost of production of the sampled Union producers during the investigation period and then adding the adjustments under Article 7(2d) on a type-by-type basis.
- (334) The Commission then determined the injury elimination level on the basis of a comparison of the weighted average import price of the sampled exporting producers in the country concerned on a type-by-type basis, as established for the price undercutting calculations, with the weighted average non-injurious price of the like product sold by the sampled Union producers on the free Union market during the investigation period. Any difference resulting from this comparison was expressed as a percentage of the weighted average import CIF value.

- (335) The injury elimination level for ‘other cooperating companies’ and for ‘all other companies’ is defined in the same manner as the dumping margin for these companies.

Company	Definitive dumping margin	Definitive injury margin
Jiangsu Yongyi Fastener Co., Ltd.	23,9%	79,0%
Ningbo Jinding Fastening Piece Co., Ltd.	48,1%	85,3%
Wenzhou Junhao Industry Co., Ltd.	51,5%	125,0%
Other cooperating companies	41,8%	94,0%
All other companies	89,8%	196,9%

UNION INTEREST

- (336) In accordance with Article 21 of the basic Regulation, the Commission examined whether it could clearly conclude that it was not in the Union interest to adopt measures in this case, despite the determination of injurious dumping. The determination of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, importers, retailers in the do-it-yourself (‘DIY’) sector and users.

Interest of the Union industry

- (337) The imposition of measures will improve market conditions for the Union producers that will be able to improve its competitive position in the market, and recover lost sales volume and market share. As the price pressure from unfair imports would be lifted, the Union industry will be able to increase their sales prices and reach a sustainable profitability.
- (338) The absence of measures would have significant negative effects for the Union industry, as imports would continue to increase leading to further price depression in the Union having a negative impact on the Union industry’s production and sales volume as well as market share. This in turn would negatively affect the Union industry’s financial indicators and in particular, the already loss making situation would be further aggravated with negative consequences for investments and employment in the Union.
- (339) Therefore, the imposition of measures would be clearly in the interest of the Union industry.
- (340) EFDA and other interested parties claimed that the Union industry would not be able to benefit from the imposition of anti-dumping duties; and that ultimately third country producers will increase their exports to the Union and thus benefit from anti-dumping measures against China rather than the Union industry.
- (341) The Commission considered this claim was speculative, as it was not substantiated by any evidence. The fact alone that imports from other third countries may increase as a consequence of the anti-dumping measures is not a sign that the Union industry does not benefit from such measures. In this regard, the current investigation

established that import volumes from other third countries did not increase during the period considered, but substantially decreased, and that import prices from these sources were also overall not undercutting Union industry prices. On this basis, the information in the file suggested that these imports may also have been negatively affected from the price pressure of the Chinese imports on the Union market, as dumped imports from China were on average also below the prices of imports of the other third countries and which were the increasing import volumes, while third country import volumes decreased. It is recalled that anti-dumping measures aim merely to restore the level playing field in the Union market, and not to restrict imports under fair market conditions. The Commission therefore rejected this claim.

Interest of importers

- (342) As mentioned in recital (44) twenty-eight importers cooperated in the investigation and provided the information requested in the notice of initiation for sampling purposes. They represented 18% of the total imports from China during the IP. These importers imported 46% fasteners from China, while they sourced 54% from other third countries.
- (343) The Commission sampled five importers that provided questionnaire replies. For the sampled companies imports from China represented between approximately 10% and 50% of their total imports of fasteners. Only one of the sampled importers purchased over 90% from China. All except one were profitable during the IP, with profit margins between [2%-5%] and [4%-9%]. One of the importers was slightly below break-even during the IP.
- (344) The Commission assessed the impact of anti-dumping duties on the profitability of the sampled importers. Under the assumption that duties would be fully absorbed those importers that showed profit margins during the IP were found to remain profitable, despite the duties. This assessment was based on a worst case scenario, i.e. it did not take into account that price increases will very likely be either fully or at least partly passed on to the customers, in particular, in view of the findings in recital (352) and following, that in general, the cost of fasteners only represent very little part of the users' total cost of production. This is also true regarding the importer that was already below break-even during the IP, i.e. this importer will also be able to pass on any price increase to a large part to its customers. The duties as such are therefore not expected to have a significant negative effect on this company and thus worsen its situation.
- (345) Several interested parties claimed that the imposition of anti-dumping duties would lead to significant price increases for importers. They also claimed that the imposition of anti-dumping measures in the past, resulted in severe losses for importers that should be taken into account in the current analysis. One importer claimed that it would not be possible to pass on the price to customers at least not in short term.
- (346) As set out in recital (344), the expected price increase would not have severe negative effects on the importer's situation, as in general, they would remain profitable. The claim that importers realised losses in the past due to the previous measures could not be verified and also, no evidence was submitted in support of this claim. Finally, the claim that importers would not be able to pass on the price increase to its customers, likewise, no evidence was provided. The investigation revealed that given that the share of fasteners in the total costs of the users is in

general very low, it is expected that price increases of importers will be passed on at least partly to the end-customer. These claims were therefore rejected.

- (347) One importer argued that anti-dumping measures would be in contradiction to the measures taken by the European Commission to support companies affected by the COVID-19 pandemic and added that the Commission should take into consideration the exceptional circumstances that caused the pandemic and the direct negative impact on importers.
- (348) The interested party in question only referred in very general terms to the measures taken following the COVID -19 pandemic without providing any further details and without explaining to what extent anti-dumping measures would be in contradiction to those measures. In any event, the Commission considered that none of those measures would exclude per se that appropriate measures are taken in accordance with the basic Regulation to counteract injurious dumping. The investigation has also shown as set out in recital (317) and following, that the COVID-19 pandemic did not have an impact on the import volumes from China that continued to increase during the entire period considered at dumped levels, severely undercutting the Union industry's sales prices. This claim were therefore rejected.

Interest of retailers – Do-it-yourself (DIY) sector

- (349) The European DIY Retail Association ('EDRA') claimed that measures would have a significant negative impact on the DIY sector. They claimed that the DIY sector is mainly purchasing low-end standard fasteners not produced by the Union industry. They also explained that fasteners in the DIY sector were sold in small (consumer-friendly) packaging that constitutes large part of the sales price. Due to the much higher packing cost in the Union as compared to Asia, it would not be viable for the Union industry to produce products for the DIY sector. EFDA supported these claims and argued furthermore that the price increase would also harm the international competitiveness of DIY retailers as they would not be able to sell their own labels anymore to other third countries.
- (350) As mentioned in recital (103), one exporting producer of hard ware kits destined mainly to household uses also claimed that this type of product would not be produced by the Union industry and was distributed via different sales channels, i.e. retailers, while fasteners destined to industrial use produced by the Union industry was sold via distributors.
- (351) None of the above claims was supported by evidence. None of the retailers in the DIY sector cooperated in the investigation by providing a questionnaire reply or any other information on prices and costs or profitability and suppliers. The Commission was therefore not in the position to analyse the impact of measures on this sector in specific. On the other hand, the investigation revealed that the Union industry had significant spare capacities and would therefore be able to increase its production volume significantly. The Union industry is composed of producers of various types of fasteners, including standard fasteners and is able to produce all type of fasteners, including those for the DIY sector. The Union industry affirmed that there were several Union producers and distributors with their own automatic packaging lines for large quantities and there are also service providers in the Union market for medium-small quantities. The claim that certain products were distributed via different sales channels was considered irrelevant for the question whether the Union industry would be able to supply specific fastener types. All claims made in this regard were therefore rejected.

Interest of users

- (352) Two users came forward in the investigation and provided a reply to the questionnaire. Both produced anchors screws using fasteners in their production processes. The reply of both users was significantly deficient and none of the companies replied to the Commission's request to provide additional information. As a result, for one of the users, the Commission was not able to assess the impact of the anti-dumping duties at all, while for the other user, despite the lack of information, the Commission observed that this company reported that the cost of fasteners in its total cost represented less than 1%. On this basis, the Commission concluded that duties would not have a significant impact.
- (353) ECAP and the association representing European manufacturers of metal and plastic anchors, Construction Fixing Europe ('CFE'), supported by EFDA, claimed that duties would have a negative impact on the producers of metal and plastic anchors and their competitiveness in the Union and world-wide. Anchor producers import standard fasteners and use them as semi-finished products in their production process. CFE asserted that such standard fasteners are not produced in the Union.
- (354) None of the anchor producers cooperated in the present investigation and none of them replied to a questionnaire intended for users. Therefore, there was no evidence or any other information in the file concerning the cost of fasteners in the production process of anchors, profitability of anchor producers, their suppliers and/or the impact of duties on their profitability. This is also true for the claim made regarding the competitiveness of anchor producers in the Union and world-wide. These claims were therefore rejected.
- (355) Regarding the claim that this type of standard fastener was not produced by the Union industry, the Commission notes that the Union industry is producing standard fasteners and has substantial spare capacities to produce all types of fasteners. This claim was therefore rejected.
- (356) EFDA also claimed that duties would have a negative impact on industrial sectors such as construction, railway, and renewables as well as manufacturers of grain bins in the agricultural sector. They provided some assertions on the representativity of fasteners in the total costs in these sectors and argued that there would be a negative effect on the economic situation of companies in this sector and on their competitiveness in the Union.
- (357) None of these allegations were supported by any evidence. In addition, none of the interested parties representing any of those sectors made themselves known or cooperated during the investigation. The Commission also observed that on the basis of the allegations made by EFDA, the cost of fasteners in the end products of these industries were between 3% and a maximum of 12%. Although these claims were not supported by any evidence or otherwise substantiated, this shows a limited impact of duties, in particular considering that it was also not shown to what extent these specific sectors were using fasteners imported from China. Therefore, the claims made by EFDA in this regard could not be accepted.
- (358) Finally, one manufacturer of industrial battery intercell connectors, supported by EFDA, highlighted the specificity of the fasteners used in its production process (pole screws) and that they were not produced by the Union industry. It also claimed that duties would have a negative impact on its competitiveness vis-à-vis third country

producers of industrial battery intercell connectors. This company claimed that pole screws should not be included in the product scope.

- (359) The claim that pole screws should be excluded from the product scope is addressed in recital (117) . The company did not provide any supporting evidence or any information regarding the alleged impact of the measures on its financial situation. Regarding the lack of supply in the Union reference is made to the conclusions set out in recitals (361) and following. In particular, the Union industry was found to have significant spare capacity to produce special and standard fasteners. The claims made by this company were therefore rejected.
- (360) Based on the above, the Commission concluded that there were no significantly adverse effects of the anti-dumping duties on the situation of the users in the Union.

Shortage of supply of fasteners

- (361) Several interested parties claimed that the Union industry does not have sufficient capacities to produce standard fasteners to satisfy the demand on the Union market. EFDA and one of the sampled importers claimed that the Union industry would be unable or unwilling to supply standard fasteners and that many users rely on imports from China. They also claimed that supply from other third countries is limited as exporting producers in these countries would not have sufficient capacities. One exporting producer added that the Union industry would be reluctant to enter mass production of standard fasteners due to the investments to be made in fully automated production lines.
- (362) Several parties claimed that certain product types (structural timber screws, confirmat screws, hot forged fasteners, pole screws, hardware kits and fasteners used in the DIY sector) were not produced by the Union industry or only in limited quantities and therefore, should measures be imposed there would be a shortage of these product types on the Union market. In some case, these parties claimed that the Union industry is not expected to switch to the production of these types, and that there would also be a world-wide shortage of these types so they cannot be sourced from other suppliers either.
- (363) EDRA claimed on a more general basis that the fastener market has seen an increase in demand world-wide while during the COVID 19 pandemic, manufacturers were producing below their capacities. Any further disruption of the market by imposing anti-dumping duties would aggravate the situations for retailers.
- (364) Several interested parties also claimed that there was a shortage of shipping containers for shipments from Asia and that lead times between order and delivery takes up to several months, as a consequence of the COVID-19 pandemic. Shipping costs have multiplied which would have to be added to expected price increase due to anti-dumping measures. Moreover, it was claimed that there was a shortage of raw material (mainly steel) worldwide which had an impact on the production volume of fasteners worldwide.
- (365) The investigation revealed that the Union industry was producing both, standard and non-standard fasteners and had substantial spare capacities available to meet an increased demand from users that decide to switch their supplier. Thus, during the investigation period the Union industry only used 46% of their total capacity and could therefore increase its production by more than 1 million tonnes in short term. The spare capacity concerned the production of all types of fasteners, standard fasteners included. The claims that the Union industry was not able or not willing to

produce standard fasteners was not supported by sufficient evidence. EFDA provided correspondence of individual Union producers that were, however, not considered representative for the entire Union industry. Also, temporary difficulties observed to supply new customers due to the consequences of the COVID-19 pandemic, were not considered to be of a structural nature and did not devalue the findings that there was a large available spare capacity on the Union market that could satisfy the demand. These claims were therefore rejected.

- (366) The claims with regard to the lack of supply of certain specific product types were not supported by any verifiable evidence. On the other hand, as outlined in the above recital, there were large spare capacities available in the Union that covered all product types, including special fasteners. The information in the file collected from the Union producers did not suggest that the Union industry was not able to provide all types of fasteners. These claims were therefore rejected.
- (367) The Commission also considered that more than half of the fasteners imported by the cooperating importers during the investigation period came from other sources than China, such as Taiwan, Vietnam and Turkey as well as other third countries. The share of these imports in the total imports to the Union was substantial throughout the period considered. EFDA claimed that exporting producers in these third countries would not have sufficient capacity to replace imports from China or even only partly increase their import volumes to the Union. The information provided by EFDA in this regard was however not considered as representative and not verifiable. As above, it concerned correspondence with individual companies not necessarily representing the situation of other exporting producers in those countries. These claims were therefore rejected.
- (368) Regarding the claims in relation to a world-wide decrease in production due to the COVID19 pandemic, the Commission notes that imports increased significantly after the initiation of the current investigation, as established in the registration Regulation. Based on Eurostat statistical data this increase continued⁶⁵. Therefore, the arguments made in this regard were rejected.
- (369) Regarding the shipping crises and the interruption of the supply chains observed after the investigation period, including raw materials, the Commission notes that this situation was not of a structural nature but is expected to be temporary. Thus, a certain relief of the situation is expected in 2022, after the imposition of definitive measures in the current investigation. Indeed, overall trade statistics show a fast growth of imports in general during 2021⁶⁶. Including a growth in raw material imports (33%), in the first eight months of 2021, compared to the same period in 2020). Therefore, the Commission considers that the current shipping crises and interruption of the supply chains are not sufficient a reason for not imposing duties in terms of Union interest. In particular duties are imposed for a period of five years, while a relief of the current situation may already occur in the second half of 2022, i.e. shortly after the imposition of measures. The claims made in this regard were rejected accordingly.

⁶⁵ Data available until July 2021

⁶⁶ Source Eurostat: https://trade.ec.europa.eu/doclib/docs/2013/december/tradoc_151969.pdf

Switch of suppliers

- (370) Several interested parties claimed that importers would not be able to switch suppliers easily because of the travel restrictions due to the COVID19 pandemic, while there is a need for a manufacturer approval by the customer which would require an audit of the production processes at the factory of the third country supplier. In any event, a switch in supplier would be costly. EFDA raised specifically the case for fasteners used in the railway sector.
- (371) No further evidence was submitted in this regard. As mentioned above, more than half of the imports of the cooperating importers were made from other third country suppliers, not including China. In addition, the claim that the Union industry was not able or not willing to provide fasteners to new customers was not confirmed during the investigation. Finally, anti-dumping measures, do not aim to ban access of Chinese imports to the Union market, but their purpose is merely to restore the level playing field. As mentioned above, even if importers were to fully absorb the anti-dumping duty, their businesses will still remain mostly at profitable levels. Likewise, it has been established that the cost of fasteners in the users' total cost of production is not significant and price increases of imports can be passed on to the final customers. These claims were therefore rejected.

Other

- (372) EFDA emphasised that fasteners are used in many different applications. While the share of the cost in the production process of the individual users is not always significant and the impact on individual companies is not always substantial, EFDA argued that the Commission should therefore assess the combined effects of the duties on the Union economy as a whole. The losses incurred by various companies using fasteners in their production process should be considered on an aggregate basis.
- (373) The investigation revealed that the impact of duties on the users overall is not expected to be significant, as the share of fasteners in the production process is very low. This fact is also recognised by EFDA. Therefore, this claim was rejected.

Conclusion on Union interest

- (374) Based on the above, the Commission concluded that there were no compelling reasons that it was not in the Union interest to impose measures on imports of fasteners originating in China.

RETROACTIVE IMPOSITION OF ANTI-DUMPING MEASURES

- (375) As stated in recital (3), the Commission made imports of the product concerned originating in China subject to registration by the registration Regulation in view of the possible retroactive application of any anti-dumping measures under Article 14(5) of the basic Regulation.
- (376) Pursuant to Article 10(4) of the basic Regulation, duties may be levied retroactively on products which were entered for consumption no more than 90 days prior to the date of application of provisional measures'. The Commission observes that no provisional measures were imposed in this case.
- (377) On that basis, the Commission considers that one of the legal conditions under Article 10(4) of the basic Regulation is not met and therefore the duties should not be

levied retroactively on the registered imports. Thus, the registration of imports should be discontinued.

- (378) EIFI contested that the imposition of provisional measures would be a legal condition to impose duties retroactively pursuant to Article 10(4) of the basic Regulation claiming that it does not specifically list such condition. EIFI also referred to case law of the General Court (T-749/16 Stemcor) and the WTO Dispute Settlement Body (US- Hot-Rolled Steel) that would confirm its view. EIFI requested therefore that the definitive anti-dumping measures should be imposed retroactively for a period of 9 months. EFDA and two importers disagreed with this view and argued that the legal conditions for the retroactive imposition of duties were not met, given that no provisional measures were imposed. One importer argued that duties should not be levied retroactively, as this would be in contrast to the legal principle of legitimate expectation.
- (379) The General Court and the WTO case law cited by EIFI do not support its interpretation that the imposition of provisional measures is not a condition for retroactive collection of duties. Both cases are limited to the interpretation of the substantive conditions required for the retroactive collection of duties laid down respectively in Article 10(4) of the basic Regulation and Article 10.6 of the WTO Anti-dumping Agreement. The underlying factual situation is also different in both cases, where, unlike the current investigation, provisional duties were imposed and therefore the issue of non-imposition of provisional measures was not addressed. Therefore this claim was rejected.

DEFINITIVE MEASURES

- (380) Definitive anti-dumping measures should be imposed on imports of fasteners originating in China in accordance with the lesser duty rule in Article 9(4) of the basic Regulation. The amount of the duty should be set at the level of the lower of the dumping and the injury margin.
- (381) Therefore, the definitive anti-dumping duty rates, expressed on the CIF Union border price, customs duty unpaid, should be as follows:

Company	Dumping margin	Injury margin	Definitive anti-dumping duty
Jiangsu Yongyi Fastener Co., Ltd.	23,9%	79,0%	23,9%
Ningbo Jinding Fastening Piece Co., Ltd.	48,1%	85,3%	48,1%
Wenzhou Junhao Industry Co., Ltd.	51,5%	125,0%	51,5%
Other cooperating companies listed	41,8%	94,0%	41,8%

in Annex			
All other companies	89,8%	196,9%	89,8%

- (382) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of this investigation. Therefore, they reflected the situation found during this investigation with respect to these companies. These duty rates are exclusively applicable to imports of the product concerned originating in the country concerned and produced by the named legal entities. Imports of product concerned produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to ‘all other companies’. They should not be subject to any of the individual anti-dumping duty rates.
- (383) A company may request the application of these individual anti-dumping duty rates if it changes subsequently the name of its entity. The request must be addressed to the Commission. The request must contain all the relevant information enabling to demonstrate that the change does not affect the right of the company to benefit from the duty rate which applies to it. If the change of name of the company does not affect its right to benefit from the duty rate which applies to it, a regulation about the change of name will be published in the *Official Journal of the European Union*.
- (384) One exporting producer requested that a new exporter status is granted to it and that it is not treated differently from the companies that cooperated in the investigation. This exporting producer argued that although it did not export the product concerned during the IP, it started exporting it shortly afterwards, i.e. in July 2020.
- (385) Since any regulation imposing measures foresees expressly in its operative part the legal basis and procedure to follow for new exporting producers from the People’s Republic of China to be added to the Annex of such regulation, this request was rejected as premature.
- (386) Should the exports by one of the companies benefiting from lower individual duty rates increase significantly in volume after the imposition of the measures concerned, such an increase in volume could be considered as constituting in itself a change in the pattern of trade due to the imposition of measures within the meaning of Article 13(1) of the basic Regulation. In such circumstances and provided the conditions are met an anti-circumvention investigation may be initiated. This investigation may, inter alia, examine the need for the removal of individual duty rate(s) and the consequent imposition of a country-wide duty.
- (387) To ensure a proper enforcement of the anti-dumping duties, the anti-dumping duty for all other companies should apply not only to the non-cooperating exporting producers in this investigation, but also to the producers which did not have exports to the Union during the investigation period.
- (388) In order to ensure equal treatment between any new exporters and the cooperating companies not included in the sample, mentioned in Annex to any Regulation imposing definitive measures, provision should be made for the weighted average duty imposed on the latter companies to be applied to any new exporters which would otherwise be entitled to a review pursuant to Article 11(4) of the basic Regulation.

Special monitoring clause

- (389) To minimise the risks of circumvention due to the high difference in duty rates, special measures are needed to ensure the application of the individual anti-dumping duties. The companies with individual anti-dumping duties must present a valid commercial invoice to the customs authorities of the Member States. The invoice must conform to the requirements set will be set out in the operative part of any regulation imposing definitive anti-dumping measures. Imports not accompanied by that invoice should be subject to the anti-dumping duty applicable to ‘all other companies’.
- (390) While presentation of this invoice is necessary for the customs authorities of the Member States to apply the individual rates of anti-dumping duty to imports, it is not the only element to be taken into account by the customs authorities. Indeed, even if presented with an invoice meeting all the requirements set out, the customs authorities of Member States should carry out their usual checks and should, like in all other cases, require additional documents (shipping documents, etc.) for the purpose of verifying the accuracy of the particulars contained in the declaration and ensure that the subsequent application of the lower rate of duty is justified, in compliance with customs law.
- (391) Should the exports by one of the companies benefiting from lower individual duty rates increase significantly in volume after the imposition of the measures concerned, such an increase in volume could be considered as constituting in itself a change in the pattern of trade due to the imposition of measures within the meaning of Article 13(1) of the basic Regulation. In such circumstances and provided the conditions are met an anti-circumvention investigation may be initiated. This investigation may, inter alia, examine the need for the removal of individual duty rate(s) and the consequent imposition of a country-wide duty.

FINAL DISCLOSURE

- (392) The Commission informed all interested parties of the essential facts and considerations on the basis of which it intends to impose definitive anti-dumping duties on imports of certain fasteners originating in the PRC (‘final disclosure’). All parties were granted a period within which they could make comments on the final disclosure.

Cooperating exporting producers not sampled

Country	Name
People's Republic of China	Anhui Goodlink Fastener Co., Ltd
People's Republic of China	Beijing Jinzhaobo High Strength Fastener Co., Ltd.
People's Republic of China	BSC Corporation Limited
People's Republic of China	Celo Suzhou Precision Fasteners Co. Ltd
People's Republic of China	Changshu City Standard Parts Factory
People's Republic of China	CHENGLONG TECHNOLOGY (JIAXING) CO.,LTD.
People's Republic of China	EC International (Nantong) Co., Ltd.
People's Republic of China	FASTWELL METAL PRODUCTS CO.,LTD
People's Republic of China	Finework (Hunan) New Energy Technology Co.,Ltd
People's Republic of China	FRÖTEK Plastic Technology (Wuxi) CO., LTD
People's Republic of China	Haining Hisener Trade Co., Ltd
People's Republic of China	Haining Hisener Trade Co., Ltd
People's Republic of China	HAINING JINJIE METAL CO.,LTD
People's Republic of China	HAIYAN BOOMING FASTENER CO.,LTD.
People's Republic of China	Haiyan C&F Fittings Co.,LTD
People's Republic of China	HAIYAN GUANGDA HARDWARE CO., LTD.
People's Republic of China	Haiyan Jiamei Hardware Manufacturing And Tech. Co., Ltd
People's Republic of China	Haiyan Shangxin Standard Parts Co., Ltd
People's Republic of China	HAIYAN TIANQI STANDARD PARTS CO., LTD.
People's Republic of China	Haiyan Wancheng Fasteners Co., Ltd.
People's Republic of China	HAIYAN XINGLONG FASTENER CO., LTD
People's Republic of China	HAIYAN YIHUI HARDWARE TECHNOLOGY CO.,LTD
People's Republic of China	HAIYAN YOUSUN ENTERPRISE CO., LTD
People's Republic of China	HANDAN HAOSHENG FASTENER CO., LTD.

People's Republic of China	HILTI (CHINA) LTD
People's Republic of China	Jia Xing Tai Cheng Aoto Parts Co., Ltd
People's Republic of China	Jiashan Chaoyi Fastener Co.,Ltd
People's Republic of China	JIASHAN GIANT IMP. & EXP. TRADE CO.,LTD
People's Republic of China	Jiashan Sanxin Fastener Company Limited
People's Republic of China	Jiashan United Oasis Fastener Co.,Ltd
People's Republic of China	JIASHAN WEIYUE FASTENER CO.,LTD
People's Republic of China	Jiashan Xiaohai Metal Products Factory
People's Republic of China	JIASHAN YONGXIN FASTENER CO., LTD
People's Republic of China	JIAXING CHENGFENG METAL PRODUCTS CO.,LTD
People's Republic of China	JIAXING H.J TECH INDUSTRY LIMITED
People's Republic of China	Jiaxing Huanhuan Tong Plastic Industry Co., LTD
People's Republic of China	JIAXING KINFAST HARDWARE CO., LTD.
People's Republic of China	JIAXING LONGSHENG HARDWARE CO.,LTD
People's Republic of China	Jiaxing Shangxiang Import and Export Co., LTD
People's Republic of China	JIAXING SULATER AUTO PARTS CO.,LTD.
People's Republic of China	JIAXING TAIXIN AUTO PARTS MANUFACTURING CO.,LTD
People's Republic of China	Jiaxing Victor Screw Co.,Ltd
People's Republic of China	JIAXING ZHENGYING HARDWARE CO.,LTD
People's Republic of China	Jinan Huayang Fastener Co., Ltd
People's Republic of China	JINAN STAR FASTENER CO., LTD
People's Republic of China	Lianyungang Suli Hardware Technology Co., Ltd.
People's Republic of China	NEDSCHROEF FASTENERS (KUNSHAN) CO., LTD.
People's Republic of China	NEW STARWDH INDUSTRIAL CO.,LTD
People's Republic of China	Ningbo Dongxin High-Strength Nut Co., Ltd.
People's Republic of China	Ningbo Economic & Technical Development Zone Yonggang Fasteners Co., Ltd.

People's Republic of China	Ningbo Haixin Hardware Co., Ltd.
People's Republic of China	NINGBO LEMNA PRODUCT TECHNOLOGY CO.,LTD.
People's Republic of China	Ningbo Minda Machinery & Electronics Co., Ltd.
People's Republic of China	Ningbo Nanjubaoge Fastener Manufacturing Co. Ltd
People's Republic of China	Ningbo Ningli High-Strength Fastener
People's Republic of China	Ningbo Shengtai Fastener Technology Co., Ltd
People's Republic of China	Ningbo Taida Hezhong Fastener Manufacture Co., Ltd.
People's Republic of China	Ningbo Zhenghai Yongding Fastener Co., Ltd.
People's Republic of China	NINGBO ZHONGBIN FASTENER MFG. CO., LTD
People's Republic of China	Ningbo Zhongjiang High Strength Bolts Co., Ltd.
People's Republic of China	OK TECH CO., LTD
People's Republic of China	PINGHU OTEBAY HARDWARE PRODUCT CO.LTD
People's Republic of China	Pinghu Sanjiaozhou Lubricant Co., Ltd.
People's Republic of China	Pol Shin Fastener (Zhejiang) Co., Ltd
People's Republic of China	QIFENG PRECISION INDUSTRY SCI-TECH CORP.
People's Republic of China	Shanghai Autocraft Co.,Ltd.
People's Republic of China	SHANGHAI CHAEN CHIA FASTENERS CO.,LTD.
People's Republic of China	SHANGHAI EAST BEST FOREIGN TRADE CO.,LTD.
People's Republic of China	Shanghai Foreign Trade (Pudong) Co., Ltd.
People's Republic of China	Shanghai Galgem Hardware Company Limited
People's Republic of China	Shanghai High-Strength Bolts Plant
People's Republic of China	SHANGHAI MOREGOOD HARDWARE CO., LTD.
People's Republic of China	Shanghai Yueda Nails Co., Ltd.
People's Republic of China	SSF INDUSTRIAL CO., LIMITED
People's Republic of China	Suzhou Escort Hardware Manufacturing Co. Ltd
People's Republic of China	Suzhou Hongly Hardware Co., Ltd

People's Republic of China	Suzhou Litto Fastener Co., Ltd
People's Republic of China	Suzhou YNK Fastener Co., Ltd.
People's Republic of China	Yantai Agrati Fasteners Ltd.
People's Republic of China	YUYAO ALFIRSTE HARDWARE CO.,LTD
People's Republic of China	Yuyao Zhenrui Metal Co., Ltd
People's Republic of China	ZHE JIANG WORLD WIN FASTENER CO., LTD
People's Republic of China	Zhejiang Channov Auto Parts Co., Ltd
People's Republic of China	ZHEJIANG CHAOBOER HARDWARE CO., LTD
People's Republic of China	ZHEJIANG DONGHE MACHINERY TECHNOLOGY CORPORATION LIMITED
People's Republic of China	Zhejiang Excellent Industries Co. Ltd
People's Republic of China	ZHEJIANG MS TECHNOLOGY CO.,LTD.
People's Republic of China	ZHEJIANG NEW SHENGDA FASTENER CO., LTD.
People's Republic of China	ZheJiang RuiZhao Technology Co.,Ltd.
People's Republic of China	Zhejiang Tianyuan Metal Products Co.,Ltd